telephone. The inquiring attorney states that he would not be involved in the case to which the alleged facts pertain and it is unlikely that there would be any follow-up after the initial call.

In the opinion of the Committee there is no ethical proscription of such a service, but the giving of telephone advice under the stated circumstances where a fee is charged constitutes professional employment which would impose on the attorney all the obligations inherent in a lawyer-client relationship.

The attorney would therefore be charged with the duty of confidentiality toward each person using his service (Cal. Bus. & Prof. Code, §6068(e)). He would also be under a duty to avoid the representation of adverse and conflicting interests which is prohibited by Rule 5-102(A) and (B), and this might well involve extensive record keeping. To meet the competency requirements of Rule 6-101 the attorney should take care to elicit sufficient information from a telephone client to enable him to render appropriate advice. Any advertisement of the "hot line" and solicitation of subscribers should, of course, conform to the requirements of Rule 2-101.

Opinion No. 450 (May 16, 1988)

ACTION AGAINST PRESENT OR FORMER CLIENT. It is improper for an attorney to bring an action for appointment of conservator for a present or former client, within the scope of the representation of the client, even where the attorney believes that a conservatorship is in the client's best interest.

AUTHORITIES CITED:
California Rules of Professional Conduct 4-101, 5-102
Formal Opinion No. 138

The inquiring attorney was counsel to a husband and wife, now deceased, who left a testamentary trust for the benefit of their four children. Eventually child "A" will take outright, real estate and personal property worth between $300,000 and $500,000. This child is unmarried but has one minor child of his own. He has allegedly developed a chemical dependency problem to such an extent that it would be financially imprudent for him to receive this property. The inquiring attorney has served as legal counsel for "A" on a number of matters, including the structuring of "A's" financial affairs. The attorney, as counsel for "A's" siblings, believes that a conservator of the property should be appointed to preserve sufficient capital and income for the future maintenance and well being of "A." "A" opposes the appointment of a conservator. The inquiring attorney firmly believes that the appointment of a conservator is in the best interests of "A."

The attorney inquires whether he is disqualified from representing a petitioner for the appointment of a conservator of "A's" property, if "A" contests the petition.

The facts of this case are quite similar to those in Formal Opinion No. 138 in which the Committee stated that an attorney may not ethically accept employment for the purpose of instituting proceedings for the appointment of a guardian of the person or estate of his client. Though the opinion was written 47 years ago, it is still valid.

Opinion 138 states that the proceeding for the appointment of a guardian is in the nature of an adversary proceeding, in which the alleged ward could employ counsel and oppose the application. The attorney bringing the application would have been in violation of Canon 6 of the former ABA Canons of Professional Ethics. Old Canon 6 was entitled "Adverse Influences and Conflicting Interests," and its substance has been preserved in California Rules of Professional Conduct 4-101, 5-101 and 5-102.

In the opinion of the Committee the attorney is disqualified from bringing such a petition. It appears that the attorney is presently legal counsel to "A." An attorney is disqualified from bringing a legal action against a present client. Even if the attorney severs his existing attorney-client relationship with "A," it appears from the facts presented to the Committee that the attorney would be disqualified from bringing such an action, because it would be based upon confidential information acquired during the attorney's former representation of "A." An attorney is disqualified from opposing a former client in a matter as to which the attorney has received confidential information. Such conduct would be in violation of Rule 4-101 of the California Rules of Professional Conduct, which states:

> A member of the State Bar shall not accept employment adverse to a client or former client, without the informed and written consent of the client or former client, relating to a matter in reference to which he has obtained confidential information by reason of or in the course of his employment by such client or former client.

Additionally, by representing "A" and the petitioner for the appointment of a conservator, the attorney is in danger of violating Rule 5-102(B), which states that a "member of the State Bar shall not represent conflicting interests, except with the written consent of all parties concerned."

Opinion No. 451

PUBLICATION OF LEGAL ARTICLE BY LAWYER RELATED TO A CLIENT'S CASE. An attorney may publish an article in a law journal that is related to the subject matter of a client's case which does not prejudice the client.

AUTHORITIES CITED:
Formal Opinion No. 343;
American Bar Association Informal Opinion No. 1090;
California Rules of Professional Conduct 4-101, 5-101, 5-102, 7-108(b);
Morrison-Knudsen Co. v. CHG International, Inc., 811 F.2d 1209 (9th Cir. 1987);
North Mississippi Savings & Loan Association v. Hudspeth, 756 F.2d 1096 (5th Cir. 1985), cert. denied, 474 U.S. 1054 (1986).

A law journal has asked the Committee its opinion on the propriety of the publication of an article by an attorney ("A") on an issue pending before the United States Supreme Court in the following circumstances.

A represents a client ("C") with a claim against a failed savings and loan association, for which the Federal Savings and Loan Insurance Corporation ("FSLIC") has been appointed as conservator. After A obtained a writ of attachment for C in Superior Court, C's case was dismissed by the California Court of Appeal, based on a legislative in-