

## **RULE 1:12. Disqualification And Disability Of Judges**

### **1:12-1. Cause for Disqualification; On the Court's Motion**

The judge of any court shall be disqualified on the court's own motion and shall not sit in any matter, if the judge

**(a)** is by blood or marriage the second cousin of or is more closely related to any party to the action;

**(b)** is by blood or marriage the first cousin of or is more closely related to any attorney in the action. This proscription shall extend to the partners, employers, employees or office associates of any such attorney except where the Chief Justice for good cause otherwise permits;

**(c)** has been attorney of record or counsel in the action;

**(d)** has given an opinion upon a matter in question in the action;

**(e)** is interested in the event of the action;

**(f)** has discussed or negotiated his or her post-retirement employment with any party, attorney or law firm involved in the matter; or

**(g)** when there is any other reason which might preclude a fair and unbiased hearing and judgment, or which might reasonably lead counsel or the parties to believe so.

Paragraphs (c), (d) and (e) shall not prevent a judge from sitting because of having given an opinion in another action in which the same matter in controversy came in question or given an opinion on any question in controversy in the pending action in the course of previous proceedings therein, or because the board of chosen freeholders of a county or the municipality in which the judge resides or is liable to be taxed are or may be parties to the record or otherwise interested.

Note: Source – R.R. 1:25B(a); introductory paragraph, paragraph (d) and concluding paragraph amended July 13, 1994 to be effective September 1, 1994; paragraphs (c), (d) and (e) amended, former paragraph (f) redesignated as paragraph (g), and new paragraph (f) adopted July 19, 2012 to be effective September 4, 2012.

### **1:12-2. Disqualification on Party's Motion**

Any party, on motion made to the judge before trial or argument and stating the reasons therefor, may seek that judge's disqualification.

Note: Source-R.R. 1:25B(b); amended June 28, 1996 to be effective September 1, 1996.

### **1:12-3. Proceedings in the Trial Courts in the Event of Disqualification or Inability**

**(a)** Before or After Trial; Designation. In the event of the disqualification or inability for any reason of a judge to hear any pending matter before or after trial, another judge of the court in which the matter is pending or a judge temporarily assigned to hear the matter shall be designated by the Chief Justice or by the Assignment Judge of the county where the matter is pending except that in the municipal court the Assignment Judge

shall designate the acting judge and in the Tax Court the Chief Justice or the Presiding Judge of the Tax Court shall designate another Tax Court judge.

**(b)** During Trial. If a judge is prevented during a trial from continuing to preside therein, another judge may be designated to complete the trial as if having presided from its commencement, provided, however, that the substituted judge is able to become familiar with the proceedings and all of the testimony therein through a complete transcript thereof.

**(c)** Disposition in the Interest of Justice. No substituted judge shall continue the trial in any matter pursuant to this rule unless satisfied, under the circumstances, that the judicial duties can fairly be discharged. If not so satisfied, the substituted judge shall make such disposition as the circumstances warrant, as where trial has taken place, by ordering a new trial or, in a case tried without a jury, by directing the recall of any witness.

Note: Source-R.R. 3:7-4(a), (b), (c), 4:65, 6:2-1(b), 8:7-9, 8:13-2; paragraph (a) amended November 27, 1974 to be effective April 1, 1975; paragraph (a) amended June 20, 1979 to be effective July 1, 1979; paragraphs (b) and (c) amended July 13, 1994 to be effective September 1, 1994.