

Committee Opinion
September 27, 1989

LEGAL ETHICS OPINION 1270

CONFIDENTIALITY – CLIENT’S
IDENTITY: ATTORNEY’S DUTY TO
REVEAL FORMER CLIENT’S TRUE
IDENTITY.

You have advised that you represented a client in a personal injury action in which your client received a soft tissue injuries through no fault of his own. After reaching a settlement of the case, you were informed by your client that he was being held in jail under an assumed name on a criminal matter. At the time, you felt it was appropriate to advise your client that he should inform the authorities of his actual identity and that he should obtain a criminal attorney. You wish to know whether you are under any ethical obligations to either report or not to report your knowledge of your client's "double identity," under the circumstances.

For the purposes of this inquiry, the Committee will assume that the personal injury representation is not in any way related to the subsequent criminal charges for which the former client is presently being held in jail.

The Committee believes the appropriate and controlling rule relative to your inquiry is DR:4-101(B) which provides that except as permitted under DR:4-101(C) and (D), a lawyer shall not reveal a confidence or secret of his client nor use the same to the client's disadvantage or to his own advantage or a third person's advantage, unless the client consents after full disclosure. Therefore, since you are not representing the former client in the criminal matter, the Committee believes that unless you have a legal duty to reveal the client's double identity or are in possession of insurance funds which you believe were fraudulently obtained, you may have an ethical duty not to reveal your former client's true identity. The Committee directs your attention to LE Op. 1147 in which the Committee opined that even the fact of client's identity may constitute a confidence or secret if the attorney should have known or it is obvious that disclosure of such information would be likely to cause embarrassment or would be likely to be detrimental to the client. (See DR:4-101(A)) Whether disclosure of your client's identity would be embarrassing or detrimental to the client is a factual determination which is beyond the purview of this Committee.

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