

ETHICS ADVISORY PANEL
OPINION # 95-32, Request # 597
Issued - July 13, 1995

The inquiring attorney's law firm employs an associate who also serves as an assistant town solicitor. In the latter capacity, the associate acts as prosecutor for the town police department in District and Municipal Court. The inquiring attorney asks whether the law firm may represent plaintiffs in civil cases against the town while the associate is serving as prosecutor.

In addition, the attorney asks whether any member of the law firm may represent private citizens before the town council, zoning board or planning board and whether the law firm may, on behalf of a client, file a criminal complaint with the town's police department against a defendant for the collection of money.

The General Rule on conflict of interest is pertinent to a discussion of this inquiry. Rule 1.7 provides 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.

The Panel opines that the law firm has an attorney/client relationship with the town by virtue of the associate's service as prosecutor. Under Rule 1.10 the law firm cannot represent any client whose interests are adverse to the town while an associate for the law firm is a city solicitor for that town. Rule 1.10 states in part:

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.2.

Pursuant to Rule 1.7 if the inquiring attorney reasonably believes that the representation of one client will not adversely affect the relationship with the other client and the attorney acquires each client's consent, then the law firm may represent plaintiffs in civil cases. If the belief is not reasonable and/or the clients do not consent to the representation, then the law firm may not represent plaintiffs in civil matters.

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Final

The Panel believes that the law firm may represent private citizens before the town council, zoning board or planning board because a conflict of interest does not exist under the Rule.

The Panel's guidance is restricted to interpretations of the Rules of Professional Conduct and does not extend to issues under the State Ethics Code or any other rules, regulations or laws that may have bearing on the issue raised by this inquiry.