

## Judicial Inquiry Commission

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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 proceedings in which a party is represented by (1) the judge's re-election campaign treasurer or a member of his firm, or (2) a member of the judge's re-election advisory committee or members of their firms; or both parties are represented by one of the above.

It is the opinion of the Commission that none of the above situations would in and of themselves cause the judge's disqualification. This opinion is based upon the provisions of Canons 3C and 7 of the Alabama Canons of Judicial Ethics as they exist at this time. Canon 3C concerning disqualification must be read in conjunction with Canon 7. While the Commission finds that it is desirable that a judge not enter into a political relationship with attorneys who practice before him, the Canons, as written, neither prohibit this activity nor require the judge's disqualification.

Canon 3C provides that:

- (1) A Judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned ...

As stated by the Commission in Advisory Opinion 84-227:

This provision must be considered in light of the reality that judges in Alabama are subject to nomination and election through political campaigns. Thus, it is apparent that a judge or candidate for judicial office must accept campaign contributions in order to finance a campaign for judicial office. Canon 7 recognizes this reality. Therefore, to disqualify a judge in all proceedings in which a campaign contributor appears as either a litigant or an attorney would be devastating to our system. Therefore, unless circumstances exist which could cause the judge's impartiality to reasonably be questioned, disqualification is not required.

See also Advisory opinion 84-213. Under our Canons as approved by our Supreme Court, it remains logical and reasonable that a sitting judge running for re-election must be allowed to receive campaign contributions from attorneys and would probably choose lawyers to serve as campaign treasurer or campaign advisory committee members.

To require that the judge be disqualified from sitting in all cases involving these attorneys or members of their firms would place the sitting judge at a serious political disadvantage in relation to any attorney opponent, who might be moved to run against him. Therefore, because of the unique relationship between judges and attorneys and the nature of our political process of electing judges in partisan political campaigns, it is the opinion of the Commission that judges are not disqualified from sitting in proceedings in which the aforementioned attorneys or members of their firms represent parties to a proceeding. We would note that this principal would not extend to accepting campaign contributions from litigants during the pendency of a lawsuit. We further note that under the provisions of Canon 7, a judge must remain ever mindful that political entanglements do not become involved or appear to become involved in judicial decisions.

Sincerely,

JUDICIAL INQUIRY COMMISSION