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ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

Public Information Office

## **Recusal and the Rule of Necessity**

When must a judge disqualify himself?

All judges in Pennsylvania are required by the Code of Judicial Conduct to disqualify themselves from ruling on any case in which their "impartiality might reasonably be questioned." Many factors can prompt a judge to "recuse" or withdraw from hearing a case to comply with this rule. If, for example, a judge has a financial interest in a case or is related to one of the parties in a case, then he or she must, for ethical reasons and to avoid a conflict of interest, step aside.

But the state Supreme Court cannot always disqualify itself, even when some or all of its members have a personal interest in a case. A legal principle known as "the rule of necessity" can require the court to hear a case and make a decision.

Under the rule of necessity, it is more important for a court of last resort to decide a case—even when burdened with a conflict of interest—than to leave litigating parties in limbo by failing to render a decision. Judges in that situation must set aside all personal interest and rule with complete neutrality. The rule of necessity is applied in federal as well as state courts.