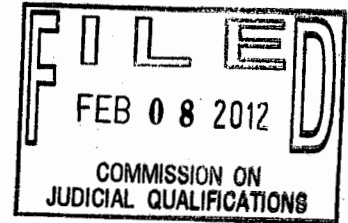




# The Supreme Court of Kansas

KANSAS JUDICIAL CENTER  
301 S.W. 10<sup>th</sup> Ave.  
Topeka, Kansas 66612-1507



## JUDICIAL ETHICS ADVISORY PANEL

### Judicial Ethics Opinion JE 172

February 8, 2012

A district judge who presides in a multi-judge judicial district has a child who has recently become an associate/employee of a law firm involved in the general practice of law. Members of the law firm regularly appear in cases in the district court.

The judge's child's area of practice is tax and estate planning. The child, employed on a set salary, is not currently a partner and does not share in the profits of the firm.

The judge asks whether lawyers in the law firm where the judge's child is employed may practice before the judge.

Canon 2, Rule 2.11(A) provides that "A judge shall disqualify himself or herself in any proceeding in which the judge's *impartiality* might reasonably be questioned . . ."

We are of the opinion that the judge's impartiality might reasonably be questioned in a proceeding before the judge in which a party is represented by members of the law firm that employs the judge's child.

Canon 1, Rule 1.2 provides "A judge shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of impropriety."

We are also of the opinion that appearance before the judge by members of the law firm that employs the judge's child would not promote public confidence in the independence, integrity, and impartiality of the judiciary and would result in the appearance of impropriety.

The judge is, therefore, required to disqualify in any proceeding in which members of the law firm that employs the judge's child represents a party.

We are of the opinion that the same rules exist whether the judge's child is an employee or partner of the law firm.

The judge further asks that, if a conflict does exist, would a remittal of disqualification obtained pursuant to the provisions of Rule 2.11(C) allow the judge to hear cases involving other lawyers in the firm where the judge's child is an employee.

The provisions of Rule 2.11(C) are applicable:

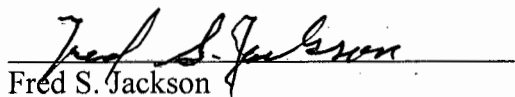
“(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.”

We are bound by the provisions of Rule 2.11 (C) but recognize that instances may exist where its utilization would not be appropriate because of the nature of the proceedings.

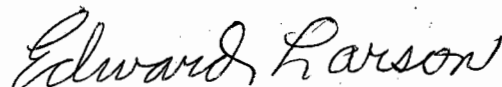
We have reviewed and consider our response to be consistent with Judicial Ethics Advisory Opinion 167 dated March 9, 2009.

  
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Adrian J. Allen

  
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Fred S. Jackson

  
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Edward Larson