

FINAL

**ETHICS ADVISORY PANEL**  
**OPINION # 96-23, - REQUEST # 679**  
**Issued - September 12, 1996**

**FACTS:**

The inquiring attorney is a party in a divorce action. The attorney was recently retained by a client to prosecute the client's divorce. Upon receiving a copy of the entry of appearance of opposing counsel, the inquiring attorney learned that the opposing counsel in the client's divorce is the same attorney who represents the inquiring attorney's spouse in the attorney's own divorce action.

**ISSUES PRESENTED:**

The issue is whether or not the inquiring attorney's interest in the outcome of his/her divorce will materially limit the representation of the client.

**OPINION:**

If the inquiring attorney reasonably believes the representation of the client will not be adversely affected by his/her own interest and obtains the client's consent after disclosing the facts, the inquiring attorney may continue to represent the client.

**REASONING:**

Rule 1.7(b) is applicable to this inquiry. In pertinent part, Rule 1.7(b) states:

(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 . . . .

FINAL  
EAP Opinion # 96-23  
REQUEST # 679  
Page 2

Rule 1.7(b) addresses the situation where representation of a client will be materially limited by an attorney's own interests. In this inquiry, the attorney's interest, presumably, is the outcome of his/her own divorce. Aside from the fact that opposing counsel in client's divorce is also the opposing counsel in the inquiring attorney's own divorce, the two matters are unrelated. There is no relationship between opposing counsel and the inquiring attorney. Indeed, the opposing counsel represents interests which are adverse to the interests of the inquiring attorney. Whether issues relating to one action become impermissibly intertwined with the other will depend on the professionalism of opposing counsel and the inquiring attorney.

As long as the inquiring attorney reasonably believes that his/her representation of the client will not be adversely affected by the circumstances presented, communicates that belief to the client after full disclosure and obtains the consent of his/her client, he/she may continue to represent the client in the divorce action.