

Digest of Ethics Advisory Panel
Opinion #91-21, Request #153
Issued May 23, 1991

An attorney seeks Panel advice concerning the attorney's ethical obligations under circumstances in which the attorney's client previously accepted a settlement offer but now wishes to continue with the litigation.

The Panel takes the position that if the client wishes to breach a settlement contract, the attorney may withdraw from representation of that client under Rhode Island Rule of Professional Conduct 1.16.

Rule 1.16(b)(3) provides in pertinent part:

(b) . . . a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(3) the client insists upon pursuing an objective that the lawyer considers repugnant or imprudent . . .

The Panel notes that the acceptance by a client of a settlement offer creates a binding contract. The Panel is of the opinion that if the client wishes to repudiate the settlement contract, the attorney may properly withdraw from representation of that client under Rule 1.16(b)(3) if the attorney considers the objectives of this client to be "imprudent" or "repugnant".

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.