STATEWIDE GRIEVANCE COMMITTEE

Ethics Opinions of the Statewide Grievance Committee are published exactly as submitted and are not subject to editing by the Commission on Official Legal Publications.

ETHICS OPINION 84-1

A lawyer is retained by an individual with respect to two separate and distinct claims. After suits are filed, settlements are reached in both matters. In the first matter, the defendant sends a check, payable solely to the client, to the plaintiff’s lawyer. In the second matter, the defendant sends a check, payable to the client and to the lawyer as co-payees, to the plaintiff’s lawyer. The lawyer does not have written authorization to negotiate the instruments. May the lawyer negotiate either of the checks?

"The legal question on which this case turns is therefore the still narrower one of whether an attorney, specifically authorized to compromise a claim and collect the proceeds, may endorse the client’s name on a check or draft tendered to effect the settlement. The decisions on this question are in clear and irreconcilable conflict. [Citations omitted.] We believe that the better, and clearly the majority rule is that no such authority exists. [Citations omitted.]" Florida Bar v. Allstate Ins. Co., 391 So.2d 238, 239 (1980).

The Connecticut Statewide Grievance Committee recently adopted the majority rule. Hence, in Connecticut, a lawyer may not negotiate a check payable solely to a client or jointly to the client and to the attorney. In adopting this position, the Committee considered ECs 1-5, 9-2, 9-6 and DR 1-102.

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ETHICS OPINION 84-2

A lawyer is a member of a municipal town council. At issue is whether the lawyer or his/her firm can undertake representation before various town agencies.

The Statewide Grievance Committee, in deciding that it is ethically improper for the lawyer or his/her firm to undertake such representation, specifically adopted the Connecticut Bar Association Committee on Professional Ethics Informal Opinions 80-2 and 80-7. In addition to DR 5-105, cited in Informal Opinion 80-2, the Committee considered EC 5-1 and EC 8-8. Also see Informal Opinion 83-30. The essence of the CBA Informal Opinions 80-2 and 80-7 are set forth below.

80-2
INFORMAL OPINION of the Committee on Professional Ethics

On July 16, 1979 you wrote the Committee on Professional Ethics requesting advice on what municipal representation your firm may undertake in