

**ADVISORY COMMITTEE**  
**ON STANDARDS OF JUDICIAL CONDUCT**

OPINION NO. 7 - 2022

RE: The propriety of a Family Court Judge presiding over cases in which a lawyer (or members of the law firm) appear as counsel where the lawyer also represents the opposing party in litigation involving the judge's spouse.

**FACTS**

A Family Court Judge's spouse is involved in civil litigation pending in the Court of Common Pleas. The attorney representing the opposing party in that case also regularly appears in Family Court matters, as do other members of the lawyer's firm. The judge inquires as to whether the judge should recuse himself/herself from Family Court cases in which the lawyer appears as counsel. The judge also inquires as to whether recusal is required when other members of the lawyer's firm appear as counsel in Family Court matters. The judge also seeks guidance as to the best method to inform the lawyers and/or parties of the judge's recusal.

**CONCLUSION**

A Family Court Judge should not preside over cases in which a lawyer (or members of the law firm) appear as counsel where the lawyer also represents the opposing party in litigation involving the judge's spouse.

**OPINION**

A judge must disqualify "himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where the judge has a personal bias or prejudice concerning a party or a party's lawyer...." Canon 3E(1)(a). Presiding over a matter in which the counsel of record is a lawyer who also represents a party adverse to the judge's spouse in civil litigation could certainly lead to the judge's impartiality being questioned. Thus, while the civil litigation is pending, the judge should disqualify himself or

herself from cases in which the lawyer appears as counsel in Family Court. In addition, it is conceivable that the perception of bias could extend to other members of the law firm. Thus, the judge should also refrain from presiding over Family Court matters in which other lawyers from the law firm appear, at least until the civil litigation is concluded. After the conclusion of the civil litigation, if the lawyer or members of the firm thereafter appear as counsel in Family Court, the judge can use the considerations of Canon 3E to determine if there is a need for disqualification, and, if so, whether the remittal of disqualification procedure under 3F is appropriate.

It is not within this Committee's purview to advise the judge on how to inform the lawyers and the parties of the judge's recusal while the civil matter is pending. However, Court Administration or the clerk's office may be able to provide guidance on this issue.

s/ Usha Jeffries Bridges  
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.  
WILLIAM H. SEALS, JR.

s/ Keith M. Babcock  
KEITH M. BABCOCK

May 12, 2022