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Difficult Opposing Party

I have a client who is opposing a family member who has breached his fiduciary duty as Administrator of an Estate. This Administrator has hired legal counsel to represent him, even though he is an attorney himself, albeit an in-house counsel, which I can fully understand. Problem is HE is writing me threatening letters and telling me only to communicate directly with him and only send copies to his attorney. (presumably to cut his legal costs) I am not going to acknowledge his obnoxious behavior and I also only want to deal with his attorney - can I chose to do so because he has counsel, or must I deal directly with him?

You cannot communicate with an adverse party who is represented by counsel. You might notify OC to whack his client with a rolled up newspaper and tell him to sit and stay.

Carolyn J. Stevens

Client can't have it both ways. Either he's pro se or he's got a lawyer. If he's got a lawyer, you deal with the lawyer.

I once had a litigation against a lawyer-defendant who tried to get permission to take some depositions, rather than have his attorney do it. The court rejected it.

Even if the guy's lawyer said to write to the client, I'd still insist on dealing with the lawyer.

Patrick W. Begos

Under most (all?) Rules of Professional Conduct (RPC), you must have consent of opposing counsel (OC) to directly contact the other party. However, the other party can certainly instruct OC to grant consent or be discharged from the case. Either way, you must still obtain OC's consent. I'd just write OC and ask for consent. If you don't get it, then you should just respond to OC on every letter you receive from the party, and then let the cards fall where they may. Ken Kaplan

Forward all the correspondence to his attorney.

Leslie Ellen Shear

I believe that once he has obtained counsel you have to contact his counsel and not him or you may violate ex parte communications with a represented party.



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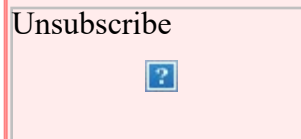
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