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