



Professional Ethics Committee

30 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street
P: (860) 223-4400
F: (860) 223-4488

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RETIRING ATTORNEY'S PROPOSED DISPOSITION OF CLIENT'S FILES

An attorney is planning to retire from practice and close her office. She plans to advise clients that they may obtain their files from her, direct her to turn the files over to an attorney of their choice, or that she will be turning the files over to a successor for safekeeping. The sole question the attorney asks us whether she can give her clients the option of obtaining their file in a PDF format.

The Connecticut Rules of Professional Conduct do not regulate the precise media used by attorneys to communicate with clients. It is reasonable to use any established method of communication that provides for the transfer and preservation of information. PDF is often used for these purposes.

By way of background, we observe that attorneys planning for retirement and the closing of a law office or firm often must deal with disposition of client files. Much useful advice is found in the *CBA File Retention Guidelines Including Commentary* (1999) (available on the CBA website). Notably, these guidelines describe that the retention or destruction of documents may be determined by written agreement between the attorney and the client and also describe that documents may be copied and retained in any medium accurately depicting the original document from which accurate copies can be made. CBA Informal Op. 10-07 also provides useful advice and cautions against destroying client files containing critical documents without pursuing diligent efforts to locate clients or former clients. See Conn. Rules of Professional Conduct 1.15(b) and 1.16(d). The Rules do not require a lawyer to maintain closed files indefinitely. *C.f.*, ABA Informal Op. 1384 (1977). In Informal Op. 10-07, the committee suggested that lawyers inform clients of a firm's file preservation and destruction policies so clients will understand the limits of the lawyer's responsibility. If the retiring attorney is selling a practice, Conn. Rule of Professional Conduct 1.17, Sale Of A Law Practice applies.

In summary, a retiring lawyer otherwise may offer clients the option of receiving materials in a PDF format so long as the client still has the option of receiving paper copies of documents to account for clients that do not have computer access and to facilitate the return of any original client documents to the client upon request.

THE COMMITTEE ON PROFESSIONAL ETHICS

By



John R. Logan, Chair