

ETHICS ADVISORY PANEL
OPINION #94-55 REQUEST #525
Issued July 27, 1994

The inquiring attorney represented Client A in a divorce proceeding against B. After the divorce was final, Client A married C. Subsequently, C filed for divorce against Client A. C would like to retain the inquiring attorney for a divorce action against Client A. The inquiring attorney asks whether or not he/she may represent C against Client A.

Rule 1.9 entitled "Conflict of Interest: Former Client" states the following: A lawyer who has formerly represented a client in a matter shall not thereafter.

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

Pursuant to Rule 1.9, an attorney may not represent a client in a same or substantially related matter where the new client's interests are materially adverse to the interests of the former client unless the former client consents after consultation. Under these facts, the inquiring attorney may not represent C against the former Client, A, unless A consents after consultation. In addition, regardless of A's consent, the attorney may not use information gained in the representation of Client A against B to the disadvantage of Client A.