

Conflicts Arise When In House Play Dual Roles

Daily Journal

02.07.2014

Attorneys owe their clients a duty of loyalty; they must put their clients' interests above their own. This means an attorney should not undertake dual representation of clients with potentially adverse interests without disclosure and prior written consent from both clients. If an attorney fails to disclose an actual or potential conflict, the attorney becomes exposed to potential ethical violations and a malpractice lawsuit. Even if the attorney's representation did not fall below the standard of care, the client may still seek to blame the negative result on the ethical violation.

In-house counsel are especially vulnerable to conflicts of interest, particularly when the attorney simultaneously represents both the corporation and its officers, directors shareholders or employees, on related matters. In many instances, there may be no conflict issues in undertaking such dual representation. Indeed, often the interests of the corporation and its employees are aligned. However, in-house counsel should always evaluate the situation before undertaking such dual representation to determine whether there are any conflicts or potential conflicts.

This article can be read in full at <https://www.dailyjournal.com>.

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