

# JUDICIAL INQUIRY COMMISSION

DATE ISSUED: July 13, 2007

ADVISORY OPINION 07-884

DISQUALIFICATION – JUDGE’S SON  
FORMERLY EMPLOYED BY A LAW FIRM  
REPRESENTING ONE OF THE PARTIES

## ISSUE

Is a judge disqualified to hear a case in which a party is represented by a law firm that formerly employed the judge’s college-age son part-time as an “errand runner”? **Answer:** No, a judge is not disqualified when his son is no longer employed by the firm, has no recollection of any knowledge of the case, and did not discuss the case with the judge.

## FACTS

The judge’s son, while in college, was employed part-time as an “errand runner” for a law firm that represents the defendant in a case assigned to the judge. The judge’s son worked for a few months until December 2005. The case was filed in July 2005. He does not remember having any knowledge of the case while employed with the firm, and he did not discuss the case with the judge.

## DISCUSSION

The mere fact of employment of a judge’s child by a law firm involved in the case does not cause disqualification. Advisory Opinion 96-608 (law-student/son employed as staff assistant does not alone cause disqualification), and opinions cited therein, including Advisory Opinions 90-401 (same for child/part-time clerical assistant), and 85-239 (same for child/law clerk). *See also* Advisory Opinion 01-785 (same for child/secretary). The judge may be disqualified, however, depending on the particular circumstances. Advisory Opinion 96-608. In determining whether disqualification is required, the judge should

himself access all facts and circumstances surrounding the case, his relationship with the employee, and the employee’s relationship to the case. Advisory Opinions 05-852, 01-785, and 96-608.

In Advisory Opinion 05-852, the Commission concluded that a judge was not disqualified from presiding in a case where one of the parties was represented by a law firm that was the former employer of the judge’s wife/legal secretary who had not had any involvement with the case. In making that determination, the Commission considered, as highly relevant, the former employee’s degree of involvement or non-involvement in the case. The status of employment, i.e., whether the relative is still employed with the firm, was also a critical factor, for a judge is not disqualified after a circumstance causing disqualification has ceased to exist unless extraordinary circumstances require continued disqualification. *Id.*

In any proceeding in which a judge’s relative is employed by one of the attorneys or law firms involved, the judge should disclose that fact to the attorneys, even if he believes that there is no real basis for disqualification. Canon 3E. *See* Advisory Opinion 96-608. This disclosure could avoid the appearance of impropriety and give the parties and their attorneys the opportunity to supply information regarding whether any additional circumstances exist under which the judge’s impartiality might reasonably be questioned. Advisory Opinions 06-865 and 04-845.

**REFERENCES**

Advisory Opinions 06-865, 05-852, 04-845, 01-785, 96-608, 90-401, and 85-239.

Alabama Canons of Judicial Ethics, Canon 3E.

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This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P. O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043; E-mail: [jic@alalinc.net](mailto:jic@alalinc.net).