

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for opinions on whether a judge is disqualified under the following circumstances:

1. A case before the judge in which the principal defendant belongs to the same professional organization as the judge's father and brother; and **97-647**
2. Cases before the judge where the physician-son of an attorney appearing before the judge is a member of the same medical practice entity as the judge's father and brother. **97-648**

It is the opinion of the Commission that neither circumstance disqualifies the judge.

It is the opinion of the Commission that the judge is not disqualified by reason of common membership of the judge's family members and a party or principal of a party in a professional organization. Likewise, the judge is not disqualified from hearing a case in which a party is represented by either an attorney whose son practices another profession with the judge's father and brother or that attorney's firm, where the entity in which the attorney's son, the judge's father, and the judge's brother is practicing is not a party to the proceedings.

Canon 3C(l) governs disqualification and requires a judge to disqualify himself in a proceeding in which, inter alia, the judge's impartiality might reasonably be questioned. A judge may be disqualified as a result of family activities where "a spouse or minor child residing in [the judge's] household has a financial interest in the subject matter ... or any other interest that could be substantially affected by the outcome of the proceeding"

Canon 3C(l)(c). Alternatively, Canon 3C(l)(d) requires a judge's disqualification where:

He or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person:

- (i) Is named a party to the proceeding, or an officer, director, or trustee of a party;
- (ii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
- (iii) Is to the judge's knowledge likely to be a material witness in the proceeding

With respect to the professional organization, disqualification is not required. The organization, which has thousands of members, is not a party to the proceeding before the judge. Moreover, it is not the judge's organization, but rather that of the judge's father and brother. If a judge's membership in the Alabama State Bar, the American Bar Association, or another similar professional organization is not generally disqualifying, the same holds true for the professional affiliation of a judge's family members.

Likewise, the business relationship of the judge's family members and the attorney's family member is not disqualifying. None of the individuals has an interest in the outcome of the case before the judge, and none of them is a party. The same holds true of the business entity. Finally, there is no indication that any of them is likely to be a material witness in the pending case.

Yours Truly,