

CONNECTICUT STATE ETHICS COMMISSION  
97 ELM STREET (REAR)  
HARTFORD, CONNECTICUT 06106

In the Matter of a Request  
for a Declaratory Ruling

89-D

Ms. Nadine O. Monroe  
Applicant

Nadine O. Monroe of Waterford has asked the Ethics Commission for a declaratory ruling on the application of the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, to lawyers who simultaneously serve in the General Assembly and practice before the State's courts. Ms. Monroe has, more particularly, questioned the propriety of such attorneys serving as the chairmen and members of the Legislature's Judiciary Committee.

Among its powers, the Judiciary Committee has cognizance of all matters relating to courts, judicial procedures, and the Judicial Department. Its cognizance also extends to the substantive aspects of both civil and criminal law. Most importantly for purposes of this ruling, the Committee has jurisdiction over all judicial nominations. The Joint Rules of the Senate and House of Representatives (1989) Journal of the House at p. 21. In recognition of the need for legal expertise on this panel, the leadership of the General Assembly has appointed eighteen attorneys to the thirty member committee. The Co-chairmen are both practicing attorneys.

In a recent opinion, the Ethics Commission advised the House Chairman of the Labor and Public Employees Committee that he should not appear before the Workers' Compensation Commission because "...the Representative's authority...over the state

agency ... will make it exceedingly difficult to avoid inadvertent use of his public position in the course of his private, paid representation of clients...regardless of his skill, and no matter how scrupulously he attempts to avoid use of office, many will assume his clients are being favored by the Commission over which he has such significant official influence." Ethics Commission Advisory Opinion No. 89-7,50 Conn. L.J. No. 35, p.8C (February 28,1989).

Extending the logic of that opinion, it is apparent the Ethics Commission will, at a minimum, advise against any committee chairperson appearing for compensation before a commission or agency over which he or she exercises significant official authority. The Judiciary Committee, however, is distinguishable. Its jurisdiction extends not just to a single commission or agency, but to the State's courts.

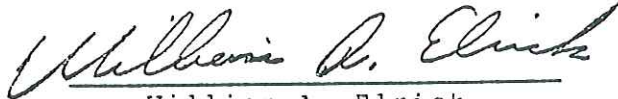
To distinguish the Judiciary Committee from the other committees of the General Assembly for purposes of this ruling is not to deny the inherent possibility of a conflict of interests when an attorney-committee member appears before Connecticut's courts. In fact, the possibility of inadvertent use of public position in the course of private, paid representation of clients, discussed in Advisory Opinion No. 89-7 supra, is even greater in this instance, since members of the Judiciary Committee are so directly responsible for a judge's reappointment to office. As Chief Justice Peters recently stated with regard to the Judicial Review Council and Judicial Selection Commission, "[w]ith the best will in the world, how can a judge ignore the fact that one of the litigants is represented by an attorney who will decide the judge's eligibility for renomination? Although the judge intends to act forthrightly, the very possibility of a conflict of interest casts an unwelcome shadow over the propriety of the proceedings." Remarks by the Honorable Ellen A. Peters, State of the Judiciary Address, February 22, 1989, Journal of the House at p. 660. The Ethics Commission concurs with these remarks, and believes the same basic reasoning applies to attorneys who practice before Connecticut's civil and criminal courts while sitting on the Judiciary Committee.

However, prohibiting appearances by attorney-committee members before the courts of this State would, in many cases, not just restrict their outside employment; it would virtually eliminate it. Alternatively, the attorney-committee members would be required to give up their positions on the panel. The Ethics Commission declines to make so drastic a ruling, even in

the case of a chairman of the Committee. If the judicial selection system or the composition of the Judiciary Committee is to be so fundamentally altered, this would be better accomplished through the legislative process, not through an administrative edict.

The Commission does, however, advise against any attorney in the General Assembly taking part in the reappointment process of a judge before whom the legislator has a pending case. Under such circumstances, the distinct possibility of inadvertent use of official position in violation of § 1-84(c) of the Code is too great to allow.

By order of the Commission,



William A. Elrick  
Chairperson

Dated 6-5-89

