



COMMONWEALTH OF KENTUCKY  
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY  
STATE CAPITOL

JOSEPH R. HUDDLESTON  
COURT OF APPEALS

700 CAPITAL AVENUE, SUITE 200  
FRANKFORT, KENTUCKY 40601-3489

PETER C. MACDONALD  
DISTRICT COURT

ARNOLD TAYLOR  
ATTORNEY

JAMES L. BOWLING, CHAIRMAN  
CIRCUIT COURT

UHEL O. BARRICKMAN  
ATTORNEY

JUDICIAL ETHICS OPINION JE-102 REVISED

March 19, 2003

**Question 1: Where a judge is sued in his official capacity and the Attorney General's office provides legal counsel, is the judge automatically disqualified from any case in which the Attorney General participates?**

**Answer 1:** No. Where a judge is sued in his official capacity and the Attorney General represents him, he need not automatically disqualify himself. In addition, because the Committee did not believe that most parties and their attorneys would consider the information relevant, the judge is not required to provide notice on the record of the Attorney General's representation. Canon 3(E)(1).

Because of the nature of the lawsuits against judges represented by the Attorney General, a majority of the Judicial Ethics Committee voted to revise JE-102 to remove the requirement of notice on the record. The majority of these lawsuits are small, nuisance suits or lawsuits where the Commonwealth is the real party in interest; therefore, such a revision was considered consistent with the Commentary to Canon 3(E)(1) which requires a judge to give notice of a relationship when he believes that the parties and their attorneys would consider the information relevant even if the judge himself does not consider the information relevant. Disqualification is required only when a judge's impartiality might reasonably be questioned. As the majority of the Committee did not consider that disqualification would be required in most of these cases or that most parties and their attorneys would have an objection, the burden was shifted to them to take notice of the relationship and raise the objection.

A handwritten signature in black ink, appearing to read "James L. Bowling", written over a horizontal line.

Hon. James L. Bowling, Circuit Judge  
Chairman  
The Ethics Committee of the  
Kentucky Judiciary

\*Mr. Uhel Barrickman did not participate in this decision.