

Final

**Rhode Island Supreme Court Ethics Advisory Panel
Opinion No. 2010-01 Request No. No. 968
Issued February 23, 2010**

FACTS

The inquiring attorney has entered an appearance on behalf of a respondent in a deportation matter before the Immigration Court in Boston, Massachusetts. The respondent sought the services of the inquiring attorney because a deportation hearing was imminent, and the respondent's then-attorney (predecessor counsel) had filed a motion to withdraw from representing him. In a separate but related matter, predecessor counsel also had represented respondent's wife, a United States citizen, in a petition for the benefit of the respondent. The couple later separated, and predecessor counsel withdrew from the representation.

The respondent's estranged wife attended the initial meeting between the respondent and the inquiring attorney on the deportation matter, at which time the respondent delivered his file to the inquiring attorney. The meeting lasted approximately five minutes. The inquiring attorney states that he/she did not interview the wife, counsel her, obtain any testimony from her, or undertake to represent her. He/she further states that the deportation matter before the Immigration Court relates only to the respondent, and that he/she met only with the respondent after the initial meeting.

ISSUE PRESENTED

The inquiring attorney asks if he/she has a conflict of interest that would prohibit him/her from proceeding with the representation of the respondent at the deportation hearing.

OPINION

The mere attendance of the respondent's estranged wife at the initial consultation between the inquiring attorney and the respondent on the deportation matter does not create a conflict of interest which would prohibit the inquiring attorney from representing the respondent at the deportation hearing before the Immigration Court.

REASONING

Rule 1.7 of the Rules of Professional Conduct entitled "Conflict of interest: Current clients" states in pertinent part as follows:

(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.

The inquiring attorney has stated that the deportation matter in which he/she has entered an appearance relates only to the respondent, and that he/she has undertaken to represent only the respondent. Although the estranged wife attended the initial meeting between the inquiring attorney and the respondent, the inquiring attorney did not advise her or undertake to represent her. Based on the facts as presented, the Panel is of the opinion that the estranged wife was neither a client, nor a potential client (Rule 1.18), of the inquiring attorney. The Panel concludes that the mere attendance of respondent's estranged wife at the initial consultation between the inquiring attorney and the respondent on the deportation matter does not create a conflict of interest pursuant to Rule 1.7(a) which would prohibit the inquiring attorney from representing the respondent at the deportation hearing before the Immigration Court.