

Informing, Counseling and Advising Clients

What is the proper relationship between the parties to an attorney-client relationship? What information must be given or withheld? Who makes decisions? Which decisions? When does the attorney have discretion? See Rules 1.2 and 1.4 in particular. See Morgan and Rotunda, Problems 4, 17.

In each of the following situations, are there ethical violations or issues for the attorney? Is there is a clear answer? Do you need other information?

- 1) Client says, “My rule is no mercy to the other side. In particular, don’t tolerate any delays or continuances.” Opposing attorney calls and asks for a 14 day extension in filing a response because of a medical emergency in her family. Page 97.
- 2) In house corporate counsel says, “I want you to argue that the name of my client on the summons is incorrect and therefore the default judgment is void.” Local counsel says, “in Arkansas that misnomer argument is worthless. We should not make it.” Who decides? See page 94.
- 3) Last month Client said, “I would be thrilled to get \$20,000 out of this case.” Defense counsel today offers \$22,000; plaintiff’s counsel says “I accept”, and they shake hands. Any problems?

Suppose client now says, “if they were that quick to offer \$22,000, you should have asked for \$25,000. You settled too cheaply.” See pages 94-95.

- 4) Client has been convicted of first degree murder. Client says, “I want to tell the jury that I deserve the chair.” See Bloom, page 96.
- 5) Client is facing bankruptcy. Attorney says, “in Arkansas there are no limits on a value of a homestead. Buy the biggest castle you can. Pay cash. Your castle will be exempt.” See page 300.
- 6) Client says, “My mother has only \$100,000 left, and it is going fast in nursing home expenses. How can I save it for the grandchildren (which is what she has always wanted). What can we do so that Uncle Sam picks up her expenses?” See page 299.
- 7) Client is facing severe economic distress. He asks attorney: “I’ve always been curious. What is the law on extradition from Brazil? Can the United States bring back a citizen from Brazil to face trial for, say, civil fraud? I am curious.” See page 298.
- 8) In an ugly custody dispute, the court forbade either parent from removing the child from the state. Attorney for mother learns that the court is likely to recommend that the father have custody. Attorney tells the mother “as a lawyer I am advising you to stay here, but as a mother myself I would run. Here is a list of safe houses in Texas.” Chappell, page 297.

- 9) The client is old, confused, forgetful, and indecisive. What is the role of the attorney? See Rule 1.14. See Morgan, pages 300-303.
- 10) What other interests is the attorney to consider when representing the client? See Morgan, pages 303-306.
 - a) Suppose the client might commit suicide?
 - b) Suppose the client confesses to the attorney that he has committed child abuse?
 - c) Suppose the client tells the attorney that “my husband abuses the children.”?
 - d) Suppose the young client tells the attorney that “my daddy hurts me.”?

RELATED ISSUES IN MOVIES:

- 11) What advice can the consiglori give to “The Godfather”?
- 12) In “Anatomy of a Murder”, did the criminal defense attorney go too far in suggesting a defense of temporary insanity?
- 13) How far can Reggie Love go in assisting her young client in “The Client”?