

Final

**Rhode Island Supreme Court
Ethics Advisory Panel Op. 2025-14
Issued November 13, 2025**

FACTS

The inquiring attorney has served as legal counsel for a certain quasi-municipal entity (the “Entity”) for the past five (5) years. During that time, he or she represented the Entity in two (2) separate civil matters in the Superior Court brought by various local residents. The first such matter settled and the second was voluntarily dismissed by the plaintiffs.

One of the plaintiffs in the first, settled matter has recently been elected to the Entity’s board (the “Board Member”). He or she has suggested, due to his or her involvement as a plaintiff in the settled matter, that the inquiring attorney’s continued representation of the Entity creates an untenable conflict of interest requiring his or her resignation as legal counsel.

ISSUE PRESENTED

The inquiring attorney asks whether the Rules of Professional Conduct require him or her to resign as the Entity’s legal counsel?

OPINION

It is the Panel’s opinion that the Rules of Professional Conduct do not require the inquiring attorney to resign as the Entity’s legal counsel.

REASONING

Rule 1.13 of the Rules of Professional Conduct pertains to an attorney’s representation of an organization:

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the

circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.

(a) Except as provided in paragraph (d), if:

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

This matter requires the Panel to clarify the nature of the relationship between the inquiring attorney, the Entity, and the Board Member. The Board Member asserts that because he or she served as a plaintiff in a since-settled civil action filed against the Entity years ago in which the

inquiring attorney represented the Entity, his or her presence on the Entity's board now creates a conflict of interest necessitating the inquiring attorney's resignation as the Entity's legal counsel.

The Panel disagrees. Rule 1.13(a) is unequivocally clear that “[a] lawyer employed or retained by an organization represents the organization,” not its members or constituents. See also Rule 1.13, Comment [1]. This applies to governmental organizations as well as private ones. See Rule 1.13, Comment [9] (recognizing that “[t]he duty defined in this Rule applies to governmental organizations”). In this vein, the Panel has consistently observed that town solicitors represent the municipality and its constituent bodies, not individual Town Council members, such that their ethical obligations run to the municipality. See Rhode Island Ethics Advisory Panel Op. 2002-02; Rhode Island Ethics Advisory Panel Op. 92-41; see also Rule 1.13, Comment [2].

Accordingly, the Panel finds that the lack of an attorney-client relationship between the inquiring attorney and Board Member precludes the existence of a conflict of interest in the first instance. See Rhode Island Ethics Advisory Panel Op. 92-41 (determining that no conflict of interest existed where the inquiring attorney, a town solicitor who represented all town entities including the Town Council, sought to defend the town against a tax abatement suit filed by a current Town Council member and his wife because the Town Council member was not the inquiring attorney's client); see also Rule 1.7, Comment [33] (noting “[a] lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary”). Even if such a relationship did exist, the facts as described by the inquiring attorney evince no indicia of a conflict. The past civil suit in question in which the Board Member was a plaintiff and the inquiring attorney represented the Entity settled such that all claims were resolved. The Board Member's mere presence on the Entity's board now is, therefore, neither directly adverse to nor a material limitation on the inquiring attorney's continuing representation of the Entity under either Rule 1.7(a)(1) or (a)(2).¹ See Rule 1.7, Comments [6] and [8].

Moreover, to the extent a future dispute may arise between the Entity and the Board Member such that “the organization's interest may be or become adverse to those of” the Board Member, the inquiring attorney would be obligated to “advise [the] constituent . . . that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation.”² Rule 1.13, Comment [10]. In doing so, the inquiring attorney should take care “to assure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.” Id.

¹ As such, the inquiring attorney may represent the Board Member in Entity-related matters with the Entity's informed written consent. See Rule 1.13(g); Rule 1.13, Comment [12].

² Such a situation may arise, for example, when the organization's attorney learns that a member or constituent thereof “intends to act . . . in a matter related to the representation that is . . . a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization” Rule 1.13(b).