
**E-88-12 Simultaneous representation of
corporation and corporate officer**

Facts

A lawyer has been retained to represent a respondent in a divorce action. The respondent is also the sole stockholder in a small corporation. At the present time the lawyer is defending the corporation in two lawsuits. This is also his only relationship with the corporation. He was not the incorporating attorney, on the board of directors or an officer. He has not been called upon by the corporation to advise it in any matter other than the pending lawsuits. The petitioner in the divorce action is an officer of the corporation, but the only other interest she has in the corporation is what is derived from the marital property laws of Wisconsin. She owns no stock. The lawyer has not disputed her interest nor does her husband. The lawyer has informed the petitioner's attorney that an evaluation of the corporation will have to be done, and that the petitioner's interest is 50 percent.

Question

May the lawyer continue representing the respondent in the divorce action and the corporation in its two lawsuits?

Opinion

Yes, if the petitioner in the divorce action is not a party individually (i.e., not a client) in the corporate lawsuits. Assuming that the lawyer represents only the entity (i.e., the corporation) in these lawsuits and that the issues involved are not directly related to those in the divorce action, the committee finds no basis in fact for prohibiting the concurrent divorce representation of the respondent. *See* SCR 20:1.7(a) (regarding the direct adversity requirement) and SCR 20:1.13(e) (which relates to SCR 20:1.7).

If, however, the petitioner is a party represented by the lawyer in the corporate lawsuits, the lawyer would have to obtain the informed consent of

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petitioner to respondent's divorce representation. *See* SCR 20:1.7(a)(2); and Committee on Professional Ethics Formal Opinion E-83-9.