

ADVISORY COMMITTEE ON
STANDARDS OF JUDICIAL CONDUCT

Opinion No. 6 - 2019

RE: Propriety of a family court judge, who is also the chief administrative judge, handling matters in which the lawyer or law firm representing the judge's assistant appears.

FACTS

A family court judge who also serves as the chief administrative judge for the circuit, requests an opinion as to whether the judge is disqualified under a certain set of facts. The judge's assistant has filed a domestic action in the county in which the judge serves. The assistant is represented by a lawyer whose law firm has the largest footprint on the court's docket. The judge is aware of a previous opinion requiring the judge to disclose the firm's representation of the judge's assistant in other cases in which the firm appears, thereby giving other parties the opportunity to object or seek disqualification of the judge. However, the judge has some concerns regarding matters in which disclosure may not be possible.

As the chief administrative judge of the family court in that circuit, the judge is responsible for a great deal of administrative matters. For example, family court cases are subject to dismissal if they extend beyond 365 days. The judge routinely receives these dismissals ("365 dismissals") from the clerk's office that simply require the judge's signature as chief administrative judge. However, if the assistant's lawyer or law firm serves as counsel for one of the parties, the judge does not have the opportunity to make any disclosures to the other side before signing the 365 dismissal. Also, often times, pre-trial hearings, requests for extension of the 365 days, and waiver of mediation requests are scheduled for a hearing before the judge. In addition, family court judges also frequently receive requests to sign Rules to Show Cause, bench warrants, etc. Disclosure would not be feasible in these situations. The inquiring judge seeks guidance as to whether the

judge may handle these matters where the lawyer or law firm for the judge's assistant is representing a party. In addition, the judge inquires as to whether the judge's assistant may schedule conference calls, track orders, and perform other administrative duties on matters in which the law firm is involved.

CONCLUSION

A family court judge may perform routine administrative functions in matters in which the law firm representing the judge's secretary appears.

DISCUSSION

In Opinion 2-2016, we addressed the question of whether a family court judge was required to recuse himself or herself from a proceeding involving the judge's secretary's attorney. We determined that disqualification was not required but found that the judge should disclose any relevant information on the record, pursuant to the Commentary of Canon 3E. The inquiring judge's question goes beyond a single matter in which the attorney for the judge's assistant appears and, thus, requests guidance in addition to the determination in Opinion 2-2016.

Much of the paperwork presented to the judge for signing, as chief administrative judge, is primarily administrative in nature. For matters in which the lawyer or law firm for the judge's secretary appears, the judge may sign these administrative matters (as is the usual course of business) without making disclosure to the opposing party. These administrative matters would include 365 dismissals, Rules to Show Cause, and bench warrants. For pre-trial hearings or hearings involving requests for extension of the 365 days or waiver of mediation requests, the judge should make the disclosure prior to or at the hearing.

With regard to the issue of whether the judge's assistant may schedule conference calls, track orders, and perform other administrative duties on matters in which the law firm is involved, we find that she may perform routine administrative duties even when the lawyer/law firm are involved.

S/ Letitia H. Verdin
LETITIA H. VERDIN, CHAIR

S/ Usha Jefferies Bridges
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S/ Keith M. Babcock
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May 13, 2019