

Committee Opinion
June 11, 1987

LEGAL ETHICS OPINION 924

ATTORNEY/CLIENT – WITNESS
TESTIMONY.

A witness for a lawyer's client gave an original statement immediately following an accident; a second statement which was put in writing and signed and a third statement in deposition form. The lawyer then learned from the witness that the second statement and the deposition were fabrications and only the initial statement was correct. The initial statement is the least favorable for the lawyer's client. The lawyer is presently engaged in settlement negotiations with the defendant. Defendant's attorney has each of the three statements, but is unaware that the second and third statement are fabrications.

It is not proper, given the above circumstances, for the lawyer to negotiate on behalf of his client using by implication or otherwise, either of the purged statements or the theories of recovery suggested by them. It is improper to base responses to further discovery requests on the fabricated testimony. [DR:7-102(A) (4)]

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