

Digest of Ethics Advisory Panel
Opinion #91-83, Request #214
Issued December 4, 1991

An attorney seeks Panel advice as to whether the appearance of a director of state agency as a party plaintiff in his individual capacity in a case against the state agency requires the legal counsel for the state agency/defendant to withdraw.

The Panel is of the opinion that the legal counsel's withdrawal from his primary responsibilities at the state agency will not cure the conflict created by the director being involved on both sides of the case. Rather, another government officer, not subject to the director's authority, should be designated to make final decisions regarding this case, and the director should advise the court by formal declaration that he has in such manner removed himself entirely and effectively from all control over the state agency's conduct and disposition of the case.