

(LES 1298J)

DIGEST OF ETHICS ADVISORY PANEL
OPINION 88-6, REQUEST #30
Issued May 13, 1988

An attorney seeks Panel advice concerning the propriety of withdrawing as attorney for the plaintiff from a case which he does not believe to be meritorious.

The attorney advises the Panel that the matter in question is a medical malpractice suit. He indicates that as part of his preparation he had obtained opinions from two experts indicating that the defendant's conduct deviated from the acceptable standard of care. He further indicates that before the case came to trial one of these experts died, and that a third expert contacted opined that the defendant's actions did not deviate from the acceptable standard of care. He advises the Panel that his client refuses to pay the expenses necessary to bring the one available expert witness to Rhode Island and that the client has refused to contact him to resolve the matter. He states that he feels that his client's case is not meritorious without an expert witness.

The Panel cannot comment on the merits of a case. Based on the representations in the attorney's letter, however, the Panel takes the position that he may properly move to withdraw pursuant to DR 2-110(C)(1)(d). This disciplinary rule provides, in pertinent part that

"[i]f DR 2-110(B) is not applicable, a lawyer may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless (1) His client: . . . (d) . . . renders it unreasonably difficult for the lawyer to carry out his employment effectively.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.