

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-155
Issued: September 1976

Question: A lawyer has withdrawn from representation of a corporation by written notice. May he subsequently represent a stockholder in, and former officer and director of, the corporation, in litigation against the corporation in which the attorney was previously neither directly nor indirectly involved?

Answer: Qualified yes.

References: DR 2-110, Opinion KBA E-146 (1976), E-148 (1976); Silver Chrysler Plymouth v. Chrysler Motor Corp., 518 F.2d 751 (2d Cir 1975); United States v. Standard Oil, 136 F.Supp. 345 (S.D. New York 1955)

OPINION

We assume that the lawyer complied with the rules concerning withdrawal from representation, DR 2-110, to the extent they were applicable.

If the present litigation concerns a matter in which the lawyer formerly represented the corporation, he may not accept the employment, Silver Chrysler Plymouth v. Chrysler Motor Corp., 518 F.2d 751 (2d Cir 1975). See Opinion KBA E-146 (1976). If the litigation is substantially related to a matter in which he formerly represented the corporation or involved information obtained by the lawyer while so employed, he may not accept the employment, United States v. Standard Oil, 136 F.Supp. 345 (S.D. New York 1955). If the litigation is related to a matter in which he formerly represented a corporation or involved information to which he was privy, he may not accept employment.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."