

SUPREME COURT OF GEORGIA

Friends of the Chattahoochee, Inc. v. Longleaf Energy Associates, LLC, 285 Ga. 859

684 S.E.2d 632 (2009) · No. S09C1879 · Decided October 5, 2009

SUMMARY

Justice Nahmias explains his recusal from the case because his wife is an equity partner at King & Spalding, which represented parties before the Supreme Court of Georgia. The statement discusses Georgia's judicial disqualification statute and Canon 3(E), concluding that recusal is required when King & Spalding attorneys actively represent a party before the Court.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Justice
JURISDICTION	Georgia
DECIDED	October 5, 2009
DOCKET	S09C1879
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners moved to recuse Justice Nahmias because his wife was an equity partner in King & Spalding LLP, which represented respondents. Justice Nahmias issued a published statement explaining his recusal and the policy he would follow in future cases involving active representation by that firm.
PRECEDENTIAL VALUE	Published recusal statement and order; the opinion announces Justice Nahmias's recusal policy and applies the appearance-of-impartiality standard.
PARTIES	Friends of the Chattahoochee, Inc., et al. v. Longleaf Energy Associates, LLC, et al.

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Justice Nahmias should be disqualified from participating in a case in which attorneys from the law firm where his wife was an equity partner were actively representing a party.
2. Whether a motion to recuse is required in future cases involving active King & Spalding representation, and whether the parties may seek remittal or waiver of the disqualification.

HOLDINGS

1. Justice Nahmias would disqualify himself from any case in which King & Spalding lawyers were actively representing a party before the Supreme Court of Georgia, including this case, because the circumstances created an appearance that his impartiality might reasonably be questioned.
2. No motion to disqualify Justice Nahmias is necessary when King & Spalding lawyers are actively representing a party before the court. If the parties and counsel unanimously agree that he should participate, they may file a motion for remittal under Canon 3(F), after which he will decide in the first instance whether he is willing to participate, subject to the court's ultimate decision.

KEY QUOTATIONS

"Therefore, I will disqualify myself from any case in which King & Spalding lawyers are actively representing a party before this Court, including this case." (684 S.E.2d at 635)

"As the commentary to Canon 3(E)(1)(c) makes clear, regardless of a relative's personal participation or substantial interest in a case, judges still must disqualify themselves "in any proceeding in which their impartiality might reasonably be questioned," pursuant to Canon 3(E)(1)." (684 S.E.2d at 633)

FACTUAL BACKGROUND

Justice Nahmias's wife was an equity partner in the Atlanta office of King & Spalding LLP. King & Spalding attorneys were actively representing respondents in the Supreme Court of Georgia, although Justice Nahmias stated that his wife had not personally represented any party in the litigation. Because an equity partner generally shares in the firm's profits and because the marital relationship could create an appearance of partiality, petitioners sought his recusal.

PROCEDURAL HISTORY

The case was pending before the Supreme Court of Georgia when petitioners filed a motion seeking Justice Nahmias's recusal. Justice Nahmias concluded that he would disqualify himself because his wife was an equity partner in the law firm actively representing a party, and he explained the circumstances under which future recusal or remittal motions should be handled.

DISPOSITION

other

CASES CITED

- Jones County v. A Mining Group, 285 Ga. 465, 678 S.E.2d 474 (2009)
- Laird v. Tatum, 409 U.S. 824, 93 S. Ct. 7, 34 L. Ed. 2d 50 (1972)
- Baptiste v. State, 229 Ga. App. 691, 494 S.E.2d 530 (1997)
- Stephens v. Stephens, 249 Ga. 700, 292 S.E.2d 689 (1982)
- Smith v. Beckman, 683 P.2d 1214 (Colo. Ct. App. 1984)
- Adair v. State of Michigan, 474 Mich. 1027, 709 N.W.2d 567 (2006)
- Pashaian v. Eccelston Properties, 88 F.3d 77 (2d Cir. 1996)

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