

Opinion 17
December 1948
18 Baylor L. Rev. 200 (1966)

NEGOTIATIONS WITH OPPOSITE PARTY - COMMUNICATIONS

An attorney is prohibited from communicating with a party represented by counsel for any purpose. An attorney may interview a potential witness, other than a party, even though the witness may be an employee of a party, where the attorney makes a full disclosure of his connection with litigation and explains the purpose of the interview.

Canon 9.

QUESTION

Whether the first sentence of Canon 9 reading, "A member should not in any way communicate upon the subject of controversy with the party represented by counsel" refers only to a communication by counsel with a design to negotiate a compromise.

OPINION

The quoted sentence prohibits counsel from communicating with a party represented by an attorney for any purpose. It does not, however, preclude a member of the State Bar from interviewing a potential witness, other than a party to the suit, even though such witness may be an employee of a party to the suit, where such attorney makes a full disclosure of his connection with litigation and explains the purpose of the interview. (7-0)