



QUESTIONS AND ANSWERS ABOUT JUDICIAL DISSQUALIFICATION TIED TO FAMILY

"An Ethics Guide for Judges and Their Families" by Cynthia Gray includes the scenarios below and others. It is available in full and free online through the National Center for State Courts at (<http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics/CJE-Publications.aspx>). This article should be read alongside the Code of Judicial Conduct for your state, commonwealth, or territory. Many codes are revised and posted on websites.

May a judge preside in a case against a hospital at which his wife is a doctor?

Yes, unless he knows his wife's salary or employment status might be affected by the outcome of the case, his wife is likely to be a material witness, or the judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts as a result of his wife's employment.

May a judge preside over a personal injury case where the judge knows her mother-in-law witnessed the car accident that is the subject of the suit and is likely to be a material witness?

No. The judge's mother-in-law is within the third degree of relationship to the judge's husband, and a judge may not preside in a case in which a person within the third degree of relationship to the judge's spouse is, to the judge's knowledge, likely to be a material witness.

May a judge preside in a case where one of the attorneys is the judge's cousin?

Because cousins are not within the third degree of relationship, in most states, the judge may preside unless the judge and the cousin have a near-sibling relationship or close familial tie.

May a judge preside in a case in which the defendant is a bank in which the judge's wife has an account or to which his wife owes money?

Yes, unless there is currently a dispute over the account or the loan is in default.

May a judge whose husband is mayor of a city preside in a case in which the city is a party?

No. If a judge's relative is the mayor of a city, the judge is disqualified from proceedings in which the city is a party.

May a judge preside over a case in which the defendant is a large corporation if the judge's daughter owns 1% or less of the company's outstanding stock, an amount that is worth less than \$1,000?

In jurisdictions that apply the "however small" standard, the judge may not preside because his daughter has a disqualifying financial interest in a party; in jurisdictions that apply a de minimis standard, the judge probably can preside.

Judicial Educators are encouraged to copy this and other Judicial Family Institute (JFI) website articles for judicial conference literature tables.