

Final

ETHICS ADVISORY PANEL
OPINION # 95- 48, REQUEST # 616
OCTOBER 12, 1995

The inquiring attorney represented an individual, A, on several legal matters before A was married. A married B who is employed by one of the inquiring attorney's clients. Thereafter B terminated his employment and has filed an age discrimination suit against the inquiring attorney's client. The employer asked the inquiring attorney to represent it against B. The inquiring attorney asks whether he/she has a conflict of interest if he/she represents the employer in this matter.

The Rules on Conflict of Interest are Rule 1.7 "General Rule" and 1.9 "Former Client." In this set of facts, B was never a client and is not made a client by virtue of marriage to A. Under the conflict rules, two clients must be either directly adverse or materially adverse to one another. Here, the clients involved are A and the employer, in two separate matters. B does not become a former client merely because he is now married to A.

The inquiring attorney may represent the employer against B because there is no conflict of interest. B was never a client to the inquiring attorney and he is not a former client through A's representation.