

ETHICS ADVISORY PANEL
OPINION #94-53 REQUEST #523
Issued July 27, 1994

The inquiring attorney's law office represented a minor child and his/her parents regarding a dog bite incident. At trial, the Court appointed a guardian ad litem to represent the child's interests and a settlement was awarded in favor of the minor. The Court also appointed the parents of the minor as trustees of the monies and were ordered to hold the funds according to the stated conditions in the trust agreement.

A year later the attorney learned from the police that the minor's father was arrested for possession with intent to deliver narcotics and that the minor's trust account was missing a large sum of money. The attorney asks if he/she has any obligation to the minor and whether he/she should seek an accounting of the trust account on behalf of the minor.

Rule 1.9 entitled "Conflict of Interest: Former Client" states: 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 inquiring attorney may not use any information gained from previous representation of the parents to their disadvantage in an unrelated matter. Assuming that the attorney does not represent the guardian and no longer represents the parents then the attorney does not have a legal obligation to protect the interest of the minor child.