



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 19, 1976

ATTORNEY GENERAL OPINION NO. 76-101

The Honorable David J. Waxse
Municipal Judge of City of Shawnee
Post Office Box 151
The Tower Building
200 South Chestnut
Olathe, Kansas 66061

Re: Cities--Judges--Conflict of Interest

Synopsis: The statutory disqualification of K.S.A. 12-1601 does not preclude the law partners of a municipal judge from acting as attorney, counselor or adviser to parties in litigation or controversies adversely to the city in which the city has a direct or indirect interest.

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Dear Mr. Waxse:

As Municipal Judge of the City of Shawnee, you inquire whether the prohibition of K.S.A. 12-1601 or -1602 is offended by representation by another attorney in your firm of parties in litigation in state courts of general jurisdiction or in federal courts in which the City of Shawnee has an adverse interest.

K.S.A. 12-1601 states thus:

"It shall be unlawful for any elected or appointed public officer of any city to act as attorney, counselor or adviser adversely to such city in any litigation or controversy in which said city may be directly or indirectly interested."

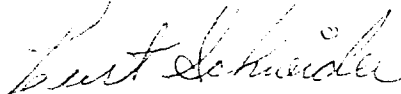
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K.S.A. 12-1602 in effect requires that any court of the state enforce this prohibition.

The disability which attaches under K.S.A. 12-1601 is personal, affecting only elected or appointed public officers of any city. Thus, as municipal judge of the city, you are an appointed public officer thereof, and you are disqualified from acting as attorney, counselor or adviser adversely to the city in any litigation or controversy in which the city may be directly or indirectly interested. However, the statutory disability extends no further, and does not include parties and associates in the firm of which you are a member. Thus, members of that firm are not disqualified, by virtue of K.S.A. 12-1601 and -1602, from participating as attorney, counselor or adviser adversely to the city in any litigation or controversy in which the city may be directly or indirectly interested. Inasmuch as you play no role in the representation by other attorneys in the firm of parties in litigation adverse to the city, their representation is unaffected by your membership in the firm, insofar as concerns K.S.A. 12-1601 and -1602.

I should emphasize that historically, this office has not issued opinions to attorneys interpreting the Canons of Professional Ethics. Thus, this opinion is restricted to your specific inquiry, the reach of K.S.A. 12-1601.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj