

ETHICS ADVISORY PANEL
Opinion #93-20, Request #352
Issued April 21, 1993

Client A was previously represented by different counsel in a domestic relations matter. The inquiring attorney was subsequently hired by Client A to execute a quitclaim deed to the former spouse so that a final judgment could be entered. Most recently, Client B has sought the attorney's services for a custody matter. Client B was previously married to a woman who is presently married to Client A. The attorney's concern is that Client A may be called as a witness in this matter and would like to avoid a potential conflict of interest pursuant to Rule 1.9 of the Rules of Professional Conduct.

Rule 1.9 entitled "Conflict of Interest: Former Client" states that:

A lawyer who has formerly represented a client in a matter shall not thereafter:

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

The comments to the Rule state that "Information acquired by the lawyer in the course of representing a client may not subsequently be used by the lawyer to the disadvantage of the client."

The Panel believes that the inquiring attorney may represent Client B in the custody matter. Rule 1.9(b) allows the representation as long as the inquiring attorney does not use information relating to the representation of Client A to the disadvantage of Client A. In addition, the matters are not substantially related.