

Cherokee Nation Code Annotated

Title 20: Courts

Appendix II. Court Rules for the District Court of Cherokee Nation

VII. Disqualification of Judges

Rule 61. Disqualification of Trial Judge

Cite as: 20 CNCA app. II, r. 61

No Judge of any Court shall sit in any cause or proceeding in which the Judge may be interested, or in the result of which the Judge may be interested, or when the Judge is related to any party to said cause within the fourth degree of consanguinity or affinity, or in which the Judge has been of counsel for either side, or in which is called in question the validity of any judgment or proceeding in which the Judge was of counsel or interested, or the validity of any instrument or paper prepared or signed by the Judge as counselor or attorney, without the consent of the parties to said action entered of record.

No Judge of any Court shall sit in any contested civil cause or proceeding that is related to any attorney of record in such cause within the third degree of consanguinity or affinity without the consent of the parties in such cause or proceeding who have entered a formal appearance of record. This disqualification shall not apply when an appearance is made by a party for the purpose of disclaiming any interest in such action or proceeding or waiving the right to appear and contest such cause or proceeding.

No Judge of any Court shall sit in the trial or hearing of any criminal cause or proceeding if the Judge is related to any attorney of record in such cause within the third degree of consanguinity or affinity without the consent of the parties who have made an appearance in such cause or proceeding entered of record. This disqualification shall not apply to arraignments, the fixing of bail, or the acceptance of pleas.

"Attorney of record" as used in this rule shall include not only the attorney actually appearing in such action but any other attorney who is an associate or a member of a partnership or professional corporation with such appearing attorney. However, **"attorney of record"** as the term relates to the Prosecuting Attorney and Public Defender's Office shall mean only that attorney actually appearing in the cause or proceeding.

The disqualifications provided for in this rule shall not exclude the disqualifications at common law.

Historical Data

SC-AD-13-02, adopted September 3, 2013.