

Consanguinity & Affinity

A litigation risk that could cost you a victory

Consanguinity & Affinity can impact the outcome of a lawsuit and whether a decision may withstand appeal.

Consanguinity: A blood relationship

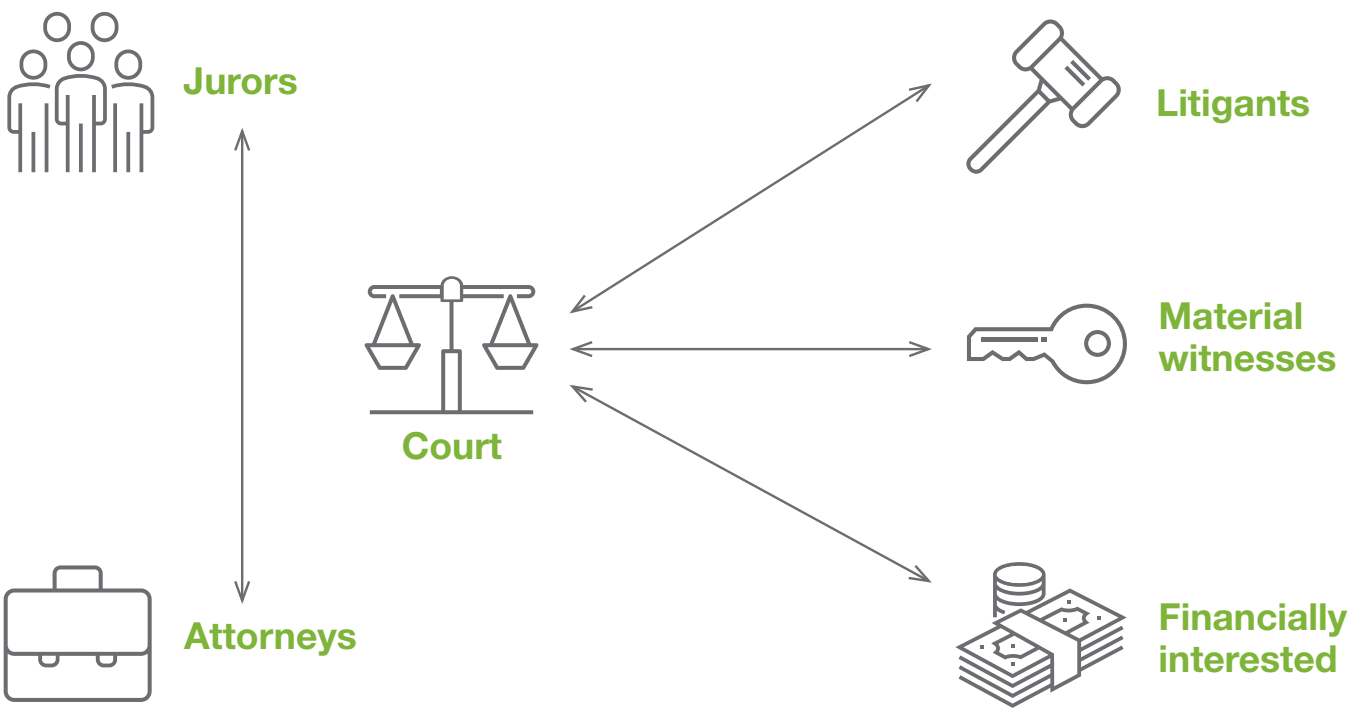
Affinity: A marriage relationship

What harm can undisclosed relationships cause?

- Cause you to lose your desired venue
- Cast doubt on your case
- Open the door for a win to be overturned

Be aware

The relationships you need to be aware of vary depending on the jurisdiction. However, key relationships typically include:



Know the rules



Before you can examine potential conflicts, you need to understand the relevant standard in the jurisdiction where the litigation may occur.

Examples of differences in Consanguinity & Affinity standards:

Ohio When assessing a judge's relationship between parties, Ohio looks to **three degrees** of consanguinity (Ohio Code of Judicial Conduct Canon 2 Rule 2.11 [2]); however, lawyers can challenge a juror for cause with up to **four degrees** of consanguinity (Ohio Revised Code 2313.17).

New York The rules on judicial conduct state, "[a] judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the **sixth degree**" (emphasis added) (NY Jud Law Section 14; NY Code Section 14).

United States Federal Court Financial conflicts only apply to the financial interests of the spouse and minor children of the judge who reside in the same household; but for the judge's relationships to the parties, material witnesses, and those with a financial interest in the outcome, the standard is **three degrees** (Code of Conduct for United States Judges Canon 3 [C] [1] [c] and [d]).

Research

With multiple avenues of information, relying on more than discovery questions to confirm the completeness of the information set can be crucial.

Documents commonly used in research:



Campaign disclosure forms

Titled property, real estate

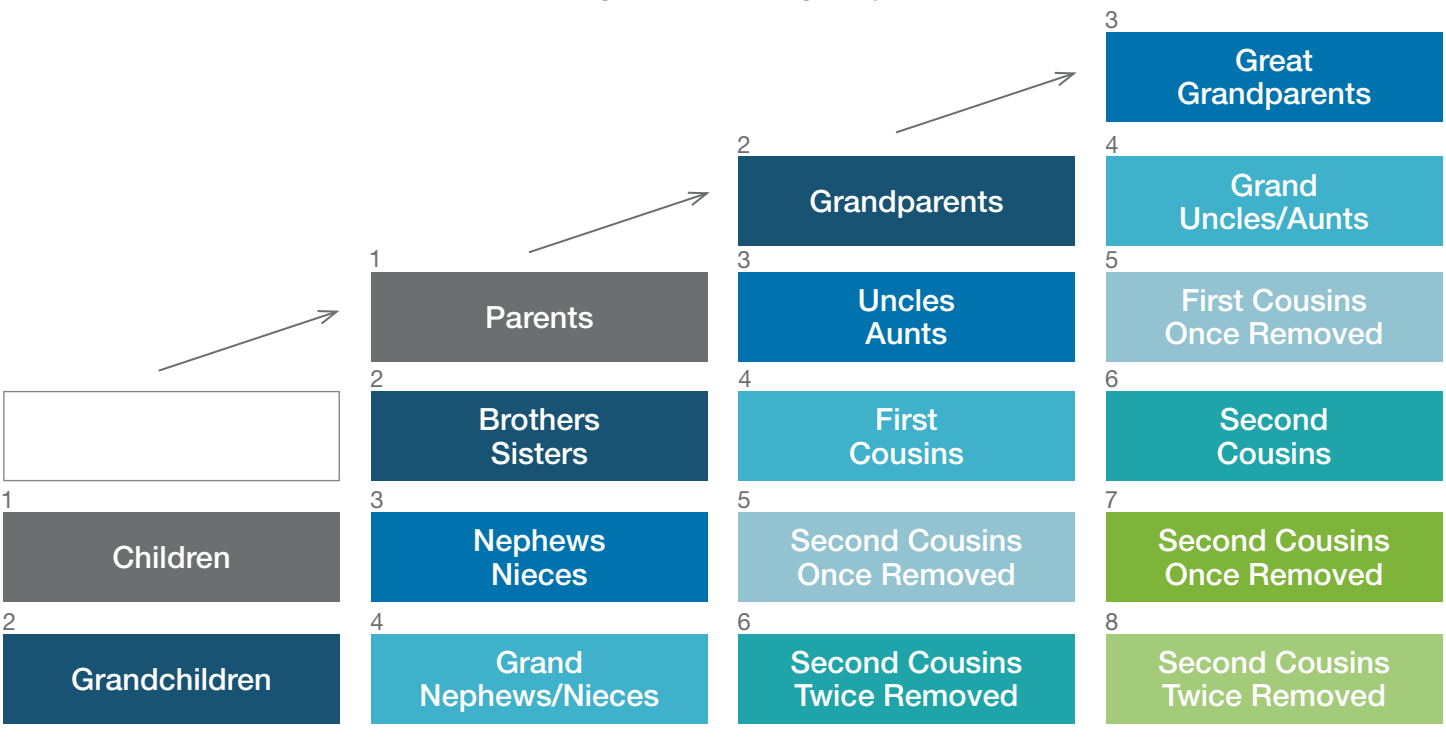
UCC filings

Assumed name filings and Secretary of State records

Internet profiles of the parties

Measure

To measure Consanguinity & Affinity, place a person in the blank box below. The labeled boxes list the relationship by title, and the numbers indicate the relationship degree. Boxes numbered 1, 2, or 3 are within the third degree of consanguinity.



Contact CRA to learn how you can mitigate your risks.

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