

## Terminating Representation

After the IOLTA was seized, Fleisher only wrote one letter to the Hamilton County Clerk of Courts to take him off all cases to which he was to participate. That letter did not include all the cases. That was not the proper procedure to withdraw. Fleisher had a duty to notify each tribunal, each attorney and Schwartz directly. Schwartz thereby missed several important deadlines and needed pleadings because of Fleisher's failures of required **diligence**.

After his withdrawal, Fleisher failed to promptly send Schwartz all of Fleisher's files, research materials and documents that were involved in pending cases. Schwartz asked several times over several weeks while he was a limited ability due to Prison Camp restrictions.

### RULE 1.16: TERMINATING REPRESENTATION

**(c) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.**

**(d) As part of the termination of representation, a lawyer shall take steps, to the extent reasonably practicable, to protect a client's interest. The steps include giving due notice to the client, allowing reasonable time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules. Client papers and property shall be promptly delivered to the client. "Client papers and property" may include correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert reports, and other items reasonably necessary to the client's representation.**

These acts, or failure to act, also constituted a tragic mix of ethical violations involving excessive fee, personal conflict of interest, lack of competence and lack of diligence.

**To Earn Personal Fees**  
**Fleisher Failed to Timely Use Schwartz's**  
**Professional Liability Insurance Coverage**

Schwartz advised Fleisher, early in his representation, that Schwartz had free legal representation available under his professional liability insurance coverage with OHIO BAR LIABILITY INSURANCE COMPANY (OBLIC). Fleisher insisted that he was the preferred expert to coordinate and represent all aspects of Schwartz's legal concerns. He refused to timely turn any matter over to OBLIC, thereby selfishly, and in conflict with his own personal interest, becoming unjustly enriched by charging substantial legal fees from Schwartz's IOLTA deposit for most services that he was not able or refused to provide.

All legal services could have been expertly supplied and included as a benefit under OBLIC's policy. Fleisher resisted notifying OBLIC and continued to tell Schwartz that he would be the better attorney than any provided by OBLIC.

In spite of Schwartz's insistence, Fleisher blocked Schwartz's contact with OBLIC for so long, that OBLIC denied coverage due to the lack of prompt notice. When Schwartz directly tried to make a claim to engage the services of OBLIC, the underwriters of OBLIC determined that it was then too late to have OBLIC involved. OBLIC refused to render expert legal services.

Fleisher's decision to do all legal work himself was a conflict of interest, violating **RULE 1.7: CONFLICT OF INTEREST**, by placing his own interest to earn as much as he could from the substantial IOLTA deposit, rather than to allow OBLIC to aid Schwartz. OBLIC's expert appointed attorneys would have represented Schwartz without charge.

**RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS**

**(a) A lawyer's acceptance or continuation of representation of a client creates a conflict of interest if...(2) there is a *substantial* risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client... or by the lawyer's own personal interests.**