

Committee Opinion  
May 11, 1993

LEGAL ETHICS OPINION 1519

TERMINATION OF REPRESENTATION:  
DELIVERY OF WILL DRAFTED FOR  
DECEASED CLIENT.

You have presented a hypothetical situation in which a client requested an attorney to prepare a will. The attorney prepared the will; however, the client died before he was able to execute the will. The deceased client's executrix under another will has requested that the attorney deliver the unexecuted will to the executrix, claiming that the unexecuted will is the property of the deceased client's estate. The deceased client's estate has paid for the will.

You have asked the committee to opine whether, under the facts of the inquiry, the attorney should deliver the unexecuted will to the executrix as property of the estate or decline to do so on the basis that the will is a client confidence.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:2-108(D) which requires, in pertinent part, that, upon termination of representation, a lawyer shall take reasonable steps for the continued protection of a client's interests, including delivering all papers and property to which the client is entitled.

Since the committee has consistently opined that, where no fees are owed, the client owns the complete contents of his file. See LE Op. 1366, LE Op. 1176, LE Op. 1171. Therefore, the committee opines that the file, including the unexecuted will, must be returned to the deceased client's personal representative.

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