

Final

Rhode Island Supreme Court Ethics Advisory Panel Op. 2026-08 Issued August 13, 2026

FACTS

The inquiring attorney represented a certain client (the “Client”) from 1993 to 2007. During that time, the inquiring attorney provided such legal services as the formation of various business entities, the handling of corporate filings, the undertaking of several real estate transactions, and the provision of defense in civil actions brought by third parties. The Client’s children, Person 1 and Person 2, held ownership interests in the business entities and served in various corporate roles in them. The inquiring attorney reports he or she occasionally corresponded with Person 1 and Person 2 in their corporate capacities but never represented them.

Recently, Person 1 contacted the inquiring attorney seeking certain documentation in the inquiring attorney’s possession relating to a single business entity in which Person 1 and Person 2 have a shared ownership interest (the “File”). The inquiring attorney has unsuccessfully attempted to contact Person 1’s counsel to discuss the matter.

ISSUE PRESENTED

The inquiring attorney seeks the Panel’s guidance regarding the proper disposition of the File sought by Person 1 pursuant to the Rules of Professional Conduct.

OPINION

It is the Panel’s opinion that the inquiring attorney may only provide a copy of the File to Person 1 with the Client’s written informed consent.

REASONING

The disposition of client property is governed by Rule 1.16(d):

(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 noted, 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 means that “[a] client-file is the property of the client.” Rhode Island Supreme Court Ethics Advisory Panel Op.

2010-06. Thus, a client is entitled to receive a copy of his or her client file, but not the “attorney’s work product.” Rhode Island Supreme Court Ethics Advisory Panel Op. 92-88. 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).

In this case, Person 1 seeks a copy of the File, which pertains to a business entity created during the inquiring attorney’s representation of Client A. However, Person 1 is not and was not at any time the inquiring attorney’s client. The File is therefore the property of the Client alone, such that Person 1, like any third party, is not entitled to it. See Rhode Island Supreme Court Ethics Advisory Panel Op. 92-88 (finding that “[t]he Rules of Professional Conduct do not require the attorney to release [a client file]” when a “third party, with which no attorney/client relationship exists, has demanded” them). As such, the inquiring attorney must first obtain the Client’s written informed consent consistent with Rule 1.6 before the File may be released to Person 1.¹ See id.; see also Rhode Island Supreme Court Ethics Advisory Panel Op. 96-35 (same).

Should the Client provide his or her written informed consent to the inquiring attorney, the inquiring attorney may not thereafter charge for the File’s production and transmission. See Rhode Island Supreme Court Ethics Advisory Panel Op. 2010-06 (citing Rhode Island Supreme Court Ethics Advisory Panel Op. 96-35). However, unless a hardcopy of the File is sought, the inquiring attorney is free to mitigate production and transmission costs by such methods as “scanning the file and transmitting it electronically . . . or copying the file to a disk and mailing the disk” Id.

¹ “Informed consent” means “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.” Rule 1.0(e); see also Rule 1.7, Comment [19] (describing in detail the requirements for obtaining a client’s written informed consent).