

Digest of Ethics Advisory Panel
Opinion #91-35, Request #160
Issued May 23, 1991

An attorney seeks Panel advice concerning three ethical questions the attorney has submitted to the Panel.

The pertinent facts are as follows:

Attorney A was employed by Attorney B as an associate in the firm of Attorney B. Attorney A was to be paid a base salary of \$10,000 and would receive 50% of the fee for any case in which he/she participated. Attorney A is no longer associated with Attorney B. Certain legal bills which accrued during the course of A's employment with B have become severely delinquent.

The attorney poses the following questions:

1. May Attorney A bring suit against a severely delinquent client for Attorney A's share of the delinquent legal bills?
2. Is Attorney A under any obligation to appear at scheduled court and other adversarial proceedings on behalf of clients of Attorney B's firm now that Attorney A is no longer associated with Attorney B?
3. May Attorney A be compelled to represent clients of Attorney B's firm whom he/she represented while an employee of Attorney B's firm.

In response to the first question, the Panel cites Rule 2 of the Rules of the Rhode Island Supreme Court Ethics Advisory Panel. Rule 2, entitled "Jurisdiction", states in pertinent part:

The Panel shall accept requests from any member of the Rhode Island Bar in good standing concerning his or her prospective conduct as an attorney under the Rules of Professional Conduct as set forth in Supreme Court Rule 47. The Panel may decline to render an advisory opinion if any of the following circumstances exist:

(g) The opinion would require resolution of questions concerning substantive law outside the area of legal ethics and discipline.

The Panel is of the opinion that the first question presents a legal rather than an ethical question. Therefore, the Panel declines to address that question.

In response to your second question, the Panel takes the position that once an attorney has entered an appearance on behalf of a client, the attorney can withdraw from representation of that client only with the permission of the court or if the attorney is discharged by the client and allowed to withdraw by the court.

In response to the final question, the Panel takes the position that if the clients are clients of Attorney B's firm, these clients are no longer the responsibility of Attorney A once Attorney A leaves the employ of Attorney B. The Panel notes, however, that any clients of Attorney B's firm who are brought to the firm by Attorney A may remain clients of Attorney A.

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.