

Professional Standards Committee  
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MINUTES

Committee: Professional Standards

Date: Monday, April 18, 1994

5. Deceased Client - Professional Conduct Handbook, Chapter 5, Rule 1, and Chapter 10, Rule 8

Counsel for the Plaintiff in personal injury litigation sought the Committee's opinion as to whether or not he is under an ethical obligation to disclose the fact of the Plaintiff's death to the Court and to opposing counsel. The Plaintiff died shortly after judgment was pronounced. The order reflecting the judgment has not yet been entered. There are outstanding matters to be resolved in the litigation, including issues relating to Part 7 benefits and costs. The plaintiff died intestate and no administrator has been appointed.

The Committee referred to its previous opinion dated March 10, 1993, dealing with a similar situation, and to the following authorities: Professional Conduct Handbook, Canons 4(1) and 4(3), Chapter 8, Rule 1(h), and Chapter 10, Rule 8(b); British Columbia Supreme Court Rules 16(4) and 16(5); Charles Wolfram, *Modern Legal Ethics*, 1986, (West Publishing Co., St. Paul, Minn.), p.150; Cordery, *The Law Relating to Solicitors*, 8th edition, 1988, p.73. The Committee noted that counsel's authority to act terminated upon the death of his client.

The Committee agreed that Plaintiff's counsel is under an ethical obligation to notify forthwith both the Court and opposing counsel of the death of his client. The Committee considered the case where the client dies after the litigation is concluded. The Committee also discussed the case where the client dies before the commencement of litigation. The Committee refrained from expressing an opinion regarding either of these two hypothetical situations.

The Committee decided not to publish its opinion by way of a notice in the Benchers' Bulletin.

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