

TOPICAL INDEX
ADOPTED ETHICS OPINIONS

SUBJECT

Accountants

79-3 (employment of accountant)

Advertising

69-4 (building name)

94-2 (simultaneous use of more than one name for law firm)

2009-2 (Use of Membership in Lawyer Ranking System In Lawyer/Law Firm Advertising)

ALSC

78-5 (referrals to private attorneys)

79-4 (conflicts with board)

Attorney Hired by Insurance Company

89-3 (insured objects to counsel retained by insurance company)

90-2 (duty to insured when insurance company directs an offer of judgment)

Attorney Liens

83-2 (may attorney hold client papers that would be helpful in pending litigation)

88-6 (lien on real property in quiet title action)

2012-1 (May a Lawyer Record an Attorney's Lien (AS 34.35.430) Against a Client's Real Property)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

Billing (see “Fees”)

Breathalyzer Test

84-1 (advice to defendant)

Business Records

2008-1 (electronic copies; client records)

Client Confidences

83-3 (perjury by former client)

84-9 (draft documents)

85-4 (guardian ad litem confidentiality)

85-6 (client names)

86-2 (creditor’s committee)

86-3 (referral to credit bureau) (*reaffirmed 2000-3*)

93-3 (disclosing information on IRS Form 8300)

95-1 (propriety of shop talk and courtesy copies)

95-3 (obligation of appointed defense counsel to reveal change in client’s financial position affecting eligibility)

96-5 (propriety of signing “attorney’s representation” in settlement agreements)

97-1 (unsolicited contact by opposing party)

98-2 (communication by e-mail)

99-1 (insurer requests attorney to send billing to outside auditor without informed consent of insured)

2000-2 (effect of confidential settlement agreement on precluding further representation for subsequent clients)

2000-3 (reaffirmation of 86-3 re: referral to credit bureau)

2005-1 (client’s intent to commit suicide)

2006-3 (disclosure of insurance defense attorney bills to non-insurer contractors for screening)

2014-3 (cloud computing)

Client’s Funds

80-1 (duty to third party) (*vacated in part by 86-4*)

86-4 (duty to third parties *vacating in part 80-1*)

90-3 (disposition of client funds when client can’t be located)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

- 93-3 (disclosing information on IRS Form 8300)
- 98-3 (obligation of lawyer to honor writ of execution against client funds in the lawyer's trust account)
- 2012-2 (deposit of advanced fee retainers in client trust account)

Client Instructions

- 2006-2 (when lawyer disagrees with client instructions)
- 2011-4 (when client in criminal appeal can't be contacted)

Client Property

- 90-3 (disposition of client funds when client can't be located)
- 2015-2 (obligation to hold unsolicited client documents or property)

Client Under Disability

- 87-2 (representation of person under disability)
- 94-3 (representation of client under disability)
- 2005-1 (client's intent to commit suicide)

Collaborative Law Practice

- 2011-3 (collaborative law practice)

Communication with Client

- 2011-4 (when client in criminal appeal can't be contacted)

Communication with Non-Parties

- 84-3 (advice to witnesses)
(*See communications with opposing party*)
- 88-4 (instructions to court reporters)

Communication With Opposing Party

- 71-1 (government entity)
- 72-2 (attorney/client relationship in question)
- 84-11 (government employee)
- 85-2 (opposing experts) (*vacating 84-8*)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

- 88-3 (former employee)
- 90-1 (dissenting shareholder/director attorney communication with majority directors)
- 91-1 (communication with former employees of corporation represented by counsel)
- 94-1 (communication with managing board of government body)
- 95-7 (communication with a represented party by an attorney acting pro se)
- 97-1 (unsolicited contact by opposing party)
- 98-1 (contact with defendant's insurer) (*vacating 78-4*)
- 2006-1 (lawyer communication with management of entity on lawyer's own behalf on a matter not in litigation)
- 2011-2 (communication with an employee of a represented corporation or entity)
- 2016-1 (May a lawyer surreptitiously track emails and other documents sent to opposing counsel?)

Communications With Retained Experts

- 85-2 (ex parte communication with experts retained by opposing counsel)

Communications With Third Parties

- 96-2 (attorney representing a seller to third persons purchasing property encumbered by a deed of trust which contains a "due on sale" clause)

Competence

- 2014-3 (cloud computing)

Conflicts of Interest

- 76-1 (legislative/attorney)
- 76-3 (multiple criminal representation)
- 76-8 (former law clerk)
- 78-3 (opposing attorney joins firm)
- 82-2 (district attorney married to superior court judge)
- 83-5 (opposing attorney)
- 84-2 (former representation of partnership)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

- 85-3 (former associate as witness)
- 85-6 (campaign disclosure)
- 86-2 (creditor's committee)
- 87-2 (representation of person under disability)
- 89-1 (concurrent representation of potentially adverse clients and class action)
- 91-2 (responsibilities of personal representative's attorney when conflict between personal representative and heirs) (modified by 2003-2)
- 91-3 (propriety of representing both parents and child when interests differ)
- 92-6 (sex between attorney and client of attorney's firm)
- 95-2 (government employee entering private practice with a firm handling litigation against attorney's former agency)
- 96-5 (propriety of signing "attorney's representation" in settlement agreements)
- 96-6 (considerations when acting as an arbitrator in one proceeding and an advocate in another proceeding)
- 99-2 (municipal attorney representing board hearing disputed matter involving municipality)
- 99-3 (in-house insurance company counsel representing insureds)
- 2000-1 (representation of tribal tort claimants when U.S potentially liable for damages)
- 2000-2 (effect of confidential settlement agreement on precluding further representation for subsequent clients)
- 2001-1 (attorney's duties when criminal client's custodian advises client has breached conditions of release)(see also 2014-2)
- 2003-2 (responsibility of attorney representing the personal representative of an estate when the personal representative is engaging in fraudulent or criminal conduct)
- 2008-2 (insurer does not become a client simply because attorney for insured pursues a subrogated claim)
- 2011-3 (collaborative law practice)
- 2012-3 (representation of closely held organization and its majority owners when their interests may be adverse to those of minority owners)
- 2014-2 (attorney's duties when informed that a criminal defendant is in violation of bail release conditions (clarification and supplement to 2001-1)
- 2014-4 (lawyer's indemnification of opposing parties)
- 2015-1 (lawyer posting bail for client)
- 2017-1 (May a lawyer for the employer in a worker's compensation case present a lump-sum settlement offer, inclusive of legal fees?)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

Consents to Withdraw

84-10 (advance consent to withdraw improper)

Contingency Fees

74-3 (propriety)

76-9 (for investigator)

88-6 (interest in property subject to litigation)

92-4 (handling subrogation case on contingency basis when client able to pay hourly)

2004-2 (propriety of agreeing to pay attorney's fees assessed against a client if client loses on appeal)

Criminal Charges, Threatening or Initiating

97-2 (use of threats of criminal prosecution in connection with a civil matter)

Duties to the Court

93-1 (in a civil action without filing an Entry of Appearance)

95-3 (obligation of appointed defense counsel to reveal change in client's financial position affecting eligibility)

98-3 (obligation of lawyer to honor writ of execution against client funds in the lawyer's trust account)

2001-1 (attorney's duties when criminal client's custodian advises client has breached conditions of release)

2003-2 (responsibility of attorney representing the personal representative of an estate when the personal representative is engaging in fraudulent or criminal conduct)

Duties to Third Parties

80-1 (propriety of attorney remitting monies when should have known there were liens) (*vacated in part by 86-4*)

86-4 (*vacating, in part, 80-1*)

88-2 (circumventing "due on sale" clause of real) property conveyance)

92-3 (*clarification of 86-4*)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

- 2003-2 (responsibility of attorney representing the personal representative of an estate when the personal representative is engaging in fraudulent or criminal conduct)
- 2008-2 (insurer does not become a client simply because attorney for insured pursues a subrogated claim)
- 2014-4 (lawyer's indemnification of opposing parties)

Federal Practice

- 2010-1 (immigration practice when not admitted in Alaska)

Fees

- 74-2 (referral)
- 74-3 (contingency)
- 76-5 (obligation to explain)
- 79-1 (interest)
- 85-5 (credit cards; interest)
- 86-1 (intra-office discussions)
- 86-3 (referral of clients identity to credit bureau)(reaffirmed by 2000-3)
- 87-1 (non-refundable fee deposits)
- 93-3 (disclosing information on IRS Form 8300)
- 95-4 (charges to clients for disbursements and other expenses)
- 96-1 (billing clients for contract attorney legal services)
- 96-4 (propriety of billing more than one client for the same hours)
- 99-1 (outside auditor review of billings of counsel retained for insured)
- 2000-3 (reaffirmation of 86-3, referral of client identity to credit bureau)
- 2006-3 (disclosure of insurance defense attorney bills to non-insurer contractors for screening)
- 2009-1 (misleading to characterize a fee or retainer as "nonrefundable")
- 2012-2 (deposit of advanced fee retainers in client trust account)
- 2014-1 (charging clients a surcharge to use credit cards for legal services)
- 2017-1 (May a lawyer for the employer in a worker's compensation case present a lump-sum settlement offer, inclusive of legal fees?)

File Copying

- 95-6 (withhold a client's file unless client pays for copying file)

File Disclosure

- 96-3 (pursuant to subpoena)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

File Retention Requirements

84-9 (providing opposing parties with copies of draft documents; record and file retention requirements)

File Return

2003-3 (documents included in file to be returned to client)

2004-1 (lawyer's right to withhold expert reports where client fails to pay for them)

2011-1 (client entitled to original file on request)

Financial Position

95-3 (obligation of appointed defense counsel to reveal change in client's financial position affecting eligibility)

Firm Names

69-4 (Anchorage Legal Center)

71-3 (Non-Alaska lawyers)

94-2 (simultaneous use of more than one name for law firm)

Former Judges

2006-4 (use of prior judicial service information by candidate for office)

Government Employees

83-4 (government attorney entering private practice with a firm handling litigation against former agency)

99-2 (municipal attorney representing board hearing disputed matter involving municipality)

Guardians Ad Litem

85-4 (confidentiality requirements)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

Judicial Candidates

- 85-1 (applicability of Canon 7 of Code of Judicial Conduct to candidates for judicial appointment)
- 88-5 (endorsement by sitting judge)

Lawyer Changing Firms

- 2005-2 (obligations when a lawyer changes firms)

Legal Assistants

- 73-1 (use, generally)

Maintenance or Champerty

- 74-1 (agreements between plaintiff and co-defendants which changes alignment of one or more parties)
- 83-2 (whether disciplinary rules requires attorney to inform re: perjury)

Partnerships Alaska Lawyers and Non-Alaska Lawyers

- 71-3 (letterhead)

Preparation of a Client's Legal Pleadings

- 93-1 (in a civil action without filing an Entry of Appearance)

Public Officials

- 85-6 (disclosure of client names)

Recording Telephone Conversations

- 2003-1 (Undisclosed Recording of Conversations by Lawyer)

Removing Materials from Opposing Attorney's Trash Receptacle

- 79-2 (propriety of removing materials from attorney's trash)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

Restriction on Right to Practice

2000-2 (effect of confidential settlement agreement on precluding further representation for subsequent clients)

Settlement Agreements

2000-2 (effect of confidential settlement agreement on precluding further representation for subsequent clients)

2017-1 (May a lawyer for the employer in a worker's compensation case present a lump-sum settlement offer, inclusive of legal fees?)

Sex with Client

88-1 (*clarified by 92-6*)

92-6 (sex between attorney and client of attorney's firm)

Sharing Office Space with Non-Lawyer

68-1 (sharing office space with non-lawyer)

Solicitation of Clients

92-1 (solicitation of class action clients after certification)

92-5 (solicitation of clients in mass disasters and otherwise)

Solicitation of Pro Bono Case

81-1 (solicitation of pro bono case)

Statute of Limitations

2004-3 (responsibilities when client cannot be contacted)

Surrogate Mothers

84-4 (Propriety of Attorney Drafting A "Surrogate Mother" Contract)

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC

Third Party Funds

- 80-1 (duty to third parties)
- 86-4 (duty to third parties *vacating in part 80-1*)
- 92-3 (*clarification of 86-4*)
- 2003-2 (responsibility of attorney representing the personal representative of an estate when the personal representative is engaging in fraudulent or criminal conduct)

Withdrawal

- 89-3 (insured objects to counsel retained by insurance company)
- 84-10 (consent to withdraw executed when representation undertaken)
- 91-5 (ethical obligation to withdraw after undertaking representation of estates with factually conflicting positions in litigation)
- 2003-3 (documents included in file to be returned to client)
- 2004-1 (lawyer's right to withhold expert reports where client fails to pay for them)
- 2011-1 (client entitled to original file on request)
- 2011-4 (when client in criminal appeal can't be contacted)

Withdrawn or Modified Ethics Opinions

- 89-2 (withdrawing 68-2 [unadopted], 69-1, 69-2, 69-3, 71-2, 72-1, 75-1, 75-2, 76-2, 76-4, 76-6 [unadopted], and 78-2; modifying 69-4)

Witness

- 85-2 (communication with retained expert)
- 85-3 (former associate as witness)
- 86-5 (attorney is potential witness)
- 93-2 (restraints on witness compensation)

G:\Ds\COMM\ETHICS\ADOPTED AK BAR ETHICS OPINIONS\INDXTOP2 current.DOC

Topical Index

Revised 6/12/17

C:\Users\rhodenh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0M1PF7DN\INDXTOP2 current (002).DOC