



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in July 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.7 and 1.10. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion 86-7
August 29, 1986**

Topic: Independent Professional Judgment. Financial Interest

Digest: A lawyer shall not sign a confession or judgment on behalf of a defendant when the lawyer's partner or associate represents the plaintiff.

Ref.: Rules 5-101(a) and 5-105(a), (c), (d)

FACTS

The inquiring attorney seeks to determine whether an attorney of the same firm as the plaintiff's attorney can sign a confession of judgment on behalf of a defendant.

QUESTION

Can an attorney, on behalf of a defendant, sign a confession of judgment when the plaintiff's attorney is of the same firm as the defendant's attorney?

OPINION

When a lawyer is receiving fees for services rendered on behalf of one client which will be paid pursuant to a confession of judgment signed by a lawyer who is a member of his same firm, a conflict arises. Obviously, the attorney cannot adequately represent the interests of both.

Rule 5-105 provides in part:

(a) A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of his client will be or is likely to be adversely affected by the acceptance of the proffered employment, except as permitted under Rule 5-105(c).

Furthermore, the Rule provides:

(c) If a lawyer is required to decline employment or to withdraw from employment under Rule 5-105, no partner or associate, or any other lawyer affiliated with him or his firm, may accept or continue such employment.

Accordingly, it appears that in the present case, since the attorneys for plaintiff have a financial interest by virtue of the confession of judgment, they cannot undertake representation of defendant.