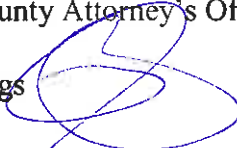


WOODBURY COUNTY ATTORNEY

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TO: Woodbury County Attorney's Office Attorneys and Staff
FROM: Patrick Jennings 
DATE: July 1, 2010

Screening Policy

Assistant Woodbury County Attorney Loan Hensley is married to District Associate Judge Todd Hensley.

Loan Hensley is assigned to the Juvenile Division of the Woodbury County Attorney's Office. In her position as an attorney with the Juvenile Division of the Woodbury County Attorney's Office, Loan Hensley would not appear as an assistant county attorney in any case in which Todd Hensley was the judge.

This policy that Loan Hensley will not appear in front of Todd Hensley meets the requirements of the *Iowa Code of Judicial Conduct*, Rule 51:2.11(A)(2)(b) regarding disqualification. See also, Iowa Supreme Court Board of Professional Ethics and Conduct, Opinion 06-01.

The employment of Loan Hensley by the Woodbury County Attorney's Office will not affect the ability of the Woodbury County Attorney's Office to appear in front of Judge Todd Hensley. *U. S. ex rel. Weinberger v. Equifax, Inc.*, 557 F.2d 456, 463 (5th Cir. 1977), *cert. denied*, 434 U.S. 1035, 98 S.Ct. 768, 54 L.Ed.2d 782 ("The current statute providing for disqualification of a judge for bias suggests that he 'shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned,' 28 U.S.C. § 455(a), and that he must disqualify himself if he or his spouse or a 'person within the third degree of relationship' is acting as a lawyer in the proceeding, 28 U.S.C. § 455(b)(5)(ii), or has a financial interest in the outcome of the proceeding, 28 U.S.C. § 455(b)(5)(iii). None of the provisions requiring recusal apply here. It is undisputed that the district judge's son did not actively participate in Equifax's defense. That the son's law firm participated in the proceeding does not mean that he was 'acting as a lawyer in the proceeding.' See *SCA Services, Inc. v. Morgan*, 557 F.2d 110 (7th Cir., 1977). That

provision requires actual participation. The fears of judicial bias that might result from an offspring's active participation in a proceeding do not merit automatic disqualification of the law firm to which the relative belongs.”). See also, *State v. Harrell*, 546 N.W.2d 115, 116 (Wis. 1996)(“The issue before us is whether, in a case tried by the district attorney’s office, a circuit court judge, whose spouse is an assistant district attorney in the same county, is required to disqualify himself or herself under either Wis.Stat. § 757.19(2)(a) (1993-94),-prohibiting a judge from hearing a case when a close relative is ‘counsel thereto’ for either party-or Wis.Stat. § 757.19(2)(g),-prohibiting a judge from hearing a case when the judge determines he or she cannot retain his or her impartiality. We hold that neither Wis.Stat. § 757.19(2)(a) nor Wis.Stat. § 757.19(2)(g) requires a judge to disqualify himself or herself in such a situation as long as his or her spouse did not participate in, or help prepare, the case.”) and *Iowa Code of Judicial Conduct*, Rule 51:2.11 cmt. 4 (“The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge.”).

To further ensure separation between the work of Loan Hensley as an assistant county attorney and the work of Todd Hensley as a district associate judge, the following procedures are to be followed by all attorneys and staff of the Woodbury County Attorney’s Office:

1. Loan Hensley is not to have any connection with any case which has or will come before Todd Hensley.
2. The attorneys and staff of the Woodbury County Attorney’s Office are not to have any discussions with or transfer documents to Loan Hensley concerning any case which has or will come before Todd Hensley.
3. Loan Hensley is not to access any files within the Woodbury County Attorney’s Office which have or will come before Todd Hensley.