

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: DECEMBER 15, 2000

ADVISORY OPINION 00-766

DISQUALIFICATION DUE TO APPEARANCE OF COUNSEL AFTER AN UNRELATED SUIT IN WHICH THE JUDGE PARTICIPATED THAT CAUSED THE DISQUALIFICATION HAS TERMINATED

ISSUES

Does disqualification to hear cases in which an attorney represents a party, which was caused by the judge's participation in a certain class action in which the attorney or a member of the attorney's firm represents the plaintiffs, continue after the class action terminates? **Answer:** No.

FACTS

A judge has been disqualified to hear cases in which certain attorneys appear, due to his participation in an unrelated class action in which those attorneys or members of their firm represented the plaintiffs. The class action, *Hardaway, et al., v. Childree, et al.*, which concerns judicial compensation, has now been terminated.

DISCUSSION

The Judicial Inquiry Commission has rendered a number of advisory opinions to judges involving disqualification questions that arose as a result of *Hardaway, et al., v. Childree, et al.* Advisory Opinions 95-581, 95-582, 95-584, 96-597 and 98-709. The Commission concluded in those opinions that judges who personally participated in the suit in certain ways were disqualified to hear other proceedings in which a party was represented by the plaintiffs' attorney or a member of that attorney's firm.

The Commission has long held that required disqualification of a judge is not generally by

the mere fact of prior representation of the judge by an attorney in an unrelated matter after that matter is completed. Advisory Opinions 80-74, 92-443, 94-516 and 96-590. However, the Commission also has recognized that extraordinary circumstances may sometimes exist that cause disqualification after the legal controversy is resolved, due to continuation of a reasonable question as to the judge's impartiality. Advisory Opinions 96-516 and 96-590.

The Commission is unaware of any unusual circumstances in the situation presented that might create a reasonable question as to the judge's impartiality. Therefore, it is the opinion of the Commission that the judge is no longer disqualified to hear cases in which the attorney who represented the plaintiffs in *Hardaway, et al., v. Childree, et al.*, or a member of that attorney's firm, appears.

REFERENCES

Alabama Advisory Opinions 80-74, 92-443, 94-516, and 96-590.

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; E-mail: jic@alalinc.net.