

## MINUTES

**COMMITTEE:** Ethics Committee

**DATE:** September 9, 1999

**8. CHAPTER 5, RULE 15: WHETHER LAWYER HAS DUTY TO RETURN DOCUMENT TO OPPOSING PARTY CONTRARY TO CLIENT INSTRUCTIONS**

Lawyer A acted for a client on a matter in which he was discharged in May 1998. Following his discharge as lawyer for the client the client received, apparently in error, a copy of a letter that the lawyer on the other side of the case had written to his client. Lawyer A's client forwarded a copy of the letter to Lawyer A and asked him to discuss the letter with her. Lawyer A declined to read the letter when it became apparent to him that the letter may be covered by Rule 15.

Lawyer A says his client may be prejudiced if he returns the letter as required by Rule 15 and advises that his client has instructed him to return the letter to her rather than to its rightful owner. He believes there is a conflict between Rule 15 and Rules 2 and 3 of Chapter 5 and sought the advice of the Ethics Committee concerning the issue.

It was the view of the Committee that if client instructions prevent the lawyer from carrying out his ethical duty under Rule 15 he must follow the client's instructions but may not act for the client any further in the matter.

JO:ags  
99-09