



**ILLINOIS STATE  
BAR ASSOCIATION**

# **ISBA Advisory Opinion on Professional Conduct**

---

**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.**

---

**This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rule of Professional Conduct 3.7(a)(2) and (b) with its Comment [3]. 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 No. 92-13  
January 22, 1993**

Topic: An attorney may represent himself and/or his law firm, and also testify as a witness in a lawsuit by the attorney for payment of fees against a former client.

- Digest: a) Attorney generally should not be witness and advocate in the same trial.  
b) Attorney's suit for fees from former client is an express exception to the rule prohibiting the advocate's testimony as a witness.  
c) Another member of the advocate/witness law firm may represent the client in an action if there is no conflict and certainly in action for payment of fees.

Ref.: Illinois Rules of Professional Conduct, Rules 3.7(a)(3), (b) and (c)

## **FACTS**

An attorney filed suit to collect fees from former client due on matters in which the attorney and members of his firm represented the former client. The attorney and members of his firm will be called as witnesses for either or both plaintiff and defendant.

## **QUESTION**

1. Can the attorney represent himself and his law firm, and also be a witness to the trial?
2. Can another attorney in plaintiff attorney's firm (who performed no services for the client)

represent the attorney or firm suing for fees?

**OPINION**

Illinois Rules of Professional Conduct, Rule 3.7(a)(3) specifically allows advocate-attorney testimony and conduct "if the testimony will relate to the nature and value of legal services rendered in the case by the lawyer of the firm to the client."

Where an attorney files suit for fees, however, the client is the attorney himself or his law firm and Rule 3.7(a), "a lawyer shall not accept employment...where that lawyer may be called as a witness", is not acceptance of employment as stated in the Rule.

\* \* \*