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STATE OF NEVADA

STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: March 26, 2008

ADVISORY OPINION: JE08-004

PROPRIETY OF AN  
INCUMBENT JUDGE SITTING ON  
CASES IN WHICH THE JUDGE'S  
ELECTION OPPONENT OR THE  
OPPONENT'S FIRM SERVES AS  
ATTORNEY.

DISCUSSION

In June, 2006, in Opinion JE06-005, this Committee found a judge is not disqualified from presiding over a case in which a party is represented by an attorney who is the opponent of the judge in an upcoming election. The Committee decided this 2006 Opinion answered the first pending inquiry.

As to the second question, The Nevada Canon of Judicial Conduct 2A provides:

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3 E(1)(a) provides:

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

*Las Vegas Downtown  
Redevelopment Agency V. Hecht*, 113  
Nev. 632, 636 n. 2, 940 P.2d 127  
(1997) found 3E controls over the  
broader statement of Canon 2.

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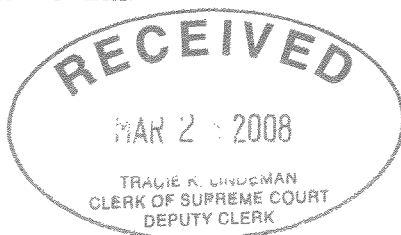
1. Is a judge required to recuse from cases in which the judge's election opponent serves as attorney?
2. Is a judge required to recuse from cases in which another attorney from the opponent's firm serves as counsel for a party?

ANSWERS

No.

FACTS

This written request came from an incumbent judge and asks whether such a judicial officer is required to file a "blanket" recusal in all cases where the judge's declared opponent represents a party before the judge or a member of the opponent's firm represents a party. The judge is referencing cases in which there is no known bias or prejudice against the opponent or any member of the opponent's firm.



However, the Committee found the mere appearance of lack of impartiality is not enough and relied, instead, on the actual bias standard of NRS 1.230(1):

A judge shall not act as such in an action or proceeding when he entertains actual bias or prejudice for or against one of the parties to the action.

Finding no actual bias would attach to the appearance in the incumbent's court by another attorney from the opponent's firm, the Committee found no potential violation of statute or Canon. *Millen v. Dist. Ct.*, 122 Nev. \_\_\_, 148 P.3d 694 (2006).

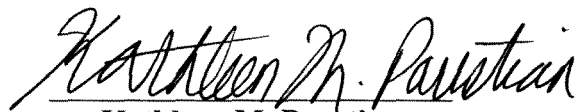
#### CONCLUSION

The Committee found the incumbent judge was not required to recuse from matters represented by the opponent or the opponent's firm.

#### REFERENCES

Opinion JE06-005; Nevada Code of Judicial Conduct, Canons 2A and 3 E(1)(a); *Las Vegas Downtown Redevelopment Agency V. Hecht*, 113 Nev. 632, 636 n. 2, 940 P.2d 127 (1997); NRS 1.230(1).

*This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on 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 requesting the opinion.*

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