

Final

Rhode Island Supreme Court Ethics Advisory Panel Op. 2025-9 Issued July 10, 2025

FACTS

The inquiring attorney represented a mother and daughter in a motor vehicle accident case. The mother and daughter were in the same vehicle at the time of the accident. Liability was accepted by the other driver's insurer. The mother's claims thereafter settled for the policy limit. The inquiring attorney disbursed the settlement funds to the mother and closed her portion of the case.

The daughter, who was a minor at the time of the accident, did not settle her claims until after she turned 18 years old. Before the inquiring attorney disbursed the settlement funds to the daughter, the mother contacted the inquiring attorney claiming the daughter owes her a debt she had agreed to pay out of the settlement funds. The mother has produced a notarized promissory note apparently signed by the daughter in support of her claim. However, the daughter denies owing the mother a debt and alleges that the promissory note is a forgery.

The purported debt is less than the total sum of the daughter's settlement funds. The inquiring attorney has placed the funds in his or her IOLTA account pending resolution of the dispute.

ISSUE PRESENTED

The inquiring attorney asks what his or her obligations are under the Rules of Professional Conduct regarding the disputed settlement funds?

OPINION

It is the Panel's opinion that the inquiring attorney is obligated to notify the mother that he or she is in possession of the amount claimed but does not have the daughter's authority to disburse the funds. The inquiring attorney must then transfer to the daughter that portion of the settlement funds not in dispute and retain the disputed portion pending resolution of the matter or, in the alternative, deposit the disputed amount into the court registry and file an action to have a court resolve the dispute.

REASONING

As an initial matter, the Panel will not opine on the veracity of the daughter's purported debt to the mother or address the authenticity of the promissory note. These are issues of substantive law outside the Panel's jurisdiction. See Rule 2(g) of the Rules of the Rhode Island Supreme Court Ethics Advisory Panel. The Panel's sole focus is on the inquiring attorney's obligations under the applicable Rules of Professional Conduct.

Rule 1.15, entitled “Safekeeping Property,” provides in relevant part as follows:

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

Comment [4] to Rule 1.15 is also instructive here:

Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer’s custody, such as a client’s creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but, when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

“Rule 1.15(d) imposes three obligations on a lawyer receiving funds in which a client or third party has an interest: the duty to notify promptly, the duty to deliver promptly, and the duty to account.” Rhode Island Supreme Court Ethics Advisory Panel Op. 2008-03 (citing Rhode Island Supreme Court Ethics Advisory Panel General Informational Op. 7). “A lawyer may not pay a third person out of a client’s settlement funds without his or her client’s consent,” however. Rhode Island Supreme Court Ethics Advisory Panel Op. 2011-02 (citing General Informational Op. 7). “Further, where a lawyer has notice that there is a purported assignment of settlement funds in favor of third persons, absent the client’s consent to payment, a lawyer has an obligation to protect the funds in dispute” Id.

In this case, the inquiring attorney currently holds in his or her IOLTA account settlement funds to which the daughter is entitled. The mother claims an interest in a portion thereof. The daughter disputes the mother’s claim. Based on these facts, the Panel finds that the inquiring attorney is obligated to notify the mother that he or she is in possession of the amount claimed but does not have the daughter’s authority to disburse the funds. The inquiring attorney must then transfer to the daughter that portion of the settlement funds not in dispute and retain the disputed

portion pending resolution of the matter, giving both the mother and daughter a full accounting of the transaction. See Rhode Island Supreme Court Ethics Advisory Panel Op. 2011-02; see also General Informational Op. 7. The inquiring attorney's duty to protect the disputed amount attaches for as long as the dispute lasts. See Rhode Island Supreme Court Ethics Advisory Panel Op. 97-20 (noting that although "[r]esolution may be nowhere on the horizon and [the inquiring attorney may] end up holding disputed funds for months, even years [such that he or she] may decide that he[or]she no longer wishes to remain a stakeholder . . . [he or she] still has an obligation to protect the disputed amounts" until resolution). As such, the inquiring attorney may not attempt to speed the matter along by seeking to mediate between the mother and daughter. See Rule 1.15, Comment [4]. However, he or she may deposit the disputed amount into the court registry and file an action for a court to resolve the dispute. See id.; see also Rhode Island Supreme Court Ethics Advisory Panel Op. 97-20 (observing that "Rule 1.15(b) does not require the inquiring attorney to file an action in interpleader if a dispute over a portion of the settlement funds cannot be resolved").