

MINUTES

COMMITTEE: Ethics Committee

DATE: December 11, 2008

2. CHAPTER 10, RULE 8: WHETHER LAWYER HAS ETHICAL OBLIGATION TO PROVIDE FILE TO CLIENT IN ELECTRONIC FORM

A lawyer asked whether a lawyer has an obligation to provide a client, on the client's request, with copies of electronic documents relating to the client's matter which the lawyer has in electronic form. She also asks whether a lawyer in possession of such documents has an obligation to give them to the client in a usable form: that is, not PDF.

The Committee noted that Chapter 10, Rule 8 requires a lawyer, on withdrawal from a matter, to take all reasonable steps to assist in the transfer of a client's file.

It was the Committee's view that a lawyer has an ethical duty, on the request of the client, to provide a client with documents that, at law, the client is entitled to have. Should those documents be held by the lawyer in electronic form, the Committee was of the opinion that a lawyer has an obligation to provide copies of the documents in the same electronic form in which the lawyer holds them at the time of the client's request for electronic copies of the documents.