



Committee on Professional Ethics

Opinion #368 - 11/22/74 (47-74)

Topic: Conflict of interests;
Lawyer spouses represent-
ing conflicting interests.

Digest: Not per se improper for
lawyer to represent client
against county which employs
lawyer's spouse in county
attorney office, but
lawyer spouses **should not**
appear on opposite sides
of same matter.

Code: Canon 5, 9
DR 9-101(C)

QUESTION

May an attorney, whose spouse is employed as a lawyer in the county attorneys office, represent a client in a civil action against the county?

OPINION

It is not per se improper for an attorney, or his partners or associates, to represent a client against the county where the attorney's spouse (assuming that the spouses are not partners in the same law firm) is employed as a lawyer in the county attorney's office. See Philadelphia Opinion 61-3 (1961), indexed in Maru's Digest 4031 (1970).

Although such representation would not ordinarily give rise to any impairment of the professional judgment of the attorney in violation of the standards of Canon 5 and the EC's and DR's thereunder, the attorney must take special care not to accept any employment which might give rise to any suspicion that his client might be able to gain some advantage by reason of the spousal relationship in violation of Canon 9 or DR 9-101(C). Such an appearance of impropriety would be more likely where the attorney's spouse is the county attorney or directly responsible for handling or supervising the county's case.

Furthermore, it would not be conducive to public confidence in the legal profession or in the administration of justice to have lawyer spouses appear on opposite sides of the same matter, one representing a public agency and the other a private client with a claim against the public agency.
