

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

June 29, 1990

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a sitting judge may accept remuneration for legal services rendered prior to his assuming the bench. Under the facts presented, the judge, while still a practicing attorney, agreed to represent a plaintiff in a personal injury claim. The fee agreement was a contingent fee plus expenses. The judge did a preliminary investigation and collected pertinent liability and medical information. Counsel in a different circuit was associated to file suit and handle the case. After this referral and after suit was filed, the judge was elected a circuit judge and assumed the bench. The judge withdrew from the case but retained his contingent fee interest. The case was recently settled. The judge's contingent fee has been placed in trust. The issue before the Commission is whether the judge may ethically receive the pre-arranged contingent fee.

It is the opinion of the Commission that under the above facts the judge may receive a contingent fee established while he was a practicing attorney for work performed as an attorney. This opinion is based on and is consistent with our previous Advisory Opinions 81-114 and 84-215 in which the Commission found that the Alabama Canons of Judicial Ethics do not prohibit a judge's accepting remuneration for legal services performed prior to his assuming office where there exists a prior fee agreement.

Sincerely,

JUDICIAL INQUIRY COMMISSION