

Committee Opinion
April 28, 1983

LEGAL ETHICS OPINION 511

DIVORCE MEDIATION/DOMESTIC
RELATIONS/FAMILY LAW.

Concerning the role of an attorney who is involved in the divorce mediation process, in many cases it would be improper for an attorney to attempt to render legal advice to both parties as to their legal rights even if the attorney is paid by both parties since often it would be virtually impossible to give such advice in a completely non-partisan way.

However, where an attorney has undertaken to provide "legal information" only, as opposed to "legal advice," the parties understand the distinction between "legal information" and "legal advice" and have given their informed consent for an attorney so to act, it may be appropriate in certain circumstances for an attorney to provide legal information to both parties, particularly, in uncomplicated and straightforward situations where the parties are contemplating getting a non-contested divorce and the marriage has been of short duration with little assets and no children involved. Regardless of the situation, however, attorneys should be advised to use great caution before agreeing to provide legal information or advice to both parties, and should attorneys agree to do so, they should be extremely careful to be as non-partisan as possible.

Moreover, so long as there is no contest concerning the property settlement agreement between the parties, it would not be ethically improper for an attorney to represent one of the parties in a subsequent uncontested divorce proceeding, although the Committee suggests that attorneys use caution in this area, make full disclosure to the parties prior to accepting such employment, receive the informed consent of both in order to avoid possible conflict of interest or the appearance thereof.

It is ethically permissible for an attorney to allow his name to be added to the mediation center's list of approved attorneys.

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Legal Ethics Committee Notes. – This opinion permitted a lawyer serving as a mediator to represent one of the parties in a subsequent uncontested divorce proceeding. Such subsequent representation is not permitted by Rule 2.10(e).