

Committee Opinion
January 11, 1988

LEGAL ETHICS OPINION 1019

CONFLICT OF INTEREST - GIVING
ADVICE TO PERSON NOT
REPRESENTED BY A LAWYER.

You advise that when insurance companies ask that petitions be brought before the circuit court to settle personal injury claims for infants, many times neither the child nor the parents of the child are represented by counsel. The attorney for the insurance company brings the suit in the name of the company and their insured. The infant and his parents are made party defendants. The court appoints a guardian ad litem for the infant. The attorney for the insurance company then prepares an answer for the parents to sign, which simply asks the court to look after the best interests of the child. The parents sign the answer so that they will be properly represented before the court, and the judge then hears evidence and either confirms or denies the petition.

You wish to know whether this procedure complies with DR:7-103(A)(2) of the Code of Professional Responsibility.

Disciplinary Rule 7-103(A)(2) states: "During the course of his representation, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client."

The Committee opines that the preparation of the answer by counsel for the insurance company is providing "advice" under DR:7-103(A)(2). Accordingly, the Committee believes that it would be improper for counsel for the insurance company to prepare pleadings or other legal documents for an infant or his parents for the purpose of settling a personal injury claim.

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Legal Ethics Committee Notes. – To the extent that L E Op. No. 1344 is inconsistent with this opinion, then this opinion is overruled.