

Committee Opinion  
August 24, 1992

LEGAL ETHICS OPINION 1479

CONFLICT OF INTEREST:  
REPRESENTING PLAINTIFF AGAINST  
TORTFEASOR INSURED BY A  
CARRIER WITH WHOM THE  
ATTORNEY HAS A CUSTOMER  
RELATIONSHIP.

You have presented a hypothetical situation in which an attorney wishes to represent a personal injury client in a negligence action. You indicate that the alleged tortfeasor is insured by an insurance carrier with whom the attorney has a customer relationship in that the carrier provides the attorney with professional liability, health insurance disability, and automobile insurance coverage.

You have asked the Committee to opine whether, under the facts of the inquiry, the attorney's concern for the solvency of the carrier and the carrier's continued ability to protect the attorney's personal and business interests, presents an improper conflict of interest.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:5-101(A), which states that a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client may be affected by his own financial, business, property, or personal interests, except with the consent of his client after full and adequate disclosure under the circumstances.

The Committee is of the view that the attorney's customer relationship with the insurance carrier constitutes a personal interest affecting representation, as articulated under DR:5-101(A). However, the Committee recognizes that the impact of such personal interests may be measured along a continuum, with the least significant interests representing only a de minimis conflict. Under the facts you have presented, the Committee opines that since the attorney's concern for the carrier's solvency and its ability to protect the attorney's personal and business interests represents only a minimal conflict under DR:5-101(A), there would be no impropriety in the attorney's representation of the personal injury client when the tortfeasor is insured by the same insurance carrier, provided that the requisite disclosure is made and consent received from the personal injury client. See LE Op. 1465.

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