

**Rhode Island Supreme Court
Ethics Advisory Panel Op. 2012-08
Issued October 11, 1012**

FACTS:

The inquiring attorney represents a client in two matters, a Family Court matter that involves the Rhode Island Department of Children, Youth and Families (D.C.Y.F), and a divorce proceeding. The client has moved to the Midwest to reside with her parents and siblings. The inquiring attorney states that the “client’s financial situation is dire” and that she cannot afford the costs of transportation to attend court dates in Rhode Island. The inquiring attorney has offered to reimburse the client for a large portion of her transportation costs, but only if he/she is ethically permitted to do so.

ISSUE PRESENTED:

The inquiring attorney asks whether he/she may reimburse his/her client, whose financial situation is dire, the costs of transportation which she incurs to attend court hearings in Rhode Island.

OPINION:

If the inquiring attorney’s out-of-state client is indigent and is unable to afford transportation costs to attend court hearings in the D.C.Y.F. matter and in her divorce case, the inquiring attorney may pay the client’s transportation costs in order to ensure access to the courts, regardless of whether those costs will be repaid.

REASONING:

Rule 1.8(e) of the Rules of Professional Conduct states as follows.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation of behalf of the client.

In the instant inquiry, the inquiring attorney seeks to reimburse his/her out-of-state client the costs of transportation. The comments to Rule 1.8 state that lawyers may lend clients court costs and litigation expenses including “the expenses of medical examination and the costs of obtaining and presenting evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts.” Rule 1.8, comment [10]. The Comment also states that an exception that permits lawyers to pay court costs and litigation expenses of indigent clients whether or not they are repaid is warranted. Id.

In the opinion of the Panel, an indigent client who cannot afford transportation to the courthouse is effectively denied access to the courts. The inquiring attorney has described his/her client’s financial status as “dire.” The Panel concludes that, if the out-of state client is indigent and is unable to afford transportation costs to attend court hearings in the D.C.Y.F. matter and in her divorce case, the inquiring attorney may pay the client’s transportation costs in order to ensure access to the courts, regardless of whether those costs will be repaid. See Conn. Ethics Op. 00-21 (2000) (lawyer may pay for indigent out-of-state client’s travel to deposition in client’s personal injury case.)