

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion concerning a judge's obligation to recuse himself from hearing a case in which his first cousin entered an appearance for one of a number of parties and then withdrew as counsel, his law firm remaining in the case, apparently before significant proceedings in the case had occurred.

It is the opinion of the Commission that, under the Canons of Judicial Ethics, the judge need not recuse where the relative-attorney has withdrawn from the case.

A judge is disqualified under Canon 3 C(l)(d) in any proceeding in which an attorney is related to the judge within the fourth degree of consanguinity or affinity. The judge's disqualification is not, however, required merely because a party is represented by a member of a law firm in which a relative within the prohibited degree is also a member. Shaman, Lubet, Alfini, *Judicial Conduct and Ethics*, 2d ed. § 5.12. Moreover, the Commission has previously recognized that, once a ground for disqualification ceases, recusal is no longer required provided no extraordinary circumstances giving rise to reasonable questions about the judge's impartiality exist. See Advisory Opinions 96-617, 94-516, and 92-454. The request gives no indication that any such extraordinary circumstances exist, but the judge should consider whether there are any in ruling on the motion.

Thus, in this case, the judge's recusal was required only until the judge's relative withdrew as counsel for a party. Once that withdrawal was complete, recusal was no longer required.

Yours very truly,