

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion No. 98-04 Request No. 736
Issued February 19, 1998**

Facts:

The inquiring attorney represented client A in a modification of final judgment of divorce in which Client A sought sole physical possession of her minor child with whom she shared physical possession with her former husband, X. The litigation concluded eight years ago, at which time the inquiring attorney forwarded Client A's file to her, and has not since represented her. Recently, X's present wife, Client B, retained the inquiring attorney to assist her in a modification of child support from her former husband Y, relative to their two minor children. Client B has requested that the inquiring attorney continue to represent her in the enforcement of the resultant child support order. The inquiring attorney states that Client A has accused him/her of violating the Rules of Professional Conduct by representing Client B.

Issues Presented:

The inquiring attorney asks whether his/her continued representation of Client B is a violation of the Rules of Professional Conduct.

Opinion:

Client A is a former client of the inquiring attorney. The matter was concluded eight years ago. There has been no subsequent representation. Accordingly, Rule 1.9 (Conflict of interest: Former client) applies. The representation of Client B is permitted under Rule 1.9 because the matters are not the same or substantially related, and further, because the interests of Client B in the child support matter against Y are not materially adverse to the interests of Client A.

Reasoning:

Rule 1.9. Conflict of Interest: Former Client. - A lawyer who has formerly represented a client in a matter shall not thereafter:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

Client A's custody matter against her former husband X relating to their minor child, and Client B's child support matter against her husband Y relating to their minor children are not the same or substantially related matters. Moreover, Client B's interests in the child support matter are materially adverse to Y, and are not, under these facts, materially adverse to the interests of Client A. Accordingly, the inquiring attorney's continued representation of Client B is permissible under the Rules of Professional Conduct.