

DIGEST OF ETHICS ADVISORY PANEL
Opinion 92-28, Request #243
Issued May 20, 1992

An attorney seeks Panel advice with regard to the following circumstances. An attorney represented a client in a personal injury case. One year later, the FBI informed the attorney that the client misrepresented his identity and fraudulently invented the personal injury claim. The FBI requested the attorney's assistance in the prosecution of the client.

The Panel believes that Rule 1.6 entitled "Confidentiality of Information" governs this inquiry. Rule 1.6 states that "a lawyer shall not reveal information relating to representation of a client unless the client consents after consultation." Rule 1.6 would prohibit an attorney from assisting in the prosecution of his/her client. In this particular case, an attorney has an obligation to maintain the confidentiality of information relating to the representation of the client. The same duty is applicable to judicial and other proceedings where a lawyer is called as a witness. If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, Rule 1.6(a) requires the lawyer to invoke the privilege when it is applicable. Note however that a lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client. See comments to Rule 1.6.