

**ETHICS OPINION NUMBER 80
OF THE MISSISSIPPI BAR
RENDERED MARCH 25, 1983
AMENDED APRIL 6, 2013**

CONFLICT OF INTEREST - Representation of multiple clients in a no-fault divorce.

The Ethics Committee of the Mississippi Bar has been requested to render an opinion on two aspects of the representation by an attorney of both parties to a no-fault divorce.

The first request involved the following factual situation:

A, an attorney, represented both H and W in a no-fault divorce proceeding. The proceeding was concluded by the entry of a decree granting the divorce and incorporating therein the provisions of the separation and property settlement agreement entered into between the parties.

Subsequent to the entry of the decree, H defaulted in the performance of the obligations imposed upon him by the terms of both the agreement and the decree.

The inquiry is whether A can now represent W against H in an action to compel performance of the terms of the agreement and decree by H.

The second request is whether an attorney may represent both parties in a no-fault divorce proceeding.

A negative response to the second request will, of course, answer the first request; and for that reason, the second request will be first addressed in this opinion.

Rule 1.7(a) of the Mississippi Rules of Professional Conduct (MRPC), provides that

a lawyers shall not represent a client if the representation of that client will be directly adverse to another client, unless the lawyer reasonably believes:

(1) the representation will not adversely affect the relationship with the other client; and

(2) each client has given knowing and informed consent after consultation. The consultation shall include explanation of the implications of the adverse representation and the advantages and risks involved.

Rule 1.9, MRCP, provides that:

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

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

(b) use information relation to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known.

The Committee is, therefore, of the opinion that the representation of both parties to a no-fault divorce violates the Rule 1.7, MRPC, and that it is, therefore, unethical for a lawyer to undertake such multiple representation. Finding as we do as to the second inquiry, the first inquiry presented becomes moot in that the dual representation should not have been undertaken in the first instance but would, in any event, violate Rule 1.9, MRPC.

It should be clear on the face of the pleading or the property settlement agreement in a joint bill for divorce of the parties which party the attorney represents.

**SUPPLEMENT TO ETHICS OPINION NUMBER 80
OF THE MISSISSIPPI BAR
RENDERED, MARCH 25, 1983**

The Committee is of the opinion that No-Fault Divorces may be styled, "In the Matter of the Dissolution of the Marriage of H and W."

There is nothing wrong at all with one of the parties to a No-Fault Divorce being without an attorney, so long as that party, either H or W is properly informed by the

spouse's attorney that (1) that party is not represented by the spouse's attorney, (2) the spouse's attorney will not undertake to advise that party on any aspect of the case as to his or her rights, and (3) that party has a right to obtain an attorney to advise him or her and to review any of the agreements, pleadings or decrees which will be prepared. *See* Rule 4.3, MRPC.

This opinion is intended in no way to affect the validity of no-fault divorce proceedings, or to limit or impede the filing and ultimate disposition of such proceedings.