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ETHICS ADVISORY PANEL
OPINION #93-45, REQUEST #398
Issued August 25, 1993

An attorney represented a client in a claim for personal injuries. During the pendency of the claim, the client was served with a body attachment by a creditor. Subsequently, an agreement was made between an associate of the attorney and the creditor's attorney wherein the creditor would be paid from the proceeds of the client's personal injury claim. Payment was to be made directly from the client's fund to the creditor's attorney. Thereafter, the case was settled and the client received the sum to which he was entitled. However, the creditor was never paid. The attorney has advised the client to pay the creditor the amount agreed upon, but the client has failed to do so. The attorney now seeks to inform the creditor's attorney of this situation without the client's consent.

At the outset, the Panel notes that this situation apparently involves past conduct with respect to the attorney's duties under Rule 1.15 (Safekeeping Property) and therefore appears to be a matter the Panel may decline to opine pursuant to Rule 2(d) of the Rules of the Ethics Advisory Panel. That notwithstanding, the Panel is of the opinion that the attorney may inform the creditor's attorney of the situation because the information is not protected under Rule 1.6. The Rule provides in pertinent part as follows:

Rule 1.6. Confidentiality of Information.-

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation except for disclosures that are impliedly authorized in order to carry out the representation.

The fact that the case was settled, and the client was paid, is a disclosure that is impliedly authorized in order to carry out representation. Accordingly, the Panel concludes client consent is not a prerequisite necessary in order to disclose the information to the creditor's attorney.