The supreme court approved Formal Advisory Opinion 16-2 of the State Bar of Georgia Formal Advisory Opinion Board. FAO 16-2 poses the following question and provides the following summary answer:

QUESTION PRESENTED:

May an attorney who has been appointed to serve both as legal counsel and as guardian ad litem for a child in a termination of parental rights case advocate termination over the child's objection?

SUMMARY ANSWER:

When it becomes clear that there is an irreconcilable conflict between the child's wishes and the attorney's considered opinion of the child's best interests, the attorney must withdraw from his or her role as the child's guardian ad litem.


In this case, the special master recommended disbarment, but the Review Panel recommended a two-year suspension. The supreme court agreed with the Review Panel and imposed the suspension on these facts:

Meyers was at all relevant times an equity partner at a large law firm. He had billing responsibilities for many clients, including the large corporate client at issue in this case. For a number of years, Meyers's law firm performed legal services for the corporate client and its subsidiaries. The contact person for the corporate account was in-house counsel for one of the corporation's wholly-owned subsidiaries.

At some point, in-house counsel told Meyers that his employer permitted its in-house attorneys to perform outside legal work as long as it was not on company time and did not raise any conflicts of interest with company matters, and in-house counsel indicated a desire for Meyers's law firm to do some of the work for his own outside clients. As a result, beginning in 2011, attorneys at the firm did legal work for the benefit of in-house counsel's personal clients and for his private practice. When difficulties arose in collecting the fees for those services from the in-house counsel's personal clients, the amounts due were rolled into the bills sent to the law firm's corporate client, with the descriptions of the work that had been performed edited to eliminate information that would make clear
that the work was not performed directly for the corporate client. The corporate client discovered the practice and fired in-house counsel in August 2012. The client then initiated an inquiry with the law firm, which reimbursed the corporate client for the amounts it had actually paid, wrote off the other invoices, and confronted Meyers.

From the start, Meyers admitted that he submitted the altered bills but asserted, as he still does, that he did so at the behest of in-house counsel, who Meyers contended advised him that the procedure was acceptable because much of the work performed ultimately would be beneficial to the corporate client and because in-house counsel would reimburse the corporate client for any work that was not beneficial to it. When confronted, Meyers immediately offered to reimburse the firm or the client, and he did ultimately re-pay the law firm. Meyers, who resigned within a few weeks of being confronted, now acknowledges that the alterations to the bills could have helped conceal from the corporate client the fact that the legal work was performed on behalf of the in-house counsel and his clients, but nevertheless steadfastly denies any knowing participation in a scheme to defraud the client. Instead, Meyers claims that he was duped and misled by in-house counsel, whom he reasonably trusted.

The supreme court particularly agreed with the Review Panel that the special master wrongfully found a violation of Rule 8.1(a), which forbids lawyers from knowingly making false statements of material fact in connection with a disciplinary matter. The special master found a violation of Rule 8.1(a) in the lawyer’s “continued denial during the disciplinary proceedings that he was complicit in any scheme to defraud the corporate client....” The supreme court agreed “with the Review Panel's implicit conclusion that a lawyer's decision to put up a defense in a disciplinary proceedings [sic] —whether by disputing evidence against him or refusing to concede whatever inferences the State Bar argues may be drawn therefrom—is not always an aggravating factor that counsels imposition of harsher discipline.” The supreme court held that a two-year suspension was the appropriate sanction.


The supreme court accepted the voluntary surrender of the license of a lawyer who admitted that in multiple cases she did not promptly account to clients for their settlement proceeds and did not promptly disburse settlement funds or pay her clients’ medical bills.


The supreme court disbarred a lawyer who neglected three separate client matters and, in one of them, improperly deposited client funds into his firm’s operating account.