



## Committee on Professional Ethics

Opinion #322 - 12/18/73 (56-73)

Topic: Conflict of interest

Digest: Improper to accept retainer from municipality while at the same time maintaining actions against the municipality

Code: EC 5-1; EC 5-14;  
DR 5-105(A); DR 5-105(C)

### QUESTION

May an attorney accept a retainer to defend a claim against a municipality and at the same time represent clients in prosecuting claims against that municipality?

### OPINION

For the reasons set forth in N.Y. State 247 (1972) and N.Y. State 303 (1973), it is improper for an attorney to accept a retainer to defend a claim against a municipality at the same time that such attorney is prosecuting claims against that municipality. EC 5-1; EC 5-14; DR 5-105(A); DR 5-105(C). As the public interest is involved, the municipality is unable to give consent, and so no consideration need be given to whether the attorney could properly accept the retainer with the consent of the municipality and of the clients for whom he is suing the municipality. N.Y. State 213 (1971); N.Y. State 218 (1971); N.Y. State 247 (1972).

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