

COURT NOTICES

AMENDMENT OF RULE Rules Governing Judicial Conduct

By the powers vested in me and with the approval of the Court of Appeals, I hereby amend sections 100.3(E)(1)(e) and 100.3(F) of the Rules Governing Judicial Conduct (22 NYCRR 100.3[E] and [F]), effective January 1, 2019, as follows (new material underlined, deleted material stricken):

Section 100.3 A judge shall perform the duties of judicial office impartially and diligently.

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(E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

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(e) The judge knows that the judge or the judge's spouse, or a person known by the judge to be within the fourth degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding or is likely to be a material witness in the proceeding. *Where the judge knows the relationship to be within the second degree, (i) the judge must disqualify him/herself without the possibility of remittal if such person personally appears in the courtroom during the proceeding or is likely to do so, but (ii) may permit remittal of disqualification provided such person remains permanently absent from the courtroom.*

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(F) Remittal of Disqualification. A judge disqualified by the terms of subdivision (E), except subparagraph (1)(a)(i), subparagraph (1)(b)(i) or (iii), [or] subparagraph (1)(d)(i) *or subparagraph (1)(e)(i)* of this section, may disclose on the record the basis of the judge's disqualification. If, following such disclosure of any basis for disqualification, the parties who have appeared and not defaulted and their lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge believes that he or she will be impartial and is willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

