

Final

**Rhode Island Supreme Court  
Ethics Advisory Panel  
Opinion No. 99-03, Request No. 775  
Issued February 11, 1999**

Facts:

The inquiring attorney was recently appointed a deputy probate judge for a municipality. As such, he/she serves as probate judge on a part-time basis and when the probate judge is unavailable or unable to perform his or her duties. The attorney has a law practice.

Issue Presented:

The inquiring attorney asks whether he/she has a conflict of interest under the Rules of Professional Conduct in representing clients in matters before the municipality's zoning board.

Opinion:

The inquiring attorney may represent clients before the municipality's zoning provided that pursuant to Rule 1.7(b) he/she reasonably believes that the representation will not be adversely affected, and the clients consent after consultation.

Reasoning:

Rule 1.7(b) states as follows:

(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.

The inquiring attorney must determine whether he/she can be an effective advocate for clients against the zoning board of the municipality for which he/she is a probate judge. The attorney may appear before the zoning board on behalf of clients so long as he/she reasonably believes that his/her responsibilities to the municipality will not adversely affect the representation, and the clients consent after full disclosure. See R.I. Sup. Ct. Ethics Advisory Panel Op. 95-7 (1995); Kansas Bar Assoc. Ethics Advisory Comm. Op. 92-17 (1992).

Once the inquiring attorney assumes his/her duties as a probate judge, he/she must also consider Rule 1.12(a) which provides that “ ... a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge ... unless all parties to the proceeding consent after consultation.”<sup>1</sup>

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

<sup>1</sup> Under the Code of Judicial Conduct, a part-time judge “... shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.” Code of Judicial Conduct, Applications, paragraphs (C)(2) and (D)(2).