

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion 98-05 - Request 738
Issued February 19, 1998**

Facts:

The inquiring attorney's law firm represented Able, a minor, in a claim for injuries he/she sustained as a passenger in a motor vehicle accident. The matter was settled about four years ago at which time the law firm's representation of Able terminated. The law firm was recently engaged by Baker to represent him/her in a claim for injuries he/she sustained as a passenger in an automobile driven by Charlie and owned by Able.

Issue Presented:

The inquiring attorney asks whether the law firm has a conflict of interest in the representation of Baker under the Rules of Professional Conduct.

Opinion:

Able is a former client. Accordingly Rule 1.9 applies. Because the firm's representation of Able is not the same or substantially related to the firm's representation of Baker, under Rule 1.9, the inquiring attorney's law firm may represent Baker without Able's consent.

Reasoning:

Rule 1.9 states:

Rule 1.9. Conflict of Interest: Former Client. - 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.

Although the interests of Baker are materially adverse to the interests of Able, the automobile accident in which the law firm represented Able for personal injuries and the accident in which the law firm proposes to represent Baker for his/her injuries are not the same or substantially related matters. Accordingly, the firm's representation of Baker is permissible without the consent of Able. See R.I. Sup. Ct. Ethics Advisory Panel Op. 93-95. Pursuant to Rule 1.9(b), the law firm must comply with the confidentiality rules and may not use information obtained in the prior representation to the disadvantage of Able in Baker's matter.