

**FILED**

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CLERK OF SUPREME COURT  
BY CHIEF DEPUTY CLERK

STATE OF NEVADA  
STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

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ADVISORY OPINION: JE08-014

PROPRIETY OF A SITTING JUDGE  
HEARING CASES FOR ATTORNEYS  
WHO ARE HIS TENANTS.

DISCUSSION

The Nevada Code of Judicial  
Conduct Canon 3E provides:

ISSUE

May a judge preside over cases in  
adult guardianship court for attorneys who  
are tenants in a commercial building  
owned by the judge?

(1) A judge shall disqualify himself  
or herself in a proceeding in which  
the judge's impartiality might  
reasonably be questioned, including  
but not limited to instances where:

ANSWER

No.

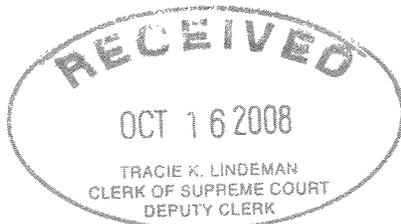
(c) the judge knows that he  
or she, individually or as a  
fiduciary, ... has an economic  
interest ... in a party to the  
proceeding or has any other more  
than de minimis interest and could  
be substantially affected by the  
proceeding; ... .

FACTS

This written request came from a  
sitting judge who owns a commercial  
building occupied by lawyers and his  
former law partner. All open and closed  
adult guardianships in the judge's  
jurisdiction have been transferred to his  
department. His former partner and  
another tenant periodically appear before  
him on guardianship matters. The judge  
indicates the guardianship bar is quite  
small in his jurisdiction and several  
attorneys who appear opposite his former  
partner and tenant have asked to waive  
disqualification in order to remain in the  
judge's department.

(2) A judge shall keep informed  
about the judge's personal ...  
economic interests, ... .

In applying Canon 3(E), the panel  
saw no need to consider the waiver issue,  
given that the Canon precludes this jurist  
from even hearing matters which are  
brought before him by his tenants. While  
the judge does not specify the type of lease  
he has with his tenants, it is reasonable to  
believe he has lease contracts. At least two  
(2) of these tenants have or will eventually  
be in the judge's court on adult  
guardianship matters from which they  
partially derive the professional income  
used to pay these leases. This jurist has a  
"personal economic interest" in the



financial stability of attorneys who rent from him. The conflict or potential conflict is obvious and this judge must disqualify himself from hearing such matters being brought into his court by his tenants.

### CONCLUSION

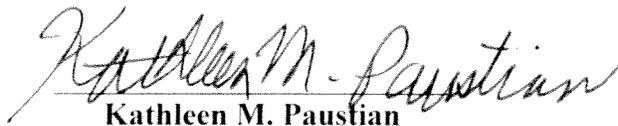
The Committee found the judge must disqualify himself from hearing adult guardianship matters for tenants of his commercial office building.

### REFERENCES

Nevada Code of Judicial Conduct, Canon 3E.

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*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