

ETHICS ADVISORY PANEL  
OPINION #94-36 REQUEST #498  
Issued June 2, 1994

An attorney was retained by a husband to represent his wife in a criminal matter. Three years later, the husband requested the attorney to represent him in a divorce against his wife. The attorney states that he did not acquire any information regarding the wife that is germane to the divorce action. The wife objects to the attorney's potential representation of the husband. The attorney asks whether he/she has a conflict of interest pursuant to Rule 1.9.

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:

(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; 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.

The Panel believes that the attorney may represent the husband in the divorce action because the matters are not substantially related. However, the inquiring attorney may not use any information gained in the representation of the former client, wife, to the disadvantage of the former client.