

ETHICS ADVISORY PANEL
OPINION #94-34 REQUEST #495
Issued June 2, 1994

The inquiring attorney represented Client A in a contested divorce proceeding from Individual B. Client A remarried Individual B. Subsequently, Individual B filed for divorce against Client A. The attorney asks whether he/she may represent Individual B in a divorce proceeding against Client A.

Rule 1.9 entitled "Conflict of Interest: Former Client provides:

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

- (a) represent another person in the same or 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; or
- (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.

Pursuant to the above stated facts and Rule 1.9, the attorney cannot represent Individual B against the former client, Client A, in the divorce proceeding. The matters are substantially related to the first divorce and Individual B's interests are materially adverse to the interest of the former client, Client A unless Client A consents after consultation. In this case, the Panel is of the opinion that Client A should have the benefit of advice of his/her own counsel and that any such consent be in writing.