

Committee Opinion
November 4, 1987

LEGAL ETHICS OPINION 993

CONFLICT OF INTEREST –
REPRESENTING CLIENT ADVERSE TO
CLIENT OF FORMER FIRM.

You advised that Attorney A, formerly with a law firm, has left that firm and opened his own office. During the time Attorney A served with the law firm, another attorney in the same firm assumed representation of a client in the litigation of a real estate matter and filed suit on behalf of the plaintiff in that case. The Attorney A had no knowledge nor actively participated in the handling of the case with the old law firm. Subsequent to leaving the firm, Attorney A has been engaged by the defendant in the same real estate litigation matter, and has become counsel of record with another attorney for the defendant. Apparently, full disclosure has been made, and the plaintiff has been unwilling to waive any conflict regarding the former law firm associate's representation of the defendant in the case. You asked if continued representation is permissible.

We refer you to LE Op. 240 and LE Op. 940. We also call your attention to Canons 4 and 9, and Disciplinary Rule 5-105(D) [DR:5-105] of the Code of Professional Responsibility. It is the opinion of the Committee that a presumption arises that Attorney A has acquired confidential information, based on the relationship with his former law firm. This presumption can be rebutted. *Silver Chrysler Plymouth v. Chrysler Motors Corp.*, 518 F.2d 751 (CA 2 1975). According to the facts you have presented, Attorney A did not learn of any confidential information regarding the plaintiff's case. On these facts the presumption appears to be rebutted.

The Committee opines, that since Attorney A was not in any way involved with the plaintiff's case nor did Attorney A learn of any confidential information regarding the plaintiff's case, it would not be improper for Attorney A to represent the defendant.

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