

You advise that you represent Clients A, B and C, who are parties to a partnership agreement to which they are limited partners. The general partner is X, who is an attorney and real estate broker. Your clients came to you to obtain more complete information regarding the partnership's finances. Your clients also did not understand what role, if any, X could properly have as the general partner of the partnership when he has filed a lawsuit against your clients (A, B and C) in a real estate business which your clients have started. You have enclosed a copy of the bill of complaint which was filed by X against your client. During the same period of time it appears that X still has had an outstanding power of attorney involving the partnership.

You ask two questions relative to the above. The first is whether or not it is ethical for X to retain a power of attorney and not withdraw the same while filing a lawsuit against the party from whom he has the power of attorney. Your second question is whether or not it is proper for a general partner to file a lawsuit against the limited partners in the partnership and continue to be a general partner in the partnership.

Nothing within your letter indicates that the attorney has violated a disciplinary rule relative to your first question.

The Committee believes that your second question is a legal one beyond the purview of this Committee.

Committee Opinion
July 11, 1988