
**E-97-2 Obligations of a lawyer and a law firm
when a lawyer terminates association
with a law firm**

Question

What are the obligations of a lawyer and a law firm (either a partnership or a corporation) when a lawyer who has been responsible for client matters decides to leave the firm prior to the completion of work on such matters?

Opinion

It is generally recognized that absent a special agreement, a client retains a law firm to provide legal services rather than a particular lawyer in the law firm. ABA Committee Informal Opinion 1428 (February 1, 1979). Therefore, subject to the contrary wishes of the client, a law firm is obligated to continue to handle matters that were handled by a departing lawyer. If the law firm is unable or unwilling to continue to handle the matters that were the responsibility of the department lawyer, the law firm must assist the client to obtain other legal representation. ABA Committee Informal Opinion 1428.

If the client decides not to continue representation by the law firm, the law firm is required by SCR 20:1.16(d) to take reasonable steps to protect the interests of the client, including preserving timelines and filing obligations and surrendering papers and property to which the client is entitled. See Formal Opinions E-82-7 (Copying client's files) and E-95-4 (Lawyer self-help in enforcing fee agreement with clients). If the client decides to retain another lawyer for continuing representation, there may be an agreement for a division of fees between that other lawyer and the law firm. SCR 20:1.5(e).

Before departing a law firm, a lawyer has obligations to the clients for whom the lawyer has been responsible for handling legal matters. Under SCR 20:1.3, a lawyer must act with reasonable diligence and promptness in representing a client, and under SCR 20:1.4, a lawyer is obligated to keep a client reasonably informed about the status of a matter. Consequently, a departing lawyer must communicate the fact that the lawyer is departing the law firm to all clients for

whom the lawyer has been responsible for handling legal matters within a reasonable period of time after the decision to depart the law firm has been made.

The communication, whether written or by personal contact, should be accomplished in a professional and non-inflammatory manner, and should not be disparaging of either the departing lawyer or the law firm. Unless the understanding of the original contract of employment was that the client desired to hire the specific attorney rather than the law firm, the communication should state that the law firm is obligated to continue to represent the client or to assist the client in securing counsel should the client desire not to continue representation with the law firm, or should the firm be either unable to or unwilling to continue representation. The communication should indicate that the client has the right to decide who will represent the client both in pending and further legal matters. The communication should not request that the client sever the relationship with the law firm, but may indicate a willingness on the part of the departing lawyer to represent the client. After departing the firm, communications between the lawyer and clients of the lawyer's former firm which are made for the purpose of obtaining employment must comply with the requirements of SCR 20:7.3.

If a departing lawyer joins another law firm, both the lawyer and the new firm must take note of conflicts of interest that might be created with clients of the lawyer's former firm because of the lawyer's move from one firm to another. See SCR 20:1.7; 20:1.9; 20:1.10. For further clarification, see ABA Formal Opinion 96-400.

The Committee notes that its opinion is limited to ethical issues relating to the departure from a law firm of an attorney who has been responsible for client matters, and does not purport to address legal issues relating to such a departure. See generally, *The Lawyer's Manual on Professional Conduct* 91:701.

Formal Opinion E-80-18 is hereby withdrawn.