

Final

Rhode Island Supreme Court Ethics Advisory Panel Op. 2026-04 Issued May 14, 2026

FACTS

The inquiring attorney's law partner represented a client in a family law matter until his or her withdrawal in late 2025. The client is now representing him or herself pro se. Recently, the client has requested a copy of his or her client file. The inquiring attorney is in the process of compiling the file but is unsure whether the client is entitled to copies of correspondence between the inquiring attorney's law partner and opposing counsel developed during the representation.

ISSUE PRESENTED

Is the client entitled to receive copies of correspondence between the inquiring attorney's law partner and opposing counsel developed during the representation?

OPINION

It is the Panel's opinion that the client is entitled to receive copies of correspondence between the inquiring attorney's law partner and opposing counsel developed during the representation.

REASONING

An attorney's duties to his or her client upon termination of a representation are set forth in Rule 1.16(d) of the Rules of Professional Conduct:

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

As the Panel has previously observed, Rule 1.16(d) "provides that upon termination of a representation the attorney 'shall . . . surrender[] papers and property to which the client is entitled . . .'" Rhode Island Supreme Court Ethics Advisory Panel Op. 2026-01 (emphasis added). This entitlement includes receiving a copy of the client file but does not extend to the "attorney's work product." Rhode Island Supreme Court Ethics Advisory Panel Op. 92-88. Thus, the resolution of this inquiry turns on whether the documents in question constitute attorney work product.

The purpose of excluding attorney work product from the client file mirrors the protections afforded attorney work product in the litigation discovery context—namely, that such measures avoid "[i]nefficiency, unfairness, and sharp practices . . . in the giving of legal advice and in the

preparation of cases for trial.” Rhode Island Supreme Court Ethics Advisory Panel Op. 90-19 (quoting Hickman v. Taylor, 329 U.S. 495, 511 (1946)). “Proper preparation of a client’s case demands that [the attorney] assemble information, sift what he considers to be the relevant from the irrelevant facts, prepare his legal theories and plan his strategy without undue and needless interference.” Id. (quoting Hickman, 329 U.S. at 510). In this vein, the Panel has recognized attorney work product includes “filings, memoranda, expert reports, mental impressions, interviews, and correspondence prepared by the attorney . . . as well as the lawyer’s own personal notes that are unrelated to legal analysis such as times records, notes of conversations with the client, and other record keeping documents.” Rhode Island Supreme Court Ethics Advisory Panel Op. 2026-01 (citing Rhode Island Supreme Court Ethics Advisory Panel Op. 90-19 and Rhode Island Supreme Court Ethics Advisory Panel Op. 93-76) (internal quotation marks omitted). By contrast, “papers and other records the attorney receives from the client during the representation or any documents developed or derived therefrom [are not considered work product,] however—even if the attorney relied upon them in prosecuting the matter on the client’s behalf.” Id. (citing Rhode Island Supreme Court Ethics Advisory Panel Op. 93-84).

Here, the documents in question are copies of correspondence between the inquiring attorney’s law partner and opposing counsel developed during the representation. While such documents certainly facilitate the conduct of a matter and reflect an attorney’s zealous representation of his or her client, they are not “prepared or obtained because of the prospect of litigation” unlike, for example, an attorney’s case notes.¹ Cabral v. Arruda, 556 A.2d 47, 49 (R.I. 1989). Nor are they the fruit of the attorney’s independent research or investigation. See Rhode Island Supreme Court Ethics Advisory Panel Op. 90-19 (endorsing the inquiring attorney’s practice of including expert witness reports in a client file but withholding the expert witnesses’ identities because “the experts’ identities which resulted from the inquiring attorney’s research are his work product and, as such do not constitute ‘papers and property with which the client is entitled’ within the meaning of Rule 1.16(d)”). Therefore, such documents lack the traditional indicia of “work product” as defined above, such that they should be included in the client file provided to the client. See Rhode Island Supreme Court Ethics Advisory Panel Op. 93-84.

In preparing the client file for transmission to the client, “[t]he inquiring attorney may not charge the client[] for the costs of copying the client[’s] file.” Rhode Island Supreme Court Ethics Advisory Panel Op. 2010-06 (citing Rhode Island Supreme Court Ethics Advisory Panel Op. 96-35). The inquiring attorney also may not seek the cost of shipping or delivering the client file to the client when a hard copy is requested, unless the “client lives out-of-state, is ill, or is otherwise unable to retrieve the client’s file from a lawyer’s office” or the parties’ preexisting agreement apportions such costs to the client. Id. In the absence of a request for a hard copy of the file, however, the inquiring attorney is free to mitigate transmission costs by such methods as “scanning the file and transmitting it electronically to the client, or copying the file to a disk and mailing the disk to the client.” Id.

¹ Indeed, the client should already be apprised of the substance of such correspondence pursuant to Rule 1.4.