

**Final**

**Rhode Island Supreme Court  
Ethics Advisory Panel Op. 2024-11  
Issued November 14, 2024**

FACTS

The inquiring attorney represents a client (“Client 1”) in a divorce proceeding. The lawyer for the opposing party in the divorce proceeding is also a probate judge before whom the inquiring attorney represents a different client (“Client 2”) as an heir against a surviving spouse in an unrelated contested matter.

ISSUE PRESENTED

The inquiring attorney asks whether a conflict of interest exists such that he or she must withdraw from representing Client 1 under the Rules of Professional Conduct?

OPINION

It is the Panel’s opinion that a conflict of interest does not exist, such that the inquiring attorney need not withdraw from representing either Client 1 or Client 2 under the Rules of Professional Conduct.

REASONING

Conflicts of interest are governed by Rule 1.7:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

“Rule 1.7 is grounded primarily upon the attorney’s duty of loyalty to his or her client.” Markham Concepts, Inc. v. Hasbro, Inc., 196 F. Supp. 3d 345, 349 (D.R.I. 2016) (interpreting Rhode Island Rule of Professional Conduct 1.7). “The focus of conflicts of interest analysis under Rule 1.7 is loyalty to every client and effective representation . . .” Rhode Island Supreme Court Ethics Advisory Panel Op. 2014-06. Accordingly, “[r]esolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing.” Rule 1.7, Comment [2].

Here, the inquiring attorney represents Client 1 in a divorce proceeding. Counsel for the opposing party in the divorce proceeding also serves as the probate judge overseeing an unrelated contested matter in which the inquiring attorney represents Client 2.

Pursuant to Rule 1.7(a), a concurrent conflict of interest exists when “the representation of one client will be directly adverse to another client . . . [or when] there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer.” The Panel finds that under the facts as described by the inquiring attorney, no conflict of interest exists here. The interests of Client 1 and Client 2 are not directly adverse because they are unrelated parties involved in unrelated matters—one a divorce proceeding, the other a contested probate matter. See Rhode Island Supreme Court Ethics Advisory Panel Op. 2006-01 (determining that it was not a conflict of interest for the inquiring attorney to represent the driver and passenger of a car involved in a motor vehicle accident in unrelated matters because the parties’ interests were not directly adverse). Additionally, neither representation is materially limited by the inquiring attorney’s responsibilities to either Client 1 and Client 2 or any other party. See Rhode Island Supreme Court Ethics Advisory Panel Op. 2014-06 (finding that no conflict of interest existed between an attorney’s representation of a municipality in criminal matters as its solicitor and of private clients in criminal matters involving separate municipalities). Therefore, the inquiring attorney is under no obligation to withdraw from representing either Client 1 or Client 2.

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 or any other rules, regulations, or laws that may have bearing on the issues raised by this inquiry.