

NOTICE TO THE BAR

Re: Recusal Policy of the Chief Justice

The disqualification of judges and justices is covered by Rule 1:12-1, Canon 3C of the Code of Judicial Conduct, and the official comment to Canon 3C. The purpose of this Notice is to inform the bar of Chief Justice Rabner's determination in respect of recusals from matters in which, as the Attorney General, he was the attorney of record.

Please be advised that Chief Justice Rabner intends to participate in civil and criminal matters brought before the Supreme Court in which the State is a party or appears as amicus curiae if the Chief Justice's presence as the attorney of record in such matters during his tenure as Attorney General was pro forma. In general and on balance, the duties of the Chief Justice and the responsibilities associated with the administration of justice call for the Chief Justice to participate in such matters notwithstanding that solely by nature of his position as Attorney General, he was the attorney of record. Cf., Muench v. Israel, 524 F.Supp. 1115 (E.D. Wis. 1981); see also, Laird v. Tatum, 409 U.S. 824 (1972); Dade County v. Michigan Mutual Liability Company, 169 So. 2d 483 (1964).

Consistent with established Court policy, the Chief Justice does not intend to issue statements on his participation or non-participation in specific matters that come before the Court.

Stephen W. Townsend,
Clerk of the Supreme Court

Dated: October 3, 2007