

MINUTES

COMMITTEE: Ethics Committee

DATE: December 5, 1996

12. CHAPTER 6: WHETHER A LAWYER IN A CONFLICT BY ACTING AGAINST THE CITY FOR WHICH HE IS AN ELECTED COUNCILLOR

A lawyer who is a councillor of a city represents a client who is involved in litigation with the city. The matter is a personal injury motor vehicle accident claim in which the city has been added as a defendant as a precaution to avoid some portion of blame being assigned to the city in a situation where the plaintiff may be found to be contributorily negligent.

The lawyer proposes to refer the file to independent counsel who may retain the lawyer to continue with settlement negotiations against the Insurance Corporation of British Columbia only. As a practical matter, if the issue of liability with ICBC can be settled in a way which fairly assesses the plaintiff's contributory negligence, the claim against the city will be academic.

The lawyer asked the Committee whether it is proper for him to continue to act as counsel in the way he has contemplated, or whether there are any other steps he can take to continue acting on the case.

The Committee was of the view that the lawyer is in a conflict of interest. His duty to his client and his duty to the city cannot be avoided short of his complete withdrawal from the case.

JO:hjm
\96-12