



The Supreme Court of Kansas

Kansas Judicial Center
Topeka, Kansas 66612-1507



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JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 93

CAROL G. GREEN
CLERK OF APPELLATE COURTS

December 9, 1999

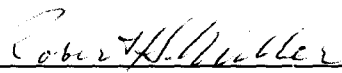
QUESTION:


A judge's former spouse is a member of a law firm which has ongoing business before the judge's court. Must the judge disqualify in any case in which any member of the former spouse's firm is involved?

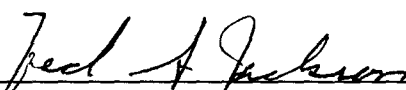
ANSWER:

Yes. Canon 2, 1999 Kan. Ct. R. Annot 465, requires a judge to "... act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary." "The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired." See Commentary to Canon 2.

Whenever either the ex-spouse or another member of the ex-spouse's firm would appear before the judge, we believe a reasonable person might question the judge's impartiality. Therefore, we conclude that the judge should disqualify himself or herself.


Robert H. Miller, Chairman


Adrian J. Allen


Fred S. Jackson