

Committee Opinion
June 7, 1990

LEGAL ETHICS OPINION 1357

FILES – TERMINATION/WITHDRAWAL
OF REPRESENTATION: REFUSING TO
ALLOW CLIENT TO ASCERTAIN THE
CONTENT OF HIS FILE.

The Committee has considered the facts you have presented and is of the opinion that an attorney's refusal to allow a former client to ascertain the contents of that client's file is presumptively prejudicial and violative of DR:2-108(D) which requires a lawyer to take reasonable steps for the continued protection of a client's interests upon termination of representation. It is the Committee's view that the client's former attorney is obligated to explain and furnish a list of the contents of the file indicating which items involve unpaid fees and which items are the client's property, i.e., either provided originally by the client or for which no fees are owing. (See LE Op. 1101 (September 29, 1989); LE Op. 1124 (September 27, 1989, August 12, 1988); and LE Op. 1176 (December 19, 1988))

The Committee further believes that a determination as to any prejudice to the client which actually results is a factual question requiring a decision by a finder of fact. Since the Committee is not constituted to resolve questions of fact, such determination is beyond its purview.

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Legal Ethics Committee Notes. – Rule 1.16(e) governs a lawyer's duty to provide files to former client.