

FINAL

**ETHICS ADVISORY PANEL**  
**OPINION 96-12, - REQUEST # 663**  
**Issued - June 13, 1996**

**FACTS:**

The inquiring attorney formerly represented a client in a divorce action and has had no other contact with her. The inquiring attorney's current client, a furniture company, seeks his/her legal services to defend a law suit, for defective goods, brought by the former client. The former client is represented by counsel.

**ISSUES PRESENTED:**

May the inquiring attorney represent the current client in the law suit?

**OPINION:**

Yes, the domestic relations matter (with the former client) does not appear to be substantially related to a lawsuit for defective goods (with the current client.)

**REASONING:**

Whenever an attorney has a question regarding the representation of one client against a former client, Rule 1.9 entitled "**Conflict of Interest: Former Client**" is the appropriate Rule. That Rule states:

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.

The inquiring attorney may represent a current client in a matter against a former client when the matters are not the same or substantially related. However, the inquiring attorney may not use information relating to the representation of the former client to that client's

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disadvantage. In the present situation, the former client's case was a domestic relations matter which is not "the same or substantially related" to the current client's case with respect to defective goods.