

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Proposed Amendments
to Rule 2.11 of the Utah Code
of Judicial Conduct

Case No. 20130616-SC

ORDER

IT IS HEREBY ORDERED that the attached amendments to Rule 2.11 of the Utah Code of Judicial Conduct are adopted and promulgated effective as of the date of this order pursuant to the expedited rulemaking provisions contained in Rule 11-105(5) of the Supreme Court Rules of Professional Practice.

FOR THE COURT:

Date

7-16-13


Matthew B. Durrant
Chief Justice

Proposed Amendments to Rule 2.11

[2.11](C) A trial court judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

[2. 11](D) An appellate court judge or justice subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may send notice to the parties disclosing the basis for the judge or justice's disqualification and asking them to consider whether to waive disqualification. With respect to paragraphs (A)(2) or (A)(3), the judge or justice may participate in the decision of the case if all parties, other than the party presumably benefitted by the apparent bias constituting the disqualifying circumstance, waive the disqualification. With respect to paragraphs (A)(4) through (A)(6), the judge or justice may participate in the decision of the case if all parties waive the disqualification. The responses to a notice of a disqualifying circumstance shall be included in the appellate file pertaining to the proceeding.