

Committee Opinion
October 24, 1988

LEGAL ETHICS OPINION 1173

TERMINATION OF REPRESENTATION:
MISSING CLIENT.

You stated in your letter that you and a colleague were retained to represent a couple in a personal injury suit. After they moved, they called and asked you to forward the contents of their file, because they had obtained counsel to handle the matter in their new location. They stated they would no longer require your services. Over a month later you mailed the file to the address they had given. The file was returned to you. Since that time, you have exhausted all possible means of getting in touch with them.

You want to know how you should handle the matter because you consider yourself discharged, but are concerned because the statute of limitations is about to run.

Disciplinary Rule 2-108(D) requires that upon termination of the representation “a lawyer shall take reasonable steps for the continued protection of the client's interests.” Under circumstances where the attorney has been unable to locate the client, the Committee has opined that it was not improper for the attorney to file suit to prevent the statute of limitations from running, and contemporaneously file a motion to withdraw as counsel (LE Op. 841 and LE Op. 872).

Therefore, under the facts you have presented, the Committee believes that the reasonable steps you are required to take pursuant to DR:2-108(D) are to file suit to prevent the statute of limitations from running, and you might also file a contemporaneous motion to withdraw as counsel.

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