

FORMAL OPINION NO. 101\*

An inquiry has been submitted to the Idaho State Bar and referred to the Committee on the question:

Is a lawyer under a duty to return to the client all of the client's files when the attorney-client relationship ceases because the client has changed attorneys and has paid all fees and disbursements?

The lawyer is obligated under the Code of Professional Responsibility to return the documents furnished by the client since these documents were furnished by the client and belong to the client. DR 2-110(A)(2) requires the attorney on withdrawal from a case to deliver all papers and property to which the client is entitled. There is no material difference in the case of a withdrawal or in a situation where the client changes attorneys.

It is further the attorney's duty to turn over to the client all assets. If the documents in the file are assets of the client then DR 9-102(B)(4) imposes the duty on the attorney to deliver such documents to the client.

As to documents that do not fall within the above categories, it is the opinion of the committee that the lawyer is not under a duty to turn over these documents and as such, the failure to turn over such documents is not a violation of the Code of Professional Responsibility.

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\*This is an undated opinion.