

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion regarding a judge's obligation to recuse from hearing cases in which law firms that employ the judge's daughter and son-in-law represent parties in cases heard by the judge. As you acknowledge in your request, the judge may not hear cases in which the judge's daughter or son-in-law actually represented a party before the judge. The request concerns the scope of the judge's obligation to recuse when the relative's firm appears but the relative has no participation in the case.

It is the opinion of the Commission that a judge is not obligated to recuse from hearing a case in which a law firm that employs the judge's daughter or son-in-law as an associate also represents a party and the relative does not participate in the case.

Canon 3C(l)(d) of the Canons of Judicial Ethics limits a judge's ability to hear cases in which a relative within the fourth degree of affinity or consanguinity appears as, *inter alia*, counsel for a party. The Commentary to subsection (i) of that Canon explains:

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of a judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "his impartiality might reasonably be questioned" under Canon 3C(l), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceedings" under Canon 3C(l)(d)(ii) may require disqualification.

Id.; see also J. Shaman, S. Lubet, J. Alfini, *Judicial Conduct and Ethics*, § 4.12 (1995). Where the judge's relative has absolutely no participation in the case and is an associate whose compensation would not be expected to be directly affected by the outcome of the proceedings, no basis for disqualification appears.

Yours very truly,