

Digest of Ethics Advisory Panel
Opinion #91-48, Request #168
Issued July 18, 1991

An attorney seeks Panel advice concerning a situation the attorney believes presents a conflict of interest.

The facts described are as follows:

The law firm by which the attorney was previously employed represented two clients, X and Y. The attorney never rendered any services or had any contact with client X. The attorney worked with client Y on a number of matters.

The attorney is no longer associated with the above-mentioned law firm. Client Y has requested the attorney represent client Y in a legal dispute involving client X. The law firm by which the attorney was previously employed continues to represent client X.

Client Y is concerned that members of the law firm which previously represented client Y possess knowledge and information about the present legal dispute with client X that may be harmful to client Y.

The attorney inquires as to whether a member of the law firm which represents client X suffers from a conflict of interest because the law firm previously represented both clients X and Y.

The Panel declines to render an opinion as to whether a member of the law firm presently representing client X is faced with a conflict of interest. The Panel cites Rule 2(a) of the Rules of the Rhode Island Supreme court Ethics Advisory Panel, which states in pertinent part:

The Panel may decline to render an advisory opinion if any of the following circumstances exist:

The request seeks an opinion about the conduct of a lawyer other than the inquirer.

The Panel is of the opinion that the inquiring attorney may not continue representing client Y in the legal dispute with client X unless he/she obtains the informed consent of client X. The Panel takes the position that the inquiring attorney's previous employment as a member of the law firm representing client X afforded the attorney access to confidential information about client X. The fact that the attorney may never have had any personal contact with client X is irrelevant. Rhode Island Rule of Professional Conduct 1.9 provides in pertinent part:

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 . . .