

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

FILED

AUG 17 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY DEPUTY CLERK

RECEIVED  
AUG 17 2006  
CLERK OF SUPREME COURT  
By DEPUTY CLERK

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

### CONCLUSION

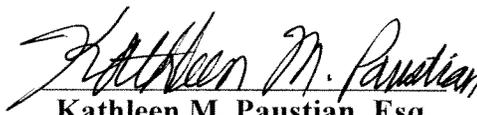
A jurist faced with this question should, first, disclose the relationship between his or her homeowners association and the law firm when any attorney from that firm appears in his or her court. It is then up to the judge to determine if this relationship would impact his or her impartiality in the 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).

---

*This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.*



**Kathleen M. Paustian, Esq.**  
*Committee Vice-Chairperson*