

**ETHICS OPINION NUMBER 31  
OF THE MISSISSIPPI BAR  
RENDERED JUNE 26, 1975  
AMENDED APRIL 6, 2013**

**CONFLICT OF INTEREST – MULTIPLE REPRESENTATION – GOVERNMENT ATTORNEYS** - A lawyer may not represent multiple clients if the exercise the representation of a client will be directly adverse to another client unless the lawyer reasonably believes that the representation will not adversely affect the relationship with the other and each consents to the representation after full disclosure of the possible effect of such representation and the advantages and risks involved.

The Ethics Committee of the Mississippi Bar has been requested to render an opinion as to whether it is ethical for a law firm which regularly represents a County Board of Supervisors to defend persons charged with crimes and misdemeanors in that same county.

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

A lawyer 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 included explanation of the implications of the adverse representation and the advantages and risks involved.

Specific concerns raised by question relate to the county's involvement in jury selection, collection of fees and fines and employment of the county attorney as opposed to the lawyer holding a public office.

Prior to January 1, 1975, the jury lists were prepared by the members of the Boards of Supervisors in each County, and an attorney for the Board of Supervisors could conceivably be called upon to defend as to the procedures followed by the Board, which could have conceivably caused a conflict if the attorney had the obligation on

behalf of a criminal defendant to challenge some irregularity in the jury selection process.

Since the passage of Miss. Code Ann. § 13-5-6 (1972 as amended), the jury lists in each county are prepared by a jury commission as prescribed by the law. The jury commission is composed of three members, only one of whom is appointed by the Board of Supervisors of the county. Under this system of jury selection, it is the opinion of the Ethics Committee that there would be no conflict should there arise an obligation on the part of an attorney for the Board of Supervisors to challenge some irregularity in the jury selection process on behalf of his client in the criminal case. The Ethics Committee does not here render an opinion as to whether a conflict did exist under the system for preparing jury lists which exist prior to January 1, 1975.

The Committee has also considered whether a conflict exists because the client in the criminal case may stand in jeopardy of a fine in the event of a conviction which would go into the general fund of the county to be spent by the attorney's other client, the Board of Supervisors. It is noted that since the passage of Miss. Code Ann. §19-25-13, (1972), all fees and charges for services heretofore collected by sheriffs are now paid into the general fund of the county. Therefore, in addition to fines imposed in criminal cases being paid into the general fund, all of the sheriff's fees and charges, even in civil cases, are paid into the general funds. The committee is of the opinion that an attorney or firm of attorneys employed by a County Board of Supervisors is not precluded from otherwise practicing law merely because fees, costs, or fines may be charged to his client and paid into the general fund of the county to be spent by the Board of Supervisors in accordance with law.

In the event the county prosecuting attorney should be employed by the supervisors as the attorney for the Board of Supervisors, the question presented is controlled by statute, Miss. Code Ann. §19-23-13 (1972), which prohibits the attorney from representing or defending any person in any criminal prosecution in the name of the state, county, or municipality of the county.

The Ethics Committee is of the opinion it is not unethical for an attorney or a law firm which regularly represents a County Board of Supervisors to defend persons charged with crimes and misdemeanors in that same county nor is it unethical for such an attorney or law firm to represent clients in civil cases in the courts of that county.

A lawyer may represent several clients whose interests are not directly adverse to each other. Nevertheless, he should explain any circumstances that might cause a client to question his undivided loyalty. Regardless of the belief of a lawyer that he may

properly represent multiple clients, he must defer to a client who holds the contrary belief and withdraw from representation of that client.