

Nebraska Ethics Advisory Opinion for Lawyers
No. 76-8

AS A GENERAL RULE, AN ATTORNEY IS NOT BARRED FROM REPRESENTING A SUBSEQUENT CLIENT AGAINST A FORMER CLIENT IF THE DUTIES REQUIRED OF HIM DO NOT CONFLICT WITH THOSE INVOLVED IN THE FIRST EMPLOYMENT.

FACTS

You have inquired as to whether or not you may properly defend your close friend against a criminal assault charge instituted by a former client of your office, under the circumstances related in your letter.

Based upon the facts set forth in your letter, it is the opinion of The Advisory Committee that you or a member of your firm are not disqualified to assume this representation. In doing so you must, of course, hold inviolate any information which you obtained with respect to the problems the former client may have had, otherwise you would be in violation of DR 4-101(B)(1) of the Code as well as of the statutory provisions covering attorney-client privilege. In reaching this conclusion, the Committee assumes that there is no possible connection between said past problems and the facts giving rise to the alleged assault.

The fact that your office did not bill the former client for services is immaterial--see *Drinker*, Legal Ethics, page 112. The Nebraska Supreme Court has laid down the general rule governing the situation covering representation against a former client, viz, an attorney is not barred from representing a subsequent client against a former client if the duties required of him do not conflict with those involved in the first employment. *Bellair v. Dudden*, 194 Neb. 5; *Adams v. Adams*, 156 Neb. 778.

Since the assumption is that the circumstances surrounding the events leading to the present action

have no connection whatsoever with the information you are privy to by reason of your former employment by the complaining party, your situation appears to fall within the scope of the rule above quoted.

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