

An attorney wishes to know whether it is proper for a law firm to continue representing a husband in a divorce proceeding when five years earlier the wife received legal advice from an associate of the same law firm with regard to a domestic matter and a brief summary of what was discussed was relayed to the member of the firm now representing the husband. The wife was billed for her office conference and the associate subsequently left the law firm.

The Committee opined that it would be improper for the attorney for the husband to continue to represent the husband in the domestic matter since it is the same or is substantially related to the matter on which the wife consulted the law firm previously and since the former client, the wife, has not consented after full disclosure. Furthermore, DR:5-105(E) would require the attorney's vicarious disqualification although it was a former associate who had the attorney/client relationship with the wife.

L E Op. No. 888 states that it is improper for an attorney to represent a wife in a domestic matter when nine years prior, the attorney had conferred with the husband with regard to legal advice concerning a separation from his wife. [DR:5-105(D), DR:5-105(E) and LE Op. 888.]

Committee Opinion
November 17, 1988

Editor's Note. – Overruled in part by L E Op. No. 1546. See footnote 1 of the opinion for scope.