



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
STATE CAPITOL

700 CAPITAL AVENUE, SUITE 200
FRANKFORT, KENTUCKY 40601-3489

JOSEPH R. HUDDLESTON
COURT OF APPEALS

PETER C. MACDONALD
DISTRICT COURT

ARNOLD TAYLOR
ATTORNEY

JAMES L. BOWLING, CHAIRMAN
CIRCUIT COURT

UHEL O. BARRICKMAN
ATTORNEY

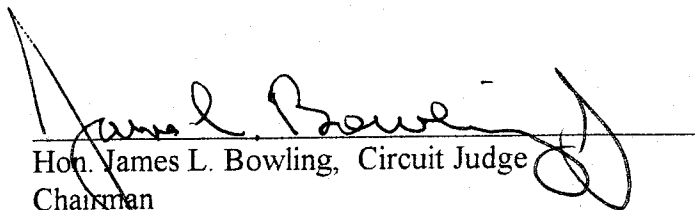
JUDICIAL ETHICS OPINION JE-102

October 29, 2002

Question 1: Where a judge is sued in his official capacity and the Attorney General's office provides him with legal counsel, is the judge disqualified from any case in which the Attorney General participates?

Answer 1: No. Where a judge is sued in his official capacity and is represented by the Attorney General's office, there is no automatic, mandatory disqualification. The judge should, however, disclose the fact of the representation on the record so that other parties may, if they wish, voice an objection. Once the representation ceases, any potential for disqualification evaporates.

The question giving rise to this opinion was raised following the issuance of the original Judicial Ethics Opinion JE-96. Since then, the Ethics Committee has issued an order reversing JE-96 and this opinion is rendered to clarify any misconceptions remaining. Unanimously, the Judicial Ethics Committee sees no reason to require mandatory disqualification on the part of a judge who has been sued in his official capacity and who is provided with legal counsel by the Attorney General's Office. If, in addition, the judge discloses the fact of the representation on the record and any potential objection is then waived by the parties, the judge is then absolved from even the appearance of impropriety. Finally, any potential for disqualification evaporates once the representation ceases.


Hon. James L. Bowling, Circuit Judge
Chairman
The Ethics Committee of the
Kentucky Judiciary