

Committee Opinion
April 16, 1982

LEGAL ETHICS OPINION 457

CONFLICT OF INTEREST – LAWYER
AS WITNESS.

Law Firm A, after full disclosure and consent, represented both purchaser and seller in a real estate transaction. An easement in favor of the purchaser was created by the seller's deed, and subsequent to closing, a dispute arose between purchaser and seller concerning purchaser's rights under the easement. Law Firm A, at seller's request and without consent of purchaser, filed suit against purchaser. Attorney B was employed by purchaser and filed an answer. Thereafter, upon motion, the Bill of Complaint was taken for confessed as to liability, and trial was ordered to determine seller's damages. In the Committee's view, A's original decision to file suit for seller against purchaser was improper:

- (1) Because it was reasonably likely that a lawyer in the firm might be called to testify since the firm had prepared the deed. [See II: DR:5-101(B).]
- (2) Because the former attorney-client relationship between A and purchaser existed with respect to the same transaction out of which the dispute arose. [See II: DR:4-101(B) and DR:5-105(A).]

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