

In the Supreme Court of Georgia

Decided: June 25, 2012

S10U1780. IN RE FORMAL ADVISORY OPINION NO. 86-1.

PER CURIAM.

On July 14, 2010, the State Bar of Georgia filed in this Court a “Petition for Withdrawal of Formal Advisory Opinion No. 86-1” (FAO No. 86-1), an advisory opinion that addresses whether a lawyer may serve as both a state legislator and part-time solicitor, and which concludes that such dual employment does not necessarily create an ethical conflict of interest. This Court treated the State Bar’s petition as a petition for discretionary review under Rule 4-403 (d) of the Georgia Rules of Professional Conduct, and on November 7, 2011, granted the petition with the directive that the State Bar and any other interested parties¹ address whether FAO No. 86-1 was in conflict with certain Georgia laws and Rules of Professional Conduct and whether the Formal Advisory Opinion should be withdrawn.

¹ Despite the State Bar providing notice to its membership by posting a link to a copy of this Court’s November 7, 2011 Order on its website, no other parties besides the State Bar have filed briefs in this case.

Having reviewed the State Bar’s petition, we conclude that FAO No. 86-1 creates confusion by being internally inconsistent, by citing to incorrect and inapplicable standards, and by addressing matters that are better addressed by our Georgia Constitution and Georgia statutes. See, e.g., Georgia Constitution of 1983 Art. I, Sec. II, Para. III (“The legislative, judicial, and executive powers shall forever remain separate and distinct; and no person discharging the duties of one shall at the same time exercise the functions of either of the others except as herein provided”). Accordingly, we grant the State Bar’s petition to withdraw FAO No. 86-1.

Formal Advisory Opinion 86-1 withdrawn. All the Justices concur.