96-597

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

February 23, 1996

The Judicial Inquiry Commission has considered your request for an advisory opinion as to whether a judge is disqualified from hearing certain cases under the Canons of Judicial Ethics. The judge has been the named plaintiff in an unrelated class action for about a year, but the judge has requested the attorneys who represent the plaintiff class to have his name removed as named plaintiff. The judge has contributed $1,000.00 toward the expense of the unrelated class action. Said action is the suit seeking a declaratory judgment that the state statutes which provide that counties may supplement state expenditures for judicial salaries, as well as local enactments thereunder, are unconstitutional.

The Commission has recently issued three opinions concerning disqualification arising due to the lawsuit regarding judicial salary supplements. In Advisory Opinion 95-581, the Commission held that a judge who is either a named party, a named class representative, or a monetary contributor to this class action is disqualified from sitting in any proceeding in which a party is represented by a lawyer who also represents the plaintiff class in this action. In Advisory Opinion 95-582, the Commission held that a judge who is a named party to this action, or who intervened in the action, or who has contributed funds to the expense of this litigation is disqualified from hearing unrelated cases in which a party is represented by an attorney for the plaintiffs in this class action or a member of that attorney's firm. In Advisory Opinion 95-584, the Commission held that a judge who seeks to opt out of the defendant class and to contest the attempt to declare the supplements unconstitutional, including agreeing to contribute to the expense of litigation challenging the attempt to declare the supplements unconstitutional, is disqualified from hearing unrelated cases where a party is represented by an attorney for the plaintiffs in this class action or a member of that attorney's firm.

It is thus the opinion of the Commission that the judge is disqualified from sitting in an unrelated class action in which one of the parties is represented by the law firm that represents the plaintiffs in the salary supplement suit. The Commission need not address the significance of the judge's decision to withdraw from being a named plaintiff in the salary supplement suit since the judge also made a monetary contribution to the expenses of that litigation.

Similarly, it is the opinion of the Commission that a judge is disqualified from sitting in an unrelated action in which one of the parties is represented by a law firm that represents a group of judges who as interveners in the salary supplement suit are contesting the attempt to declare the supplements unconstitutional where the judge has made a monetary contribution to the plaintiffs' expense of litigation in the salary supplement suit.

We trust that this response has answered your questions.