



**ILLINOIS STATE  
BAR ASSOCIATION**

# **ISBA Advisory Opinion on Professional Conduct**

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**ISBA Advisory Opinions on Professional Conduct are prepared as an educational service to members of the ISBA. While the Opinions express the ISBA interpretation of the Illinois Rules of Professional Conduct and other relevant materials in response to a specific hypothesized fact situation, they do not have the weight of law and should not be relied upon as a substitute for individual legal advice.**

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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 1.6 and 1.7. 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.**

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**Opinion No. 84-3  
October 29, 1984**

**Topic: Conflict of Interest**

Digest: It is professionally proper for a member of a County Board to represent the State of Illinois as a Special Assistant Attorney General in condemnation proceedings within the County.

Ref.: Rule 5-105, 4-101, 8-101 and ISBA Opinion No. 335.

## FACTS

An attorney in private practice is a member of a County Board and employed part-time as a special Assistant Attorney General for the purpose of representing the State of Illinois in condemnation proceedings in the same County for which he sits on the County Board.

## QUESTION

Is it a conflict of interest for an attorney to serve on a County Board and at the same time represent the State of Illinois as a Special Assistant Attorney General handling condemnation cases within the County?

## OPINION

The Committee does not feel that there is a per se conflict of interest by reason of an attorney being a member of a County Board and representing the State of Illinois as a Special Assistant Attorney General in condemnation proceedings.

Rule 4-101 pertains to preservation of confidences and secrets of a client, Rule 5-105 requires that a lawyer refuse employment if the interest of another client may impair the independent professional judgment of the lawyer and Rule 8-101 governs the conduct of lawyers who are public officials. None of the provisions of these rules would apply to a situation where the lawyer was employed to prosecute condemnation proceedings against a private landowner for use of the land by the State of Illinois. Only if the County were involved would there be a possible or foreseeable violation of any of the applicable rules.

ISBA Opinion 335 addressed the question of the acceptance of private employment by an Assistant Attorney General where the matter is in an area wholly unrelated to those in which he might or could have duties or responsibilities. ISBA Opinion 335 was rendered under the disciplinary rules which have now been replaced by the Code of Professional Responsibility. The Committee sees no substantive change in the applicable provisions of the Code from the disciplinary rules as they existed at the time that Opinion 335 was rendered. Therefore, as stated in Opinion 335, if the private employment of the Assistant Attorney General would be in areas wholly unrelated to those in which he might or could have duties or responsibilities as a public official, then an actual conflict would not exist and a possible conflict could not reasonably be anticipated.

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