

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

April 30, 1991

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 the judge's wife's brother-in-law. You further ask if it makes any difference whether the lawyer's relative's fee is fixed or contingent and whether the remittal provisions of Canon 3D apply.

It is the opinion of the Commission that disqualification occurs under these circumstances regardless of whether the lawyer's fee is fixed or contingent. We have recently addressed this issue in Advisory Opinion 90-411, a copy of which is enclosed for your benefit. That opinion is hereby reaffirmed. Disqualification occurs in this instance under the provisions of Canon 3C(l)(d) which apply to the judge

... or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such person:

The spouse of the judge's wife's sister is the spouse of a person related to the judge's wife within the fourth degree.

Since disqualification occurs in this instance under the provisions of Canon 3C(l)(d), the disqualification is subject to remittal by following the specific procedures set out in Canon 3D.

Sincerely,

JUDICIAL INQUIRY COMMISSION