

**ETHICS OPINION NUMBER 208
OF THE MISSISSIPPI BAR
RENDERED MAY 28, 1993**

TERMINATION OF EMPLOYMENT - A request by client for return of files constitutes a notice of discharge such that new counsel can begin representation.

The Ethics Committee of The Mississippi Bar has been requested to render an opinion on the following hypothetical:

Firm had a contract to perform collection work for a definite term. Near the end of the term, client requested return of its files. The files were picked up by client. Subsequently, client asked for a final accounting and a return of proprietary materials provided for the collection project. The contract has no provision for fees or services after its termination.

The specific issues regarding ethical conduct asked to be addressed by the Committee are:

1. Does the request for return of files constitute a notice of discharge such that new counsel can begin representation under E.O. No. 144?
2. Can the former counsel continue to deposit payments from debtors after the term of the contract and claim a contingency fee under the terms of the contract?

The response to the first inquiry is yes. It is clear that the new counsel should be free to begin representation since the request for return of a file cannot be considered anything but a discharge. A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment of the lawyer's services. Ethically, the new lawyer should not accept a client until the client has notified the substituted lawyer of his discharge. See MRPC 1.16(d) and comments thereto; EO No. 144, MSB adopted March 11, 1988.

With regard to the second inquiry, the Committee is of the opinion that this question involves a legal, not an ethical problem, and, therefore, cannot be addressed by the Committee.