

LEGAL ETHICS OPINION 1485

TERMINATION OF REPRESENTATION:  
REQUIRING CLIENT SIGNATURE AS  
RECEIPT FOR HAVING DELIVERED  
CLIENT FILE.

You have indicated that a client who lives near counsel's office and is able to travel to it comes to the attorney's office and angrily demands her file. Counsel agrees to provide the file, but asks client to sign a receipt which says "I have been given my file and advised that the statute of limitations will pass on my case on (a date two weeks hence)". You further indicate that client does not disagree with the content of the receipt but refuses to sign it. Counsel refuses to release file without a signature on the receipt, fearing that the client might in the future deny having received the file. Instead, counsel mails the file to the client via certified mail, restricted delivery, return receipt requested, with a cover letter stating that the file is enclosed and reminding client of the statute of limitations date.

You have asked the Committee to opine whether, under the facts of the inquiry, it is proper for an attorney to refuse to deliver a client's file, instead mailing it immediately to the client via certified mail, restricted delivery, return receipt requested. You have further inquired if such mailing would be proper if failure to deliver the file immediately because of the client's unreasonable refusal to sign a receipt would prejudice the client due to an approaching statute of limitations.

The appropriate and controlling disciplinary rule relative to your inquiry is DR:2-108(D) which requires a lawyer, upon termination of representation, to take reasonable steps for the continued protection of a client's interests, including reasonable notice to the client, allowing time for the employment of other counsel, and delivering all papers and property to which the client is entitled.

The Committee has consistently opined that a client's file consists of all work the attorney has done on the client's matter and that the file is the property of the client. Additionally, the Committee has opined that the attorney must surrender the file on demand except where he may lawfully refuse to do so. *See, e.g.*, LE Op. 1366, LE Op. 1418.

In response to your inquiry, the Committee is of the opinion that, although good office practice may dictate that the attorney obtain a receipt or other evidence of delivery of a client's file to the client, DR:2-108(D) does not contain any such requirement and the continued protection of the client in this case would be served better by immediate delivery of the file to the client than by mailing it by certified mail, return receipt requested.

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