

Digest of Ethics Advisory Panel  
Opinion #91-45, Request 165  
Issued July 18, 1991

An attorney seeks Panel advice concerning the ethical propriety of the continued representation by a law firm of certain clients who have claims or cases against Town A. The attorney states that a partner in the law firm has recently been appointed a part-time Assistant City Solicitor for Town A. The attorney also states that representation of these clients began prior to the partner's appointment to the position of Assistant City Solicitor.

The specific question posed is:

Whether and under what circumstances partners in a law firm must withdraw from cases which are pending at the time a partner of the firm is appointed a part-time assistant city solicitor.

The Panel takes the position that the law firm cannot represent any client whose interest is adverse to Town A while a partner in the firm is an assistant city solicitor. The Panel is of the opinion that the firm must withdraw from representation of all but one client listed in the inquiry. The Panel bases this position on Rule 1.10, entitled "Imputed Disqualification: General Rule", which provides in pertinent part:

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.2.

Rule 1.7, entitled "Conflict of Interest; General Rule", provides in relevant part:

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

The Panel is of the opinion that client consent will not resolve a conflict of interest in these circumstances because clients of the firm who have claims or cases against the city have interests which are directly adverse to those of Town A.

The Panel is of the opinion that the firm may properly continue with the representation in connection with one matter. This case does not require withdrawal because it has been finally adjudicated and no conflict potential exists. The Panel notes, however, that the firm cannot undertake a new action, e.g. a probation violation hearing, on behalf of this client.