

**ETHICS OPINION NUMBER 121  
OF THE MISSISSIPPI BAR  
RENDERED JUNE 15, 1986  
AMENDED APRIL 6, 2013**

**CLIENT FUNDS** - Where a lawyer possesses funds which his client is entitled to receive in payment of a favorable court judgment, the lawyer shall promptly pay such funds to the client at the client's request even though a pending appeal may raise future questions concerning the funds.

The Ethics Committee of the Mississippi Bar has been asked to render its opinion on the following situation:

After the plaintiffs in a civil lawsuit received a money judgment, the defendants appealed to the Supreme Court of Mississippi which affirmed the lower court's judgment and denied the defendants' application for a stay of execution and enforcement of the judgment. The defendants then appealed to the United States Supreme Court which denied two separate stay applications by the defendants but which has not yet ruled on the merits of the appeal. The defendants then paid the amount of the judgment to the plaintiffs and their attorney by delivering the payment to the plaintiffs' attorney. The plaintiffs have demanded that their attorney turn the money over to them. In turn, their attorney has asked this Committee for ethical guidance.

While the Committee has been unable to locate any precedents which squarely address this situation, Rule 1.15(b) of the Mississippi Rules of Professional Conduct ("MRPC") directs that a lawyer shall "except as . . . otherwise permitted by law or agreement with the client . . . promptly pay or deliver to the client . . . any funds or other property the client is entitled to receive."

Here, the lawyer has possession of the funds, and the clients have requested that the funds be paid to them. However, the client's entitlement to receive the funds is a question of law, see ABA Comm. on Ethics & Professional Responsibility, Informal Opinion No. 1376, at 2 (Feb. 18, 1977) and like the ABA's Committee on Ethics & Professional Responsibility, *id.*, this Committee is prohibited from rendering opinions on questions of law. Assuming, without deciding, that the clients here are entitled as a matter of law to receive the funds in payment of the judgment which their lawyer has

in his possession, the Committee is of the opinion that the lawyer would be required to pay such funds to the clients at their request.

The Committee recognizes that the pendency of the appeal and a possible future reversal, however statistically unlikely, may raise future claims between the plaintiffs and the defendants as to the funds. Nevertheless, if the clients are presently entitled as a matter of law to the funds in the possession of their lawyer and they have requested payment by the lawyer, then Rule 1.15(b), MRPC, commands the lawyer to promptly pay such funds to the clients. In so doing, the lawyer shall advise the clients of the possibility of appellate reversal. However, if the funds are still in dispute as a matter of law the lawyer should not distribute the funds