

ETHICS ADVISORY PANEL
OPINION # 95-11, REQUEST # 569
Issued March 6, 1995

The inquiring attorney represents Client #2 who is being sued for attorney's fees by a law firm. At a deposition, Client #2 testified that a third party witness, Client #1 was present during a discussion of a fee agreement with the law firm. The law firm's attorney seeks to depose this third-party witness relative to this cause of action which happens to be a present client of the inquiring attorney. The matters are not related.

The inquiring attorney seeks advice as to whether he/she may continue to represent Client #2 and attend the deposition of Client #1 on behalf of Client #2.

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.

Based upon the following circumstances, the inquiring attorney may continue to represent Client #2 and attend the deposition if the inquiring attorney reasonably believes the representation will not adversely affect the relationship with either client and each client consents to the representation after consultation.