

Digest of Ethics Advisory Panel
Opinion #91-72, Request #191
Issued November 5, 1991

An attorney seeks Panel advice concerning a potential conflict of interest. The attorney conducted an initial consultation with a party who did not retain the attorney in the matter. Subsequently the attorney was contacted by an organization seeking the attorney's representation in the same matter against the party with whom the attorney had consulted and reviewed material relating to the matter.

The Panel is of the opinion that a conflict of interest exists under Rule 1.9 of the Rules of Professional Conduct since an initial, substantive consultation is sufficient to constitute representation for this purpose, the interests of the two parties are materially adverse, and the first party has taken the position that the attorney's review of the material precludes the attorney from representing another interested party.