

ETHICS ADVISORY PANEL
OPINION #94-45 REQUEST #512
Issued June 22, 1994

The inquiring attorney has represented Client A for numerous years. Client A, then referred Client B to the law firm regarding a Workers' Compensation claim. A is a possible witness in Client B's Workers' Compensation case. Soon thereafter, both Client A and B meet at the attorney's office whereby B informed the attorney that he/she was involved in a personal injury matter involving a separate body part other than the one in the Workers' Compensation case. A states that he/she witnessed the accident and recites the events of said accident which coincides with B's version of the accident. Three months later, A informs the attorney that his/her statement regarding B's personal injury claim was false. Client B maintains his/her version of the story. B states that he/she and A had a personal relationship which has ended. Because A has information detrimental to B's Workers' Compensation claim and the personal injury case, can the attorney continue to represent both Clients A and B.

Rule 1.7 entitled "Conflict of Interest: General Rule" states the following:

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

Pursuant to Rule 1.7(a) the inquiring attorney shall not represent a client if the representation of that client will be directly adverse to another client. Client A's representation is directly adverse to Client B's interest in both the Workers' Compensation matter and the personal injury claim. In this regard, the attorney should withdraw from representing B in both matters due to the adverse relationship with A.