

Digest of Ethics Advisory Panel
Opinion #91-28, Request #135
Issued May 23, 1991

An attorney seeks Panel advice concerning three specific questions.

Question One: Would it be a conflict of interest for a partner to continue to represent the wife in a domestic relations action where one of the assets to be distributed is a piece of real estate purchased in joint name for which the partner handled the closing?

Question Two: Is it a conflict of interest for one partner to represent the wife where the other partner, in 1985, prior to the first divorce action, had hired the husband's corporation to do plumbing work on the partner's house which plumbing work was performed by the husband and for which work the plumbing corporation was paid personally by the partner who received the services?

Question Three: May a partner in the law firm represent the wife in the divorce proceeding?

In response to the first question, the Panel takes the position that a conflict of interest would arise unless the partner obtained the informed consent of the husband to continue in the representation of the wife. Rhode Island Rule of Professional Conduct 1.9 precludes an attorney from representing 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 freely gives his/her informed consent.

In response to the second question, the Panel takes the position that no conflict of interest arises from the rendition of plumbing services to a partner in the law firm unless the value of these services becomes relevant in the divorce proceeding.

The final question is controlled by Rule 1.10(a) of the Rhode Island Rules of Professional Conduct. Rule 1.10(a) prevents a partner in a law firm from representing a client when representation by another member of the law firm is precluded by Rule 1.9. The partner, in these circumstances, is precluded from representing the wife in this divorce action unless the husband's informed consent is obtained.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.