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]).

Know the rules

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.

**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

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.

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

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

**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

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

- Jurors
- Litigants
- Material witnesses
- Attorneys
- Court
- Financially interested

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

Contact CRA to learn how you can mitigate your risks.

Kris Seaworn, CPA/CFE, CFE, CAMS
Vice President & Practice Leader, Forensic Services
1.312.619.3313 | kseaworn@crai.com

Patricia Pelaez, CPA/CFE, CFE, CPC, CAMS
Principal, Forensic Services
1.312.577.4180 | ppelaez@crai.com