

**JUDGE'S PRESIDING OVER CASE IN WHICH APPEARING ATTORNEY IS  
MEMBER OF SAME FIRM AS COUNTY JUDGE**

**Opinion No. 297 (2015)**

**QUESTION:** May a judge preside over a case where an attorney who appears is also a member of the law firm that the county judge of the same county is “of counsel”?

**ANSWER:** No. Pursuant to provisions in the Government Code, the county commissioners, including the county judge, have control over the budget for the courts in their county. Of obvious concern, there could be the perception of influence wielded by the county judge over the courts. Under Texas Professional Ethics Opinions 530, 540, and 574, neither the county judge nor the other members of his firm can practice in front of the courts in their own county. Texas Rule of Professional Conduct 1.06 is the basis used in Opinion 574 for identifying the conflict that the attorney has under the Rules of Professional Conduct. Opinion 574 goes on to conclude that the conflict by the county judge and the judge's firm could not be waived by the commissioners. Opinion 574 further finds, “the judge has the power and the duty to disqualify counsel when representation of the client is prohibited by the rules of professional conduct.” The fact that the county judge is “of counsel” does not appear to alter the reasoning in any of opinions. It appears that either the judge must disqualify the county judge and the judge's firm from appearing before the court or the judge must recuse from those cases.