

June 28, 2023

District Judge Jacqueline Scott Corley  
Northern District of California  
San Francisco Courthouse  
Courtroom 8  
450 Golden Gate Avenue  
San Francisco, CA 94102

Dear Judge Corley:

We were discouraged to learn from recent [reports](#) that you have chosen to preside over the Federal Trade Commission's challenge to Microsoft's acquisition of Activision while Microsoft employs your son.

This relationship may violate Canons 2 and 3 of the [Code of Conduct](#) for US Judges.

Canon 2 of the Code of Conduct states, "A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities," acknowledging the even appearance of improper incentives that could influence a judge's decision-making can be deeply harmful for public trust in government.

The public could rightfully become concerned about a judge being improperly biased if the judge's child is employed by a corporation whose case the judge is overseeing. It is common sense that a parent would want to support the financial success of their child's employer in order to support their child's financial stability and professional prestige.

Further, there is a clear risk of retaliation to consider—if you rule against Microsoft, they could fire your son or otherwise hinder his professional development. With Microsoft in the midst of a [historic restructuring process](#) involving the termination of at least 10,000 employees, and ongoing [waves](#) of [regional layoffs](#), the company could easily engage in a retaliatory firing while maintaining plausible deniability regarding their motivations. The possibility of his firing could create a crisis of incentives in your work on the case and therefore creates an appearance of impropriety that may violate Canon 2 of the Code of Conduct.

Additionally, your decision not to recuse yourself may violate the section of Canon 3 governing judicial disqualification, which states:

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which [...]

(d) the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person is: [...]

(iii) known by the judge to have an interest that could be substantially affected by the outcome of the proceeding...”

Having a son who is employed by Microsoft is clearly an instance of “a person related to [the judge] the third degree of relationship” who is “known by the judge to have an interest that could be substantially affected by the outcome of the proceeding,” as a person’s employment prospects are a very relevant financial “interest.”

Some may counter that your son’s particular role at Microsoft would not be “substantially affected” by the outcome of the acquisition case, as he [reportedly](#) works outside the gaming division.

However, in this era of [massive layoffs in the tech industry, including by Microsoft](#), many tech workers are concerned about their future employment. The outcome of a large transaction that a tech company is treating as strategically important is likely to stoke such concerns. The Microsoft-Activision acquisition is certainly one such transaction; as Microsoft’s lead lawyer [stated](#) in the ongoing proceedings before the FTC, “a loss [for Microsoft] could force the company into a ‘three-year administrative nightmare’ that would sink the transaction.” More specifically, [The Verge reported](#) that if Microsoft is unable to close the acquisition deal by July 18th, “it has to pay \$3 billion in breakup fees to Activision Blizzard or renegotiate new terms.”

These stakes are high enough to affect any Microsoft employee’s confidence in their employer’s financial future and thus their employment security, which constitutes “an interest that could be substantially affected by the outcome” of the acquisition case.

Given the ethics concerns that your son’s employment by Microsoft raises, we call on you to recuse yourself from the Microsoft-Activision acquisition case effectively immediately.

Sincerely,

Revolving Door Project