

**JPC 1992-5**  
May 8, 1992

In the 24 hours that the Committee has had to consider your request for an opinion, as outlined in your letter to me of May 7, 1992 and my memorandum of the same date to the Committee, the views of the Committee are considerably varied.

Generally speaking, a majority of the Committee, which includes Chancellor Allen, Judge Wakefield, Judge Ellis and I, have concluded that you should be permitted to wind up pending matters in the Family Court before you take the oath of office.

Accepting the representation that locating substitute counsel cannot feasibly be done without substantial prejudice to all parties, we do not believe that this presents an ethical obligation requiring you to resign from pending cases. Primarily, this conclusion rests on the fact that you are a sole practitioner.

As yet you have no professional relationship with members of the Family Court that would suggest unconscious bias or favor on their part. Nor do we believe, as a practical matter, that any such bias or favor would exist.

The question of your adversaries' attitudes is more complex and you must govern your conduct accordingly both now and in the future. There is always the possibility of a losing adversary looking back with dissatisfaction or imagined bias by you against him or her.

Again, I emphasize that the overriding concerns of the majority are that your appointment not cause any prejudice to either your clients or the clients of your opponents. This view primarily rests on the fact that you are a sole practitioner. We also recognize that you have been actively practicing in the Family Court since your name was submitted to the Senate several months ago. There was no impropriety in your continuing to conduct Family Court litigation. We understand that no opposing counsel has ever raised such an issue.

Under the circumstances a majority of the Committee concludes that you should promptly wind up your affairs without adversely affecting parties to pending matters.

At least two members of the Committee believe that your continued participation in pending matters before the Family Court would be inappropriate. Generally speaking, the view is that you should withdraw from all pending matters.

All but one member of the Committee has responded to your inquiry. As previously mentioned, the foregoing represents a general synthesis of our views.

Andrew G. T. Moore, II  
Judicial Properties Committee