



JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

January 15, 2025

Re: JIC Advisory Opinion 2025-03

Dear :

Your request for an advisory opinion was recently reviewed by the Commission. You are a long time family court judge who is married to a lawyer. Your spouse recently formed a PLLC with another lawyer and the two began practicing together on January 1, 2025. Your spouse's new partner also practices family law before you. You correctly point out that with the formation of the new PLLC, you are no longer able to preside over any cases involving the partner pursuant to Rule 2.11(A)(2)(c) of the Code of Judicial Conduct which states:

- (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: . . .
- (2) The Judge knows that the judge, the judge's spouse or domestic partner or a person within the third degree of relationship to either of them or the spouse or domestic partner of such a person is: . . . (c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; . . .

You want to know if there is any problem with the Chief Family Court Judge entering an Administrative Order that requires the Circuit Clerk(s) to assign all of the partner's family law cases to the other family court judge(s) in the Circuit. For any new case the transfer will take place at the time the partner files a Notice of Appearance. To address your question, the Commission has reviewed Rule 2.5(B) which states that "[a] judge shall cooperate with other judges and court officials in the administration of court business."

Based upon the foregoing the Commission is of the opinion that you may handle your disqualification of all current and future cases involving the partner in the manner set forth above. To the extent possible and consistent with Rule 2.5(A), you should consider the equitable distribution of cases so as not to unfairly overload the other judge(s). The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat