

You advise that you were retained by a young Navy man to draft a separation agreement in March, 1987, as he and his wife were separating and wanted to settle their property. There were no children born of the marriage. You drafted the agreement and that client and his wife signed it. The client is now stationed in Italy and would like to obtain an uncontested divorce on the grounds that he and his wife have been separated for more than six months. His wife has indicated that she will not contest the divorce. For expediency, the wife has contacted you to ask if you will handle the divorce case. The husband has consented to your representation in this case.

You wish to know whether or not you may represent the wife in the divorce action, having previously represented the husband in drafting the separation agreement.

Disciplinary Rule 5-105(D) [DR:5-105] states that:

A lawyer who has represented a client in a matter shall not thereafter represent another person in the same or substantially related matter if the interest of that person is adverse in any material respect to the interest of the former client unless the former client consents after disclosure.

The Committee opines that it would not be improper for you to represent the wife in this matter since the husband has consented to your representation. (See also LE Op. 888 and LE Op. 792)

Committee Opinion
May 4, 1988