
**E-87-12 Guardian ad litem subsequently acting
as prosecutor in matter relating to same
child**

Question

May an attorney who once acted as guardian ad litem for a child in protective services proceedings subsequently act as prosecutor in a termination of parental rights proceeding involving the same child?

Opinion

The committee concludes that an attorney who once acted as guardian ad litem for a child in a protective services proceeding subsequently may not act as prosecutor or as lawyer for the defendant in a termination of parental rights proceeding, unless:

- (a) the facts and issues in the two proceedings bear no substantial relationship;
- (b) no confidential information was acquired as guardian ad litem that would materially relate to the termination of parental rights proceeding; and
- (c) the former client (that is, the child) through his or her guardian ad litem in the parental rights proceeding provides informed consent to the representation. *See* SCR 20:1.9. *See* also State Bar Committee on Professional Ethics, Formal Opinions E-85-8 (1985) and E-85-9 (1985). The committee recommends that the disclosures and consent be in writing.