

Ethics Opinion

901116

QUESTION PRESENTED: May an attorney, who previously advised a couple about child custody, represent the wife in a subsequent divorce action?

ANSWER: No.

ANALYSIS: This situation is covered by the Rules of Professional Conduct Rule 1.9, Conflict of Interest: Former Client which provides:

A lawyer who has formerly represented a client in a matter shall not thereafter:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation. . . ."

The Attorney cannot properly represent the wife without first obtaining the written consent from the husband after having provided a meaningful disclosure of the possibility that the attorney may have obtained knowledge from the prior representation which is relevant or significant in the dissolution.

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