

BAR ASSOCIATION OF ERIE COUNTY  
COMMITTEE ON PROFESSIONAL ETHICS

*Opinion 05-05*

Topic: Representation of passengers in an automobile accident

Digest: The representation of two passengers in the same automobile accident creates a conflict of interest, where the insurance policy may not be sufficient to fully compensate both claimants.

Code: DR5-105C

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**QUESTION**

A law firm is representing two passengers in an automobile accident. The law firm requests an opinion as to whether or not the same attorney may represent two passengers in the same automobile accident. The insurance policy may not be sufficient to fully compensate both claimants.

**OPINION**

DR5-105C controls in this instance. DR5-105C provides: "In the situations covered by DR5-105 (A) & (B), a lawyer may represent multiple clients if a disinterested lawyer would believe that the lawyer can competently represent the interests of each and if each consents to the representation after full disclosure of the implications of the simultaneous representation and the advantages and the risks involved".

The instant case, it is submitted that the same law firm can competently represent the interests of two passengers in the same automobile accident. There appears to be no reason why the same lawyer could not attempt to maximize the value of each individual claim because he is representing a second passenger. However, in this situation, a conflict of interest exists because there may not be sufficient funds to fully compensate both claimants.

In *Shaikh vs. Waiters* 185 Misc. 2d 52, the court held that the same law firm could not represent the driver Mother and have the Mother bring a claim on behalf of the passenger daughter. Here, two passenger can be competently represented by the same law firm. The obvious conflict between a driver and a passenger does not exist.

**CONCLUSION**

The representation of two passengers in the same automobile accident creates a conflict of interest prohibited by DR-105C, where the insurance policy may not be sufficient to fully compensate both claimants.