

Committee Opinion
October 14, 1988

LEGAL ETHICS OPINION 1128

CONFLICT OF INTEREST – COUNTY
ATTORNEY – MULTIPLE
REPRESENTATION: COMMISSION
ATTORNEY REPRESENTING
PLAINTIFF AGAINST DEFENDANT,
MEMBER OF COMMISSION.

You have advised that a newly appointed member of the County Planning Commission is the defendant in a lawsuit in which the county attorney represents the plaintiff. The county attorney is also the attorney for the Planning Commission. The lawsuit against the newly appointed member concerns a matter unrelated to his membership on the Planning Commission.

You wish to know whether the county attorney may continue to represent the plaintiff in the lawsuit wherein the newly appointed member of the Planning Commission is the defendant, while continuing to represent the Planning Commission.

Disciplinary Rule 5-105(B) states: "A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client, except to the extent permitted under DR:5-105(C)." Disciplinary Rule 5-105(C) permits a lawyer to represent multiple clients "if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each."

Whether or not the individual members of the Planning Commission are the "clients" of the county attorney, as opposed to the Planning Commission as a whole, is a legal question which this Committee has no authority to answer. If the individual members are the clients of the attorney, then, in the situation you described, the county attorney would violate DR:5-105(B) by continuing multiple representation, unless the attorney could comply with all of the requirements of DR:5-105(C). If the Planning Commission as a whole is the only client of the county attorney, the county attorney would have to determine whether continued multiple employment would adversely affect the exercise of his independent professional judgment under DR:5-105(B). If the county attorney concludes that his professional judgment is likely to be adversely affected under these circumstances then he would have to comply with DR:5-105(C) in order to continue multiple representation.

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