

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinions

However, as long as the lawyer retains full professional responsibility and his relationship with the client, he may delegate routine functions to lay persons (EC 3-6). It would not be improper to permit a stenographer in the office of the client to type the collection letters in the form prepared by the attorney and to forward them to the attorney, who would read, sign and mail the letters to the debtors in the event the letter met with the attorney's approval. N.Y. County 300 (1932).

Opinion #180 - 3/1/71 (8-71)

Topic: Conflict of Interest;  
Former Client.

Digest: Former partner should  
not represent adverse  
interest in matter  
originating during his  
partnership.

Code\*: Canons 5, 9  
DR 5-105,  
EC 4-6; 5-1, 2;  
EC 9-1,2

QUESTION

May a lawyer represent a purchaser in an action to recover the down payment on a contract based upon a claim that the transaction had never closed, when the contract of sale had been prepared in behalf of the seller by the lawyer's former law partner during the period of the partnership. The lawyer had no actual knowledge of the existence of the transaction while he was a partner, and the cause of action did not arise until after he had withdrawn from the firm.

OPINION

It would not be proper for a lawyer to represent the purchaser in an action which would involve the interpretation or enforceability of a contract prepared for the seller by the lawyer's former partnership while he was a member of the firm, even though he personally had no knowledge of the transaction while he was a partner. N.Y. State 96 (1968). See DR 5-105, EC 5-1, 2.

Because of his access to all of the files of the office and the close relationship among partners, each partner is presumed to have knowledge of the affairs of all clients of the firm and to have an attorney-client relationship with each client. N.Y. County 546 (1967). The obligations imposed by this relationship survive the termination of the lawyer's partnership. EC 4-6.

In ABA Inf. 885 (1965) the Committee quoted N.Y. County 202

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(1922), also quoted in Drinker, "Legal Ethics," page 115, as follows:

"(T)he rendition of professional services by an attorney to one party of a litigation, which thus establishes necessarily a relation of trust and confidence, precludes the acceptance of employment by such attorney in any subsequent phase of the same litigation from the adverse party. A client is encouraged to make full disclosure of all facts to his attorney and he should be justified in feeling that his attorney will never be found helping the other side of the litigation. The matter is not to be determined by such facts as, that the original services were rendered on the employment of another lawyer, or that the services may have had no particular bearing upon the phase of the litigation contemplated to be conducted in behalf of the new employer, or that it is probable that no information was acquired in the first employment that might prove useful in the subsequent employment. Irrespective of any actual detriment, the first client might naturally feel that he had in some way been wronged when confronted by a final decree obtained by a lawyer employed in his behalf in an earlier part of the same litigation. To maintain public confidence in the Bar it is necessary not only to avoid actual wrong doing but an appearance of wrong doing."

Canon 9, EC 9-1, 2; see also ABA Inf. 1016 (1968).

Opinion #181 - 3/23/71 (6-71)

Topic: Practice of part time city judge in courts outside the city.

Digest: Part time judge of city court having limited countywide civil and citywide misdemeanor jurisdiction may not properly practice criminal law in courts outside the city, but may practice civil law.

Code\*: Canon 9  
EC 9-2, 9-6

Canons of Judicial Ethics: 31

QUESTION

The judgeship of a city court which has countywide civil jurisdiction up to \$500 and citywide misdemeanor jurisdiction, is a part time position for which a salary of \$6,000 a year is paid. May such city judge practice law in other courts?