

Final

**Rhode Island Supreme Court
Ethics Advisory Panel Op. 2016-04
Issued May 19, 2016**

FACTS

The inquiring attorney represents Husband and Wife in various immigration applications. Wife filed immigration visa petitions for Husband and for two of his children. These were approved. The inquiring attorney then filed visa paperwork with the National Visa Center and the embassy, and assisted in bringing Husband's two children to the United States. He/she also filed a provisional waiver application for Husband, who was in the United States illegally, for the purpose of waiving inadmissibility to the United States which Husband would face upon his departure for an interview at the embassy in his home country. The waiver application was approved and the inquiring attorney filed the necessary documents for Husband's interview at the embassy.

The inquiring attorney states that the representation of Husband and Wife is a joint representation, and that he/she entered his/her appearance on behalf of both of them on the entry-of-appearance form. The inquiring attorney explained to Husband and Wife that he/she represents both of them in these matters, and that he /she could not represent either of them if a conflict of interest developed.

The couple has since separated. Husband has asked the inquiring attorney for a copy of the file, but Wife has asked the inquiring attorney not to give it to Husband. The inquiring attorney has given Husband copies of his provisional waiver application and related documents, but is withholding a copy of the initial petition for Husband's visa in which Wife was the petitioner. The inquiring attorney states that both Husband and Wife came to his/her office to provide him/her with their respective biographical information which was required for the visa petition for Husband. Attached to the petition were their birth certificates, Wife's naturalization document, proof of Wife's prior divorce, and their marriage license.

ISSUES PRESENTED

Must the inquiring attorney honor Wife's request that the inquiring attorney not provide Husband with a copy of the visa petition for Husband's visa which was filed by Wife?

OPINION

No. The representation of Husband and Wife was a joint representation, and each client is entitled to the file.

REASONING

The facts presented in the instant inquiry evidence a joint representation of Husband and Wife. In a joint representation, there is a presumption that the lawyer will share information relating to the case or matter with each client, including sharing information disclosed to the lawyer by one client with the other clients. A lawyer in a joint representation has an equal duty of loyalty to each client, and each client has a right to be informed of all information that has bearing on the representation. See Commentary 30, Rule 1.7. A lawyer's obligation of confidentiality under Rule 1.6 does not attach as between commonly represented clients in a joint representation. In limited circumstances, a lawyer and jointly-represented clients may agree that the lawyer will hold certain information confidential. See Commentary 30, Rule 1.7.

In the instant inquiry, Wife has requested that the inquiring attorney not provide Husband with a copy of the file for the initial visa petition for Husband. Rule 1.15(d) provides that, “. . . a lawyer shall promptly deliver to the client . . . any funds or other property that the client . . . is entitled to receive . . .” A client's file is property which a client is entitled to receive. The representation of Husband and Wife is a joint representation, and each client is entitled to the file. The Panel concludes that the inquiring attorney must provide Husband with the file relating to the petition for his visa.