

**Opinion 99**  
**April 1954**  
**18 Baylor L. Rev. 235 (1966)**

**CONFLICTING INTERESTS - ATTORNEY FOR INSURANCE COMPANY**

Unless full disclosure were made and consultation with other counsel suggested, it would be unprofessional, in a subrogation suit arising out of an automobile collision, for an attorney for the defendant's liability insurance carrier which did not carry defendant's collision insurance to advise the defendant that cancellation of his policy would result if he requested the Safety Responsibility Board to release the suspension of the nominal plaintiff's registration tags, when the company which does carry defendant's collision insurance does not wish to sue on subrogation and defendant himself wishes to release the suspension.

**NEGOTIATION WITH OPPOSITE PARTY**

It would be improper in such situation for the attorney for defendant's liability insurance carrier to advise the nominal plaintiff that the defendant's liability insurance carrier would gladly permit the defendant to release the suspension should the nominal plaintiff's collision carrier be persuaded to drop the suit.

Canons 6, 9.

**QUESTIONS**

1. In subrogation litigation growing out of an automobile collision, would it be a violation of the Canons of Ethics for the counsel for the defendant's liability insurance carrier to advise the defendant that it would be a policy violation resulting in cancellation of his policy if the defendant should request the Safety Responsibility Board to release a suspension that it had placed on the nominal plaintiff's registration tags, when the said Liability carrier DID NOT carry the defendant's collision insuranceXthe latter being carried by another company which does not wish to sue on subrogationXand when the defendant himself does not wish to file a cross-action but rather wishes to release the suspension?

2. In the situation described above would it be a violation of the Canons of Ethics for the counsel for the defendant's liability insurance carrier to communicate directly with the nominal plaintiff, who is much disturbed over his suspension, advising him in the presence of the defendant that the defendant's liability insurance carrier would gladly permit the defendant to release the suspension if the nominal plaintiff's collision carrier should be persuaded to drop the suit?

**OPINIONS**

1. The committee is of the opinion that the situation described in Question No. 1 would be controlled by Canon 6, which provides that it is unprofessional to represent conflicting interests except under certain circumstances. We take the view that the situation described would violate Canon 6 unless the attorney made a full disclosure to the defendant and suggested that the defendant consult counsel of his own choice. (8-2)

2. The members of the committee are unanimously of the opinion that the conduct described in Question No. 2 would violate Canon No. 9. (10-0)