

**FILED**

**DEC 31 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY \_\_\_\_\_  
DEPUTY CLERK

**STATE OF NEVADA**  
**STANDING COMMITTEE ON**  
**JUDICIAL ETHICS AND ELECTION PRACTICES**

**DATE ISSUED: December 31, 2009**

**ADVISORY OPINION: JE09-007**

REQUIREMENT OF A JUDGE TO DISCLOSE THAT THE JUDGE'S LAW CLERK IS THE CHILD OF AN ATTORNEY WHO APPEARS BEFORE THE JUDGE.

**ISSUE**

Is a judge required to disclose that the judge's law clerk is the child of a local attorney who routinely appears before the judge?

**ANSWER**

Yes.

**FACTS**

This written request came from a sitting judge in a district which has a limited number of jurists. The father of the judge's new law clerk is an attorney who regularly practices before the judge. This jurist acknowledges he has an obligation to notify parties adverse to the law clerk's father of the relationship between the clerk and counsel. The Judge also plans to inform adverse counsel that the law clerk will not work on the case on bar. Finally, the judge asks if he should take any additional action.

**DISCUSSION**

A judge must disclose information the judge believes the parties or their

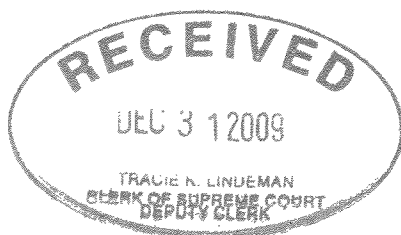
counsel might reasonably consider relevant to the question of disqualification.

The Committee cautions the judge to, first, be confident under Judicial Canon 3C(4) that the law clerk was hired on merit. Secondly, the judge must disclose the relationship to adverse counsel and assure counsel the clerk will not work on the case at issue. Finally, the jurist must comply with the Nevada Code of Judicial Conduct Canons 3C(2) and 2A, which provide:

3C(2). A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

2A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Committee is aware it has been convention among the districts that the Model Code of Conduct for Judicial Employees in the State of Nevada applies only when the judges in any given district have approved its use. The district in question has apparently not adopted the Model Code. The Committee strongly urges this district to do so.



### CONCLUSION

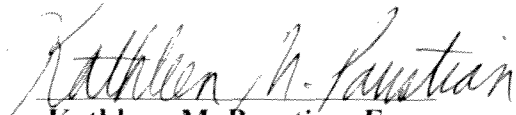
The Committee agreed the judge must follow his own offer to disclose the relationship between his law clerk and the law clerk's father as needed. The judge must assure adverse counsel the law clerk will not work on the case before him. In addition, the judge must follow the provisions of the Judicial Canon to ensure no appearance of impropriety or favoritism. The Committee also suggests that the district in which this jurist sits adopt the Model Code of Conduct for Judicial Employees in the State of Nevada.

### REFERENCES

The Nevada Code of Judicial Conduct Canons 2A and 3C(2) and (4) and the Model Code of Conduct for Judicial Employees in the State of Nevada.

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*This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity requesting the opinion.*

  
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*Committee Chairperson*