

## Judicial Inquiry Commission

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February 4, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in a proceeding where one of the parties has previously filed a complaint against the judge with the Alabama Judicial Inquiry Commission. The judge states that he had no knowledge of any such complaint prior to the recusal motion. No such complaint is presently pending against the judge.

It is the opinion of the Commission that the above-stated facts do not present a situation in which the judge's disqualification is required.

Judicial disqualification is governed by Canon 3C of the Alabama Canons of Judicial Ethics. In pertinent part that Canon provides as follows:

"A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned ..."

In considering this Canon, the Commission has previously found that the mere fact that a litigant has previously unsuccessfully sued a judge does not cause the judge's disqualification. See Advisory Opinion 83-176. Nor does the fact that counsel for a party has previously testified adversely to the judge in a disciplinary action against the judge cause the judge's disqualification. See Advisory Opinion 84-220. In both of these opinions the Commission found that the mere fact of the previous existence of these adverse relationships did not cause the judge's impartiality to reasonably be questioned. The same reasoning is applicable here. The mere fact that a litigant claims to have previously filed a complaint, of which the judge has no knowledge, does not cause the judge's disqualification in a pending proceeding involving that litigant.

Sincerely,

JUDICIAL INQUIRY COMMISSION