

DIGEST OF ETHICS ADVISORY PANEL
OPINION 89-2, REQUEST #44
Issued February 21, 1989

An attorney seeks Panel advice as to whether his firm may properly provide certain specified consulting services to his client, a claims adjustment company. The attorney advises the Panel that the client company wishes to engage his firm to provide research analysis and opinions as to liability in certain legal claims. The attorney further advises the Panel that his firm has no financial interest in the client company. The attorney sets forth four specific scenarios for Panel review.

In the first scenario, the attorney's firm would provide a legal opinion to the client company regarding claims submitted to the client by its customers. The firm's opinion letter and bill to the client would both be on the firm's stationery. The Panel takes the position that this arrangement is proper.

A second scenario also entails the firm providing a legal opinion to its client company concerning a claim submitted to that client company by one of its customers. In this second scenario, however, the attorney indicates that his firm's opinion would be in the form of a memo on the client company's own stationery. The attorney's bill to the client would be prepared separately on the firm's stationery.

Rule 5.5 of the Rules of Professional Conduct provides, in pertinent part:

Rule 5.5 UNAUTHORIZED PRACTICE OF LAW

A lawyer shall not:

* * *

(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

The Panel takes the position that for the attorney and his firm to provide legal advice on the client's stationery concerning its customer's claims constitutes a violation of Rule 5.5(b).

In a third scenario, the firm would provide the client with a legal opinion regarding claims submitted to it by its customers. The client would then incorporate the legal opinion from the firm into its correspondence with its customer. The Panel takes the position that this arrangement is proper.

In the fourth and final scenario the attorney sets forth for Panel review, the firm would provide a legal opinion directly to the client company's customer regarding claims submitted by the customer to the client company. In this final scenario the attorney would be functioning as a paid,

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part-time employee of the client company. The Panel takes the position that this arrangement is proper.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.