

## Judicial Inquiry Commission

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March 13, 1998

The Judicial Inquiry Commission has considered your request for an advisory opinion whether a judge is disqualified from hearing an action against an insurance company involving certain representations made in the exchange of a life insurance policy when, about two years after the action was filed, the judge filed suit in another county against a different insurance company based on the circumstances surrounding the judge's exchange of a "custom life" policy to a term policy. You state that none of the parties or attorneys are identical as between the judge's lawsuit and the action in question, and that you do not believe that the legal theories of the two cases are similar.

It is the opinion of the Commission that a judge's impartiality in a case may not be reasonably questioned merely because he is involved in litigation of the same general character against another party, and, thus, that a judge is not disqualified under the facts presented. The test under Canon 3C(1) is whether "a person of ordinary prudence in the judge's position knowing all of the facts known to the judge would find that there is a reasonable basis for questioning the judge's impartiality." In re Sheffield, 465 So.2d 350, 356 (Ala. 1984).

Of course, the judge is disqualified if he has a personal bias or prejudice concerning a party to the action arising from his lawsuit, or any other source. Canon 3C(1)(a). He also is disqualified if he knows he has any interest that could be substantially affected by the outcome of the action. Canon 3C(1)(c).

Yours truly,

JUDICIAL INQUIRY COMMISSION