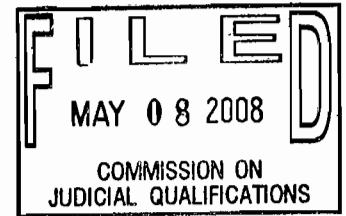




The Supreme Court of Kansas

KANSAS JUDICIAL CENTER
301 S.W. 10th Ave.
Topeka, Kansas 66612-1507



JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 161

May 8, 2008

Prior to becoming a judge, the judge was the plaintiff's lawyer in a currently pending civil action that is now assigned to a different judge. Also, the defendant now has a different lawyer. At this time a motion is pending in this civil action pertaining, in part, to the interpretation of a provision in a Journal Entry that the prior judge had signed. The judge has been asked to provide an affidavit for attachment to the response to this motion concerning the recollections of the judge about the events at that time and the meaning of the court's order.

Canon 3B(9) provides in pertinent part:

"A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. . . ." (2007 Kan. Ct. R. Annot. 626)


We are of the opinion that the requested affidavit would constitute a public comment and that it might reasonably be expected to affect the outcome or impair the fairness of the civil action involved. Providing the requested affidavit would, therefore, be a violation of Canon 3B(9).



Adrian J. Allen



Fred S. Jackson



Edward Larson