

## Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge is disqualified under the Canons of Judicial Ethics from trying a case in which one of the attorneys is a partner of another attorney who has been retained by the judge to represent him and his minor son in a tort claim. Specifically you ask whether a judge's failure to disqualify himself in such a situation would constitute the appearance of impropriety.

Your question concerns both Canon 2 and Canon 3C. Canon 3C specifically governs the matter of disqualification. In pertinent part, that Canon provides that:

“A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned . . .”

Canon 2 provides that:

“A judge should avoid impropriety and the appearance of impropriety in all of his activities.”

It is the opinion of this Commission that the mere fact that a judge has retained an attorney's law partner to represent the judge or a member of the judge's family in a single case would not disqualify the judge, under Canon 3C, from sitting in a different case where the attorney represents one of the parties. Nor would the judge's failure to recuse himself automatically constitute the appearance of impropriety under Canon 2.