

Ethics Opinion No. 76-8

Propriety of an Attorney in Private Practice Representing Clients Whose Cases were Pending Before a Judge While He was the Judge's Law Clerk.

The Committee has been asked the following question:

With regard to an attorney admitted in Alaska who has been a law clerk to a Superior Court judge and who has entered private practice by joining an existing law firm, may he do any of the following:

- 1) Represent a client in court;
- 2) Give professional consultation or assistance to a client;
- 3) Perform legal research relating to a case of a client; or
- 4) Do factual research and investigation relating to a case of a client; when that client has been represented by the law firm before the Superior Court judge to whom the law clerk had served under the following circumstances:

A) When the client's case was merely pending before the judge;

B) When the case was pending and the law clerk had had administrative contact with the case such as merely bringing the file to the judge at the time for his consideration of a motion made in the case; or

C) When the case was pending and the law clerk had performed legal research and had drafted a memorandum on the law for the judge on an issue raised by either of the parties to the case?

The attorney would be entitled to perform the services enumerated 1, 2, 3, and 4 in the event that his contact with the case had been solely as described in paragraphs A and B. If this contact had been more substantive, such as that described in paragraph C, he would not be entitled to participate in any way in the representation of the client in that case because of the appearance of impropriety associated with having dealt substantively with the case as an agent of the court, and then adopting an advocacy role in the same case.

Adopted by the Board of Governors on March 31, 1979.