



Consanguinity & Affinity

A litigation risk that could thwart a victory

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

Consanguinity: A blood relationship

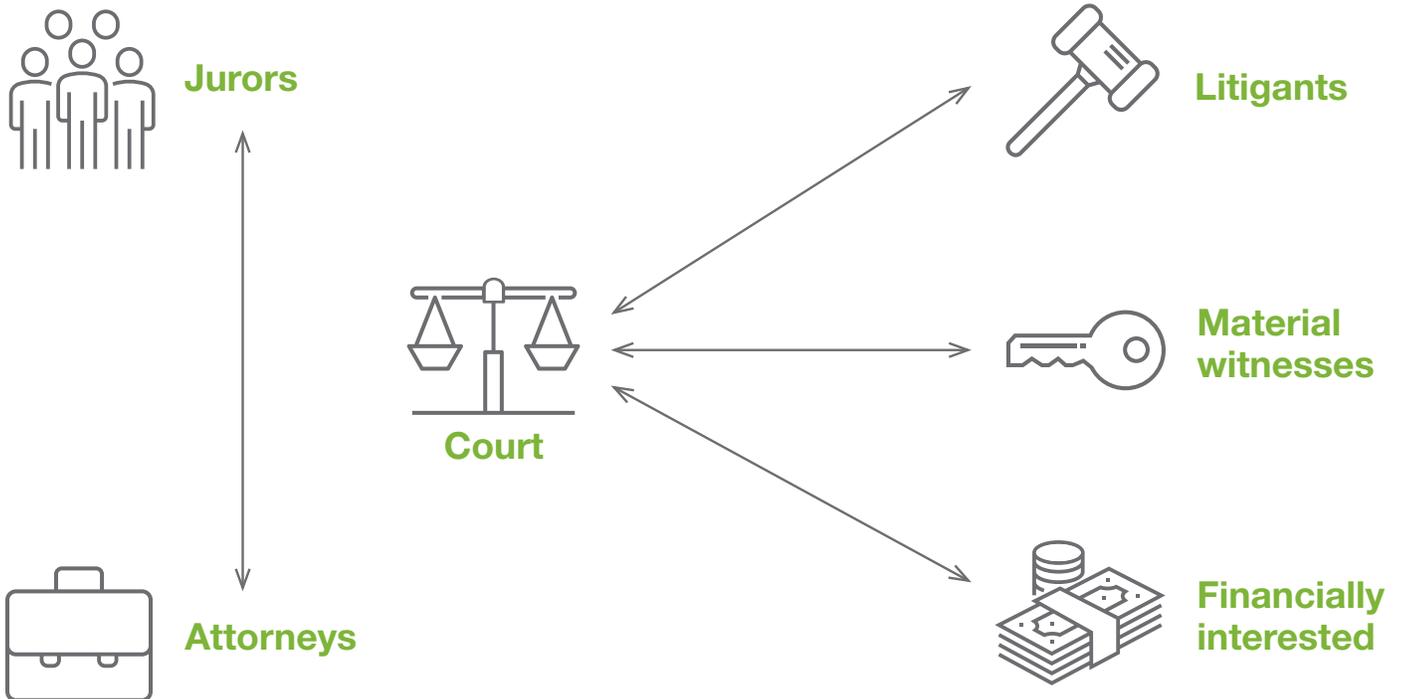
Affinity: A marriage relationship

What harm can undisclosed relationships cause?

- Impact venue, choice of representation, and judicial assignment
- Disqualify or discredit an expert witness
- Open the door for a win to be overturned

Be aware

The relevant relationship definitions vary depending on the jurisdiction. However, key relationships typically include:



Know the rules



In order to evaluate potential conflicts, it is important to first 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

Contact CRA to learn how you can mitigate your risks.

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