

**ETHICS OPINION NUMBER 200  
OF THE MISSISSIPPI BAR  
RENDERED JUNE 12, 1992**

**FAIRNESS TO OPPOSING PARTY AND COUNSEL** - It is ethically permissible for an attorney to speak to his client in a civil lawsuit concerning the client's testimony during a court recess as long as the attorney does not counsel or assist the client to testify falsely.

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

Counsel places his client on the witness stand in a civil lawsuit before a jury and, during the scope of direct examination of the client by his counsel, there arises a legal objection and the jury is dismissed for the Court to hear argument.

The Ethics Committee has been requested to opine as to whether it is ethically proper for counsel to speak to his client during an ensuing recess concerning the client's testimony.

M.R.P.C. 3.4 states in part that

A lawyer shall not:

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law....

Therefore it is the opinion of this Committee that an attorney may properly speak to a client concerning the client's testimony during a recess in a court proceeding as long as the attorney does not counsel or assist the client to testify falsely. It should be noted that this opinion does not involve a situation where the Court has instructed the client not to speak to counsel. *See Perry v. Leeke*, 488 U.S. 272 (1989).