

Committee Opinion
July 31, 1987

LEGAL ETHICS OPINION 952

INSURANCE – DISCLOSING DEATH OF
CLIENT.

A client authorized an attorney to settle his personal injury case within a range of values. A demand was made and a counteroffer was received from the insurer. Following receipt of the counteroffer, the client died and the administrator of the estate authorized the attorney to accept the last settlement offer which was within the range authorized by the client.

It is not improper, given the above, for the attorney not to disclose the death of his client to the insurance company absent a direct inquiry from the insurance company regarding the client's health. The committee opines that in order to avoid an appearance of impropriety, the attorney should disclose the death of his client at the time he accepts the offer of settlement and let the opposing side know that the client authorized the range for settlement prior to his death and that the estate's administrator has also authorized the settlement. [DR:1-102(A) (4)]

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Legal Ethics Committee Notes. – If the client’s death would arguably affect the settlement, failing to disclose the death might violate Rule 3.3(a)(2) and Rule 4.1(b), which prohibits a lawyer from knowingly failing to disclose a fact if disclosure is necessary “to avoid assisting a criminal or fraudulent act by a client.”