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)
2020-2 (What Are Counsel’s Ethical Duties Regarding Publicizing Client Recoveries?)

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)
99-3  (may in-house staff counsel for an insurance company represent insureds?)

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)

Billing (see “Fees”)

Breathalyzer Test

84-1 (advice to defendant)

Business Records

2008-1 (electronic copies; client records)

Client Confidences

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)
2018-1 (email correspondence with opposing counsel while sending a copy to the client)
2020-1 (multiple representation; mid-deposition representation)
2022-2 (The Scope of a Lawyer’s Duties When a Client Provides False Statements or Evidence to the Court)

**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)
92-3 (Clarification of EO 86-4 regarding attorney’s duty when dispute arises concerning the rights of third parties to client funds in the possession of attorney)
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)
2018-1 (email correspondence with opposing counsel while sending a copy to the client)
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)
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?)
2017-2 (Attorney’s Ability to Contact Government Official Who Is a Represented Party to Discuss Settlement or Other Policy Related to the Litigation)
2018-1 (email correspondence with opposing counsel while sending a copy to the client)
2018-2 (to provide contractually required notice)
2019-1 (obtaining confidential information)
2019-2 (A Lawyer’s Duty Upon Receipt of Confidential Information – Inadvertent but Unauthorized Disclosure)
2019-3 (A Lawyer’s Duty Upon Receipt of Confidential Information – Intentional Disclosure)
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)
2017-2 (Attorney’s Ability to Contact Government Official Who Is a Represented Party to Discuss Settlement or Other Policy Related to the Litigation)
2018-1 (email correspondence with opposing counsel while sending a copy to the client)

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)
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?)
2020-1 (multiple representation; mid-deposition representation)
2021-1 (Representation of Multiple Clients Charged in Criminal Cases)

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)

**Criminal Defense Issues**

84-1  (Propriety of Advice to a Defendant to Refuse to Submit to a Breathalyzer Test)
84-3  (advice to potential witnesses in a criminal case)
93-3  (disclosing information on IRS Form 8300)
95-3  (obligation of appointed defense counsel to reveal change in client's financial position affecting eligibility)
2001-1 (attorney’s duties when advised by custodian that criminal defendant has breached conditions of client’s release)(see also 2014-2)
2005-1 (client’s intent to commit suicide if convicted)
2006-2 (responsibilities of a lawyer to honor client’s instructions on means of representation in criminal cases)
2009-1 (misleading to characterize a fee or retainer as “nonrefundable”)
(Modiﬁcation of Ethics Opinion 87-1)
2011-4 (duties of an attorney in a criminal appeal when the client cannot be contacted)
2012-2 (deposit of advanced fee retainers in client trust account)
2014-2 (attorney’s duties when informed that a criminal defendant is in violation of bail release conditions (clarification and supplement to 2001-1)
2015-1 (lawyer posting bail for client)
2021-1 (Representation of Multiple Clients Charged in Criminal Cases)
2022-2 (The Scope of a Lawyer’s Duties When a Client Provides False Statements or Evidence to the Court)
2023-1 (ethical duties regarding the retention of former clients’ files in criminal matters)
**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*)
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)

File Retention in Criminal Matters

2023-1 (ethical duties regarding the retention of former clients’ files in criminal matters)

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)

**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)

**Lawyer Wellness or Impairment**

2022-1 (A Lawyer’s Duty with Respect to Potentially Impaired Members of the Bar)

**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)

**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)
2020-1 (multiple representation; mid-deposition representation)

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)

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)  
2004-3 (responsibilities when client cannot be contacted)  
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], 76-7, 78-2, 82-1 [unadopted],  
82-3 [unadopted] and 84-6; 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)