

FORMAL OPINION NO. 94*

The Committee has been asked for an opinion on a question which is posed on the basis of this fact situation:

Four attorneys practice together as a partnership, and the partnership rents office space to another attorney who is not employed by the partnership. The renting attorney uses the partnership's receptionist, reception area, photocopying and coffee room, library, and conference room. The renting lawyer also is allocated some of the partnership's secretary time. The partnership name appears on the front door of the law firm. The renting lawyer's name does not appear with the firm name, but it does appear on the wall immediately adjacent to the door. The partnership represents client "X." The renting lawyer represents client "Y." To protect client "X", the partnership must sue client "Y."

The issue presented to the Committee is:

Can the partnership and the renting attorney represent clients "X" and "Y", respectively, knowing full well that those clients have conflicting interests?

In Opinion No. 49, Idaho State Bar (1959), the Committee on Professional Ethics considered a substantially identical inquiry and concluded that: ". . . Attorneys sharing offices, even though they are not partners, should not represent clients having interests conflicting with one another." In that Opinion, the Committee focused on the appearance of a professional relationship which is presented to the public by attorneys who share offices. We think the reasoning of Opinion No. 49 is still timely and apposite to the inquiry at hand.

Lawyers in a partnership constitute an entity which represents individual clients. One lawyer in the partnership cannot represent a client whose interests are inconsistent with another client of the partnership. This rule is often justified on the basis that the public has a right to expect the independent judgment and loyalty

of attorneys. See, ABA Ethical Consideration 5-14 and DR 5-105, Code of Professional Responsibility. Public confidence in the legal profession is fostered by that precept.

While office sharing may not create an actual entity, when lawyers share offices and supporting facilities, the appearance of a professional entity is created in the public eye. ABA Opinion 284A. If lawyers sharing office space represent clients with conflicting interests, public confidence in the legal profession is thereby adversely affected.

We conclude, therefore, that it is unethical for a partnership which shares office space and supporting facilities with another attorney to commence an action against the other attorney's client. The law firm and the office-sharing attorney may not ethically represent clients with conflicting interests.

DATED May, 1976.

*This opinion remains valid, but see generally American Bar Association Formal Opinion No. 342, n. 17, regarding the decline of the "appearance of impropriety" test.