

STATE OF NEVADA
STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: August 17, 2006

OPINION: JE06-010

DISCUSSION

PROPRIETY OF A JUDGE PRESIDING
IN UNRELATED CASES INVOLVING
A LAW FIRM WHICH CURRENTLY
REPRESENTS THE HOMEOWNERS
ASSOCIATION FOR THE JUDGE'S
DEVELOPMENT.

ISSUE

Can a judge ethically preside over
unrelated cases involving attorneys whose
firm represents the jurist's homeowners
association? One of the attorneys from
this firm is currently representing the
association in a dispute with a third party.

ANSWER

Yes, with limitations.

FACTS

In this inquiry, the jurist says
he/she lives in a large subdivision with a
homeowners association. The association
board of directors hired a local attorney to
represent it in a lawsuit. The judge is not
on the board and the case involving his/her
association is not before him/her.
However, the jurist asks if he/she should
disqualify himself/herself in other cases in
which attorneys from this firm appear
before him/her. The jurist states attorneys
from this local firm "regularly" appear in
his/her court

The Committee found a judge in
such a situation should disclose the
relationship. In other words, when faced
with a case involving any attorney from
this firm, the judge has an obligation to put
on the record in open court the fact the firm
represents the judge's homeowners
association in an active case. Pursuant to
Canon 3E of the Nevada Supreme Court
Rules, the judge also needs to determine
whether this relationship renders him or her
biased:

A judge shall disqualify himself or
herself in a proceeding in which the
judge's impartiality might
reasonably be questioned, ...

The commentary to 3E gives
"substantial weight" to the judge's opinion
of his or her ability to be fair and impartial,
pursuant to *Las Vegas Downtown Redev.
Agency v. Hecht*, 113 Nev. 644, 650, 940
p.2d 134 (1997). If the judge decides he or
she can adjudicate the instant case with
fairness and impartiality, he or she can
preside.

The Committee also discussed the
probability that at least part of the judge's
dues are helping to pay the firm
representing the association. However,
Snyder v. Viani, 112 Nev. 568, 575, 916
P.2d 170, cert. denied 117 S.Ct. 385 (1996)
found a pecuniary interest must be part of
the case at bar and not be indirect, remote,
or speculative. The Committee considered
that any monetary interest on the part of

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such a judge would not be sufficient or controlling to the extent it would require disqualification

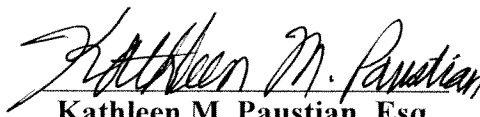
CONCLUSION

A jurist faced with this question should, first, disclose the relationship between his or her homeowners association and the law firm when any attorney from that firm appears in his or her court. It is then up to the judge to determine if this relationship would impact his or her impartiality in the unrelated case at bar. If the judge is confident in his or her ability to proceed with fairness and impartiality, the judge should do so.

REFERENCES

Nevada Supreme Court Rules, Code of Judicial Conduct, Canon 3E and Commentary; *Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 644, 650, 940 p.2d 134 (1997); *Snyder v. Viani*, 112 Nev. 568, 575, 916 P.2d 170, *cert denied* 117 S.Ct. 385 (1996).

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