

**Rule 1.12 Former Judge, Arbitrator, Mediator Or Other Third-Party Neutral
(Commission's Proposed Rule Adopted on June 2 – 3, 2016 – Clean Version)**

- (a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated substantially as a judge or other adjudicative officer, judicial staff attorney or law clerk to such a person* or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed written consent.*
- (b) A lawyer shall not participate in discussions regarding prospective employment with any person* who is involved as a party or as lawyer for a party, or with a law firm* for a party, in a matter in which the lawyer is participating substantially as a judge or other adjudicative officer or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a judicial staff attorney or law clerk to a judge or other adjudicative officer may participate in discussions regarding prospective employment with a party, or with a lawyer or a law firm* for a party, in a matter in which the clerk is participating substantially, but only with the approval of the court.
- (c) If a lawyer is prohibited from representation by paragraph (a), but not by virtue of previous service as a mediator or settlement judge, no lawyer in a firm* with which that lawyer is associated may knowingly* undertake or continue representation in the matter unless:
 - (1) the prohibited lawyer is timely screened* [in accordance with Rule 1.0.1(k)] from any participation in the matter and is apportioned no part of the fee therefrom; and
 - (2) written* notice is promptly given to the parties and any appropriate tribunal* to enable them to ascertain compliance with the provisions of this Rule.
- (d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

Comment

[1] For purposes of this Rule, the term “substantially” signifies that a judge who was a member of a multimember court, and thereafter left judicial office to practice law, is not prohibited from representing a client in a matter pending in the court, but in which the former judge did not participate, or acquire material confidential information. The fact that a former judge exercised administrative responsibility in a court also does not prevent the former judge from acting as a lawyer in a matter where the judge had previously exercised remote or incidental administrative responsibility that did not affect the merits, such as uncontested procedural duties typically performed by a presiding or supervising judge or justice. The term “adjudicative officer” includes such officials as judges pro tempore, referees and special masters.

[2] Other law or codes of ethics governing third-party neutrals may impose more stringent standards of personal or imputed disqualification. See Rule 2.4.

[3] Paragraph (c)(1) does not prohibit the screened* lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.