

FINAL

ETHICS ADVISORY PANEL
OPINION # 95-54, - REQUEST # 629
ISSUED - NOVEMBER 9, 1995

The inquiring attorney represents Client A in a divorce proceeding against her spouse. The inquiring attorney also represents Client B in a divorce against his spouse. Clients A and B are romantically involved and each may be witnesses in one another's divorce proceeding. The inquiring attorney asks whether he/she may continue to represent both clients simultaneously under the present circumstances.

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.

Rule 1.7(a) applies when the representation of a client is directly adverse to another client. Rule 1.7(b) applies when representation of one client would be materially limited by other interests or responsibilities of the attorney. In this situation, it does not appear that the representation of client B would be directly adverse to Client A. If the attorney's representation of B may be materially limited by his/her responsibilities to A the inquiring attorney may

OP 95-54 - RQ 629

Page 2

represent both A and B simultaneously only if the inquiring attorney reasonably believes that the representation will not adversely affect the relationship with the other client and each client consents after consultation.