

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

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The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a judge is disqualified to hear and decide routine civil motions when one party is represented by a law firm which is employing the judge's son, who is in law school, as a summer clerk. You further state that you would not be hearing the actual trial of such a case.

It is the opinion of the Commission that disqualification of a judge is not required in the circumstances you describe simply because the judge's child is working as a summer law clerk for the firm in question. In Advisory Opinion 81-125, the Commission concluded that the fact that a judge's child worked as a paralegal for a law firm does not per se disqualify the judge from any action in cases handled by the law firm, although circumstances requiring disqualification could arise in that situation. The same is true when the judge's child is employed as a summer law clerk.

In the situation you describe, disqualification might be required under some circumstances. For example, if the nature of the child's employment with the firm were such that he had an interest in a particular motion or matter that could be substantially affected by the judge's ruling, then disqualification would be required under Canon 3C(d)(ii). Other facts might arise requiring disqualification because the judge's "impartiality might reasonably be questioned" under Canon 3C(l). Those facts would have to be addressed on a case-by-case basis to determine whether disqualification is required. However, the mere fact that the judge's child is a law clerk to a firm involved in a routine civil motion before the judge does not by itself require disqualification.

Different factual situations may, of course, be presented to the Commission for advisory opinion.

Very truly yours,

JUDICIAL INQUIRY COMMISSION