Final

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Rhode Island Supreme Court Ethics Advisory Panel
Opinion No. 2001-05 Request No. 829
Issued September 20, 2001

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<u>Facts</u>:

The inquiring attorney formerly represented a client in divorce proceedings. Pursuant to a property settlement, the client received certain real estate about which disputes arose during the proceedings regarding permitted uses through grandfather rights. During the representation, the client had asked the inquiring attorney to represent him/her in the sale of the property, but the property was never sold. The inquiring attorney still has the client's files.

Individuals now seek to retain the inquiring attorney to represent them in a boundary dispute relating to the former client's property which is now owned by the former client and a spouse. The former client objects to the proposed representation.

<u>Issue Presented</u>:

The inquiring attorney asks whether he/she may represent the prospective clients in the boundary dispute against the former client and his/her spouse.

<u>Opinion</u>:

No. There exists a conflict of interest pursuant to Rule 1.9 because the matters are substantially related.

<u>Reasoning</u>:

The rule pertinent to this inquiry is Rule 1.9 which states in pertinent part:

> **Rule 1.9. Conflict of Interest: Former Client**. - A lawyer who has formerly represented a client in a matter shall not thereafter:
>
> (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation;

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The real estate which is the subject of the present boundary dispute is the same real estate that was a marital asset and which was eventually transferred to the former client during the prior representation. The matters are substantially related. Therefore, there is a conflict of interest pursuant to Rule 1.9, and the inquiring attorney is prohibited from representing the prospective clients in the boundary dispute without the former client's consent.