

Opinion 89
November 1953
18 Baylor L. Rev. 232 (1966)

CONFLICTING INTERESTS - EMPLOYMENT

An attorney may handle on a contingent basis damage claims subrogated by the insured to the insurer.

CONFLICTING INTERESTS - SOLICITATION - EMPLOYMENT

An attorney handling damage claims subrogated by the insured to the insurer, may also handle the insured's claim, provided the attorney is requested by the insured to handle his claim, and full disclosure of pertinent facts is made and express consent of all concerned obtained.

Canons 6, 24.

QUESTIONS

1. Would it be a violation of the Canons of Ethics for an attorney to handle on a contingent basis for an insurance company damage claims subrogated by the insured to the insurer after the latter has paid the insured under the terms of the policy?
2. Would it be a violation of the Canons of Ethics for an attorney handling the matter described in Question No. 1 to offer to handle also that portion of the insured's claim deducted under the terms of the policy?

OPINION

The members of the committee are unanimously of the opinion that no violation of the Canons of Ethics would be presented by Question No. 1. The members of the committee hold the view that an attorney may ethically handle on a contingent basis damage claims subrogated by the insured to the insurer. (10-0)

As to Question No. 2, the members of the committee are unanimously of the opinion that, unless the attorney is requested by the insured to handle his claim, it would violate Canon 24 for the attorney to offer to handle the insured's claim on a contingent basis or otherwise. The members of the committee are also unanimously of the opinion that an attorney may ethically represent both the insurer and the insured under the circumstances described, provided he complies with Canon 6, which requires a full disclosure of pertinent facts and express consent of all concerned. (10-0)