

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion # 1 - 11/6/64 (1-64) Topic: Advice by Lawyer to Secure
Legal Services. Notice to
Clients of Change in Law.

Digest: Particularly affected clients may
be notified of a change in the
law, but a general notice to all
clients is improper.

Canon: None

QUESTION

An attorney calls attention to the decision of
Mr. Justice Sullivan in Haight vs. McEwen, 43 Misc. 582,
in which it was held that a cause of action is stated by
a complaint which alleges that the plaintiff suffered a
nervous breakdown as a result of watching the defendant
so negligently operate his automobile as to strike and kill
her son even though there was no physical contact between
her and the defendant's vehicle.

The attorney inquires whether, in view of this new
development in the law, he may not apprise his regular
clients of the fact that it is no longer necessary in
negligence cases in this state to have actual contact
between the plaintiff and the "offending instrumentality".

OPINION

A lawyer may send to a particular client a statement
regarding recent legislation or a suggestion based on a
recent decision clearly in the interest of the client, but
he may not send to clients generally a notice which is
capable of interpretation as a bid for employment.

If the attorney has a client whose rights he has
reason to believe are affected by the principle enunciated
in the opinion, he could, with propriety, advise the client
of the opinion, but to broadcast it generally to all of his
clients would smack of solicitation and be improper.

Code = Code of Professional Responsibility of New York State Bar Association
EC = Ethical Considerations of Code
DR = Disciplinary Rules of Code
Canon = Canons of Code
Former Canon = Old Canons of Professional Ethics of New York State Bar Association