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August 9, 1989

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DOUGLAS E. CHRISTENSEN

OFFICE MANAGER

[REDACTED]

Dear [REDACTED]

RE: Request for Ethics Committee Opinion

The Ethics Committee of the State Bar Association of North Dakota has addressed and discussed the questions raised in your letter of May 30, 1989.

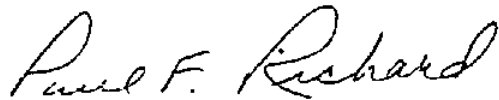
The Committee was of the opinion that Rule 1.11, North Dakota Rules of Professional Conduct, addresses the questions raised by you in your letter. A majority of the Committee agreed that if the governmental agency with which you are associated does not consent to your representation of the private individual, you may not take on such representation. I would like to point out that two of the Committee members were of the opinion that if you continue to act as an Assistant State's Attorney, you could not take on the representation of the private individual even with governmental consent. I would point out that one of the committee members who was of this opinion is himself an Assistant State's Attorney.

In regard to whether another member of your firm may represent the private individual, we would refer you to Rule 1.11 with respect to the procedure that would have to be followed. As I understand it, other members of your firm also act as State's Attorneys, so they may have the same problem that you do with respect to the representation of the private individual. In any event, we would refer you to Rule 1.11 for the answer to this question as well and the procedure that must be followed.


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The above letter opinion is issued to you for advisory purposes only and is not binding on you, the court's of North Dakota, the Disciplinary Board, Grievance Committees, or any other member of the Bar of the State of North Dakota.

Sincerely,



Paul F. Richard
Chairman-Ethics Committee
State Bar Association of North Dakota

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M49

[REDACTED]

May 30, 1989

Pat Ward
NDSBA Ethics Committee
316 N. 5th St.
P.O. Box 1695
Bismarck, ND 58501

Dear Mr. Ward:

I would like an opinion on a professional responsibility question that has come up in our office. First, can an attorney who has acted as an assistant states attorney for a child support enforcement proceedings represent that obligee spouse in a civil child support hearing? Secondly, if the answer is no, can another member of the attorney's firm?

My initial impression on it is that I would in essence be representing the same interests, and since I would not be using the State's Attorney's office to influence the civil proceeding, there would be no violation. Am I correct? Please send a written opinion or call if there are other facts you need.

Sincerely,

[REDACTED]

[REDACTED]

RECEIVED

MAY 31 '89

ZUGER, KERMIS,
BOLINSKE & SMITH