

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #95 - 1/30/69 (19-68)

Topic: Data Processing
Digest: Law Office accounting
information supplied
to a data processor.
Canon: Former Canon 37

QUESTION

May a law office, in the course of its accounting procedures, supply a data processor with information on cases in its office covering the date the case was received, the type of matter, the attorney source and attorney handling, the estimated date of completion, the estimated fee, billings, payments, outstanding amounts due, whether due for more than four months, and the amount of time spent by each attorney (1) if code numbers are used, or (2) if actual names are used?

OPINION

Whether a client's communication is of a confidential nature is usually a question of law. Drinker on Legal Ethics, page 132.

Canon 37 provides in part:

"It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees;-----."

This question has been considered in ABA Inf. 912 and 1002. An analogous situation was involved in ABA 154. The lawyer's professional duty prevents him from disclosing any information acquired by him in confidence. Assuming that the disclosure to a data processor was restricted to the stated information, that reasonable safeguards exist for protecting its confidentiality, and that it is supplied only for the purpose of law office accounting, it is the opinion of this Committee that the disclosure would be ethical irrespective of whether code numbers or actual names are used.

Opinion #96 - 1/30/69 (30-68)

Topic: Conflict of interest
Digest: Improper for a lawyer to
defend an appeal for a new
client when a successful
defense would be detri-
mental to the interests of
a former client in a re-
lated matter.
Canons: Former Canons 6, 37

QUESTION

An attorney represented a certain party as a plaintiff in a subrogation action. Before trial this action was consolidated with other actions in which this same client was a defendant. The issues in the subrogation action were not tried but it was stipulated that a verdict for the attorney's client as defendant in the other actions would entitle his client to recover in the subrogation action. The trial in the consolidated actions resulted in a jury verdict for the plaintiff.