

Judicial Inquiry Commission

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June 25, 1993

This is in response to your request for an advisory opinion from the Alabama Judicial Inquiry Commission. Your question is whether you are disqualified under the following circumstances:

During the pendency of a legal action brought by a creditor against two alleged guarantors of an account, you hired a partner in the creditor-plaintiff's law firm to represent you in a domestic relations matter. After plaintiff's counsel communicated this fact to defense counsel and the defendants requested that you disqualify yourself, the plaintiff's counsel withdrew from the case.

It is the opinion of this Commission that your disqualification is not required on the basis of the facts you have disclosed and assuming that the domestic relations case and the creditor suit are unrelated.

The provisions of Canon 3C (1) prohibit a judge from sitting in any proceeding in which an attorney for one of the parties represents the judge in an unrelated pending matter. See Advisory Opinions 88-337, 88-336, 87-313, 82-168, 80-78, 80-74, 78-53.

Ordinarily, a judge's disqualification regarding one member of a law firm does not extend to other members of the firm. Advisory Opinion 88-337. "The mere fact that a judge has retained an attorney's law partner to represent the judge or a member of the judge's family in a single case would not disqualify the judge, under Canon 3C, from sitting in a different case where the attorney represents one of the parties." Advisory Opinion 78-53.

This opinion has been reviewed by and adopted as the opinion of the Commission.