

MINUTES

COMMITTEE: Ethics Committee

DATE: November 30, 2000

9. CHAPTERS 8 & 10: ISSUES ARISING AS A RESULT OF CRIMINAL CASE FLOW MANAGEMENT RULES

This matter was adjourned from the June 2000 meeting so that the Criminal Bar and Benchers could be consulted. The Committee considered submissions from Benchers and other lawyers with views on the matter.

The Criminal Case Flow Management Process and Rules for British Columbia's provincial courts were implemented on September 1, 1999, although the rules were implemented in phases in provincial courts throughout the province. Case flow management is the co-ordination of court processes and resources to move cases in a timely fashion from filing to disposition. The purpose of the program is to ration court time so that only those cases that can be disposed of by trial are scheduled for trial.

A lawyer asked whether it is proper under the Case Flow Management Rules for counsel to enter into an agreement with an accused person to act at trial only, and not to act for the accused in any procedural matters leading up to the trial.

The Committee noted that Rule 10 of Chapter 10 of the *Professional Conduct Handbook* contemplates that a lawyer may act in a limited capacity for a client, provided the lawyer discloses promptly to the court and to any other interested person in the proceeding the limited retainer, in any case where failure to make disclosure would mislead the court or that other person.

The Committee was of the view that there is no necessary conflict between Rule 10 and the Criminal Case Flow Management rules. It was the opinion of the Committee, therefore, that it is proper for counsel to enter into an agreement with an accused person to act at trial only, and not to act for the accused in any procedural matters leading up to the trial. Of course, counsel would have an obligation to explain to the client any risks that a limited retainer of this nature might carry for the client.

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