

Committee Opinion
December 30, 1985

LEGAL ETHICS OPINION 746

CONFLICT OF INTEREST – ATTORNEY
AS WITNESS – SIMULTANEOUS
REPRESENTATION – ARBITRATION
CLAIM.

An attorney represents C in an arbitrated claim against D, E and F. D subsequently institutes an action in state circuit court against both the attorney and C on grounds arising from the arbitrated claim. It is not improper for the attorney to continue to represent C in the arbitrated claim so long as C consents after full and adequate disclosure under the circumstances by the attorney of the possible effect of continued representation on the attorney's personal, financial, business or property interest *viz* the state circuit court proceeding. [See DR:5-101(A) and DR:5-105(A)] However, in the state court claim, the attorney's testimony may be critical to the defense of C. Therefore, the attorney must decline representation in the state court proceeding, or, if the defense is pending, withdraw. [DR:5-101(B) or DR:5-102(A)]

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