



Judicial Inquiry Commission

800 SOUTH McDONOUGH STREET, SUITE 201
MONTGOMERY, ALABAMA 36104
TELEPHONE (334) 242-4089 FAX (334) 240-3327

May 15, 1998

The Judicial Inquiry Commission has considered your request for an advisory opinion as to whether a judge is disqualified under the Canons of Judicial Ethics from hearing a certain case. You state that the judge would have been disqualified from hearing the case because a party is represented by an attorney who also represents a class of which the judge is a member in unrelated litigation involving judicial compensation and the judge made a monetary contribution to that litigation, and ask whether the judge would still be disqualified if the defendant who is represented by the attorney in question is dismissed by agreement of the parties.

98-692

It is the opinion of the Commission that, absent unusual additional circumstances causing a continued question as to impartiality, a judge is not disqualified to hear an action after dismissal by the parties of the defendant whose representation had caused disqualification of the judge. The Commission has previously held on a number of occasions that, unless there are extraordinary circumstances that would require continued disqualification, a judge is not disqualified to hear an action after a circumstance causing the judge to be disqualified ceases to exist. See Advisory Opinions 92-454, 96-605, 96-606, 96-616, and 96-617. You have not related any extraordinary circumstances that would require the judge's continued disqualification.

The Commission also has considered your request for an advisory opinion as to whether a judge who has been informally apprised of a possible conflict in his hearing a case may set the case for a status call to determine if a conflict actually exists. It is the opinion of the Commission that a judge may, consistently with the Canons of Judicial Ethics, schedule and conduct a status call in a case in order to

98-693

98-693
Page 2

determine whether a potential conflict in his hearing the case of which he has been informally advised truly exists.

Yours truly,

JUDICIAL INQUIRY COMMISSION