



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.3, 1.4, and 4.2. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion No. 91-21
January, 1992**

Topic: Communication with Adverse Party

Digest: An attorney may discuss with school board attorney an offer made to attorney retained by insurer of school board to settle personal injury suit.
An attorney is in violation of the Rules by not conveying to his client a demand made by the adverse party.

Ref.: Illinois Rules of Professional Conduct, Rules 1.3, 1.4, 4.2

FACTS

Attorney A represents the Plaintiff in a personal injury suit against school district. Attorney B is employed by the school district's insurer to defend the suit. The plaintiff, through Attorney A, makes a demand to school district, through Attorney B, to settle for the insurance policy limits on or before a certain date, after which the offer is withdrawn. The date passes and no response has been made. Attorney A knows from common public knowledge in the community that Attorney C is the regularly retained attorney for the school district. Attorney A asks Attorney C if he was aware that such an offer had been made and apparently rejected by the insurer. Attorney A is told by Attorney C that he had not been made aware of this offer, and Attorney A then offers to send Attorney C copies of the correspondence with Attorney B communicating the settlement offer, and does so

when Attorney C asks for copies.

QUESTIONS

1. Does Attorney A violate any Rules of Professional Conduct by communicating status of case to Attorney C?
2. Does Attorney B violate the Rules by not conveying demand to his client?

OPINION

Attorney A does not violate any Rules by communicating the status of a personal injury suit to Attorney C. Rule 4.2 would prevent such communication directly with a "party" represented by counsel. That is not the case here.

It may be presumptuous, from these facts, to assume that Attorney B has not conveyed the demand to the client. If he has not, he would be in violation of Rule 1.3: "A lawyer shall act with reasonable diligence and promptness in representing a client"; and Rule 1.4(a): "A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."

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