

## **Opinion No. 57-108**

May 22, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Howard M. Rosenthal,  
Assistant Attorney General

**TO:** Honorable Victor C. Breen, District Attorney, Tenth Judicial District, Tuoumcari,  
New Mexico

### **QUESTIONS**

#### QUESTIONS

Whether, referring to Opinion No. 57-71 dated April 11, 1957, law partners of a District Attorney or Assistant District Attorney, are prohibited from participating in or receiving any fees growing out of an automobile accident when the relationship between the District Attorneys or Assistant District Attorneys and their partners is of such a limited nature that the District Attorneys or Assistant District Attorneys received no benefit therefrom?

#### CONCLUSION

No. (See analysis for terms and conditions.)

### **OPINION**

#### ANALYSIS

Section 17-1-3, N.M.S.A., 1953 Compilation, provides, among other things:

"And provided, further, that, effective January 1, 1957, neither a district attorney nor any of his assistants shall represent a party plaintiff or party defendant in any civil action wherein a claim is made for damages growing out of an automobile accident occurring within his judicial district, and violation thereof shall be grounds for removal from office."

While the above provision effectively prohibits a District Attorney or Assistant District Attorney from representing a party plaintiff or defendant in any civil action growing out of an automobile accident occurring within the judicial district, no prohibition is placed upon associates of the District Attorneys or Assistant District Attorneys if the benefits derived from such representation are not received by the prohibited judicial officers. Hence, if in writing between the District Attorneys or Assistant District Attorneys and their associates, agreement is made that the judicial officers shall not in any wise participate in the benefits derived from such representations, this office is of the opinion that no disability is had by the associates.