

Committee Opinion  
April 26, 1989

LEGAL ETHICS OPINION 1210

CONFLICT OF INTEREST –  
COLLECTION PRACTICE – MULTIPLE  
REPRESENTATION: ATTORNEY  
FILING ANSWERS IN GARNISHMENT  
PROCEEDING ON BEHALF OF CLIENT  
WHEN GARNISHMENT WAS  
INITIATED BY ANOTHER CLIENT OF  
THE FIRM.

You have advised that a law firm represents an industry which has retained the firm to represent it on various matters and pays the firm a monthly retainer for such representation. The representation is ongoing and among the matters involved is the filing of answers on behalf of industry employees in garnishment proceedings initiated by creditors of those employees. The industry provides factual information for the attorney to supply in the answer as required by § 8.01-515 of the Code of Virginia, and the attorney does not argue legal principles, nor does the attorney attack the legal efficacy of the process. The attorney is merely responsible for seeing that the answer is filed in a timely fashion in the appropriate court.

You advise further that a different lawyer in the same firm represents a corporation which frequently issues garnishment suggestions against employees on whose behalf the first lawyer may be filing answers. The information for these suggestions and garnishments comes solely from information supplied to the law firm by the creditor corporation and no employment information regarding employees is divulged to the creditor corporation client by the industry client.

Both the industry client and the creditor corporation client are aware that the law firm represents both clients and both consent to the law firm's filing the answers to uncontested garnishments in the general district court. In addition, the creditor corporation desires to maintain a close relationship with the industry and has adopted a policy not to contest any of the answers filed on behalf of the industry employees or any of the factual statements therein. Both of the clients understand that the law firm would not represent either party in the event that a debtor employee of the industry would contest the garnishment.

You wish to know whether the law firm may file an answer on behalf of the client industry in an uncontested garnishment proceeding in the general district court when the garnishment was initiated by the law firm on behalf of another client, the creditor corporation.

The appropriate and controlling disciplinary rule relative to your inquiry is DR:5-105(C), which provides that multiple representation of clients is permissible if it is obvious that an attorney can adequately represent the interests of each client and if each consents after full disclosure of the possible effect on the exercise of the attorney's independent professional judgment on behalf of each in the multiple representation. (See also LE Op. 725)

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Since the timely filing of answers in an uncontested garnishment proceeding is merely one of the various responsibilities undertaken by the law firm on behalf of its client industry, and since both clients (the industry and the creditor corporation) are aware of the multiple representation and both have given their informed consent to the foregoing representation, the substance of which will not be contested by the client who initiated the garnishment, the Committee would opine that the multiple representation in question is ethically permissible. Nevertheless, under DR:5-105(C) the multiple representation is prohibited unless the law firm is convinced that it can exercise its independent professional judgment on behalf of each client and can adequately represent the interests of each. The continued representation in question of both clients is not improper provided that adequate disclosure continues to be made to each during the representation and the clients' informed consent is obtained.

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