

Judicial Inquiry Commission

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December 21, 1979

The Judicial Inquiry Commission is considering your request for an opinion concerning the disqualification of a judge in a proceeding where a lawyer-relative of a judge represents a party to a proceeding or where a member of the firm with which the lawyer-relative is associated represents a party to a proceeding. Due to the complexity of the questions you have propounded, the Commission finds it necessary to consider most of these issues further. However, the Commission has considered and reached its opinion with regard to your first series of questions.

Your first question was posed to the Commission as follows:

1. Under what circumstances, if any, is a judge disqualified from hearing a contested case in which a close relative (the judge's adult son) personally appears before the judge and represents one of the parties who is involved in the contest?

1.(a) Same questions as above but add thereto the following: all opposing parties having waived any disability.

It is the opinion of the Commission that a judge is disqualified in any proceeding in which an attorney of record is related to the judge within the fourth degree by consanguinity or affinity. This disqualification may be waived if all parties agree in writing according to the procedure outlined in Canon 3D for the remittal of disqualification.

The Commission is presently further considering your remaining questions and the members hope that a response will be forthcoming in the near future.

Sincerely,