STATE OF NEVADA

STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: August 17, 2006

OPINION: JE06-010

DISCUSSION

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 questions, ...

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

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:

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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**


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.

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