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9. CHAPTER 4, RULE 1.1 WHETHER LAWYER WHO IS A PERSONAL LITIGANT VIOLATES RULE BY CONTACTING REPRESENTED PERSON ON THE OTHER SIDE

A lawyer who is a personal litigant in a family law matter involving his former common law wife asked whether there is any prohibition on him contacting his former wife to discuss the matters at issue between them. His wife is represented by a lawyer.

The Committee was of the view that Rule 1.1 prevents the lawyer from discussing the matters at issue with his former wife without the consent of her lawyer. Moreover, it was the Committee's view that there are sound policy reasons for this result and changes to the rule should not be contemplated. The Committee did conclude, however, that it would be proper for the lawyer to explain to his former wife that he is prevented by the rules of professional conduct from discussing the matter with her without her lawyer's consent and requesting that she instruct her lawyer to give that consent.