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ETHICS ADVISORY PANEL
OPINION #93-68, REQUEST #407
Issued September 14, 1993

The inquiring attorney represented X in a divorce proceeding five (5) years ago, but was discharged before a final decree was entered. Y, X's spouse, now seeks to have the inquiring attorney represent him/her in a child support matter against X. The inquiring attorney asks whether he/she may represent Y.

Rule 1.9 entitled "Conflict of Interest: Former Client" provides in part as follows:

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 the person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; . . .

It appears from the facts presented that the matters are the same or substantially related, and that Y's interests are materially adverse to those of X. Pursuant to Rule 1.9, the representation of Y in this matter would present a conflict of interest absent consent by X after consultation. Further, the inquiring attorney may not use derivative information under Rule 1.6.