



## COUNTERPOINT: ETHICALLY HANDLING CONFLICTS BETWEEN TWO CLIENTS THROUGH THE "GOLDEN MEAN"

*Posted on October 4, 2007 by Cyrus Mehta*

In the event of a conflict between two parties represented simultaneously by one attorney in a single matter, the attorney is generally required to withdraw from the representation of both clients.

Reproduced is an article published in 12 Bender's Immigr. Bull. 1147 (Aug. 15, 2007) - [COUNTERPOINT: ETHICALLY HANDLING CONFLICTS BETWEEN TWO CLIENTS THROUGH THE "GOLDEN MEAN."](#) This article by Cyrus D. Mehta further develops the Golden Mean approach when representing two clients. The Golden Mean assists immigration practitioners when representing both an employer and an employee, or both spouses in a marriage, to recognize conflicts in advance of the representation, manage clients' expectations, and minimize conflicts through limited representation and advance waivers. It may also be helpful in handling conflicts on behalf of both employer and employee upon job termination.

The central issue for exploration in the latest article is whether it is ethically permissible for a lawyer in a dual representation situation to continue to represent one client, either the employer or the employee (or one of the spouses) after the occurrence of a conflict. Rather than abandon both clients, the Golden Mean approach may render it possible for the lawyer to serve as the champion for the interests of the client who may need him or her the most, even after the conflict.

The Golden Mean continues to remain an evolving work of the author. It has been published before in the following publications: Cyrus D. Mehta, *Finding the 'Golden Mean' in Dual Representation - Updated*, Immigration Briefings, August

2006, *Finding the Golden Mean in Dual Representation*, Immigration & Nationality Law Handbook 29 (AILA 2005-06 ed.). The updated version was also recently published in *Navigating the Fundamentals of Immigration Law, Guidance and Tips for Successful Practice* (Grace E. Akers ed., AILA 2007-08 ed.). The Golden Mean was recently critiqued by attorney Bruce Hake in his article, *Advance Conflict Waivers are Unethical in Immigration Practice - Debunking Mehta's "Golden Mean,"* 11 *Bender's Immigr. Bull.* 682 (June 1, 2007). Mr. Mehta's latest article addresses Mr. Hake's criticisms.