

**Colorado Supreme Court  
Judicial Ethics Advisory Board (C.J.E.A.B.)**

**C.J.E.A.B. ADVISORY OPINION 2006-01  
(Finalized and effective January 19, 2006)**

**ISSUE PRESENTED**

The requesting judge is often asked by friends or family members to recommend a lawyer. The judge is concerned that if he does make a recommendation, the judge might violate Canon 2 or be perceived as holding a bias in favor of a particular lawyer. The judge notes that he would recuse himself in a particular case if he was familiar with the facts of the case because of his earlier conversation with the friend or family member seeking advice. With this caveat in mind, may the judge recommend to friends and family members either a single lawyer or a group of two or three lawyers?

**CONCLUSIONS**

The judge may recommend a lawyer or lawyers only in circumstances where the judge has a sufficiently close relationship with the requesting party that he would automatically recuse himself from the case due to the closeness of that relationship, regardless of whether the judge had been asked to make a recommendation.

**APPLICABLE CANONS OF THE COLORADO CODE OF JUDICIAL CONDUCT**

Canon 2B states, in pertinent part, that "A judge should not lend the prestige of his or her office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence him or her."

Canon 2A(9) directs a judge to perform all judicial duties without bias or prejudice.

Canon 3C(1)(a) provides that a judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including where a judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding. Under subsection (d), the judge also must disqualify himself or herself where the judge or the judge's spouse or relatives within the third degree of either of them participate in the case in certain capacities.

## **DISCUSSION**

The Code of Judicial Conduct requires judges to adhere to the very highest standards of professional conduct both on and off the bench. At the same time, judges must live and operate in the real world where they maintain relationships with friends and family members who, on occasion, require legal representation. Before hiring a lawyer to handle their case, these individuals may seek out the expertise of their judge friend or family member who, by virtue of the judge's position, is familiar with many members of the local bar and their varying degrees of skill, experience, and expertise.

Although one in need of a lawyer understandably would desire to retain an attorney who has made a favorable impression on a judge before whom the lawyer practices, as a general rule, the Canons constrain a judge from freely responding to requests for a recommendation of a lawyer. Canon 2 generally directs a judge to avoid impropriety or the appearance of impropriety in his or her activities, and Canon 2B provides that a judge should not lend the prestige of his or her office to advance the private interests of another. It also states that judges should not convey or allow others to convey the impression that they are in a special position to influence the judge. Canon 3A(9) directs a judge to perform his or her duties without bias or prejudice. If a judge were routinely to recommend legal counsel to all who asked, the judge would be violating these provisions. Regularly referring potential clients to particular lawyers could create the perception that the judge is biased in favor of the attorneys recommended, could be seen as using the prestige of the office to advance the private interests of the lawyers recommended, and could lead the attorneys recommended to believe that they are in a special position to influence the judge.

As noted above, however, judges do not relinquish their friends or family members upon taking the bench, and requiring them to refrain from providing advice to such close friends and relatives about whom to retain would be unrealistic. Thus, it is the opinion of the Board that the Code does not extend this far. Accordingly, the Board concludes that where the family members or friends enjoy a sufficiently close relationship with the judge that the judge would automatically recuse from the case under Canon 3C, irrespective of whether he was asked to recommend a lawyer, the judge may share with those family members or friends the names of as many or as few lawyers as the judge wishes to recommend.

**FORMALLY FINALIZED AND EFFECTIVE this 19th day of January, 2006 by the Colorado Judicial Ethics Advisory Board.**