

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

May 9, 1997

The Judicial Inquiry Commission has considered your request for an advisory opinion as to whether an appellate court judge is disqualified from sitting in a case under the following circumstances:

Your wife is a stockholder/director in a closely-held family corporation. Currently, said corporation is involved in merger litigation in which your wife is represented by an attorney.

Prior to the time that the attorney represented your wife, you participated in cases in which the attorney or other members of his firm appeared. When the attorney began to represent your wife, you recused yourself from cases involving the attorney or his firm.

You participated in reviewing a particular case in which your wife's attorney's firm appeared prior to the time the attorney began representing your wife. When the attorney began representing your wife, you recused yourself from further participation in that case. The attorney's firm has now withdrawn from the pending case.

It is the opinion of the Commission that you are not disqualified from participating in the pending case under those circumstances.

We note that the Commission has previously held that under provisions of Canon 3C, Alabama Canons of Judicial Ethics, a judge is disqualified from sitting in a proceeding in which an attorney for one of the parties represents the judge's spouse in an unrelated matter. See Advisory Opinions 93-494, 92-443, 88-336. Your disqualification would cease when the attorney/client relationship ended. Advisory Opinion 87-313. However, a judge's disqualification does not ordinarily extend to other members of that same firm. See Advisory Opinions 93-494, 92-443, 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. There are no extraordinary circumstances apparent in your current situation which place you outside the general rule.

Even though you recused yourself from participating in the pending case in which your wife's attorney's firm appeared, such recusal was not necessary and you may participate in reviewing the pending case.

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This opinion has been considered by the entire Commission and is the opinion of the Judicial Inquiry Commission.

Yours very truly,

JUDICIAL INQUIRY COMMISSION