
The New York City Bar Association Opinion 2013-1: Duties Owed to Prospective Clients

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In January 2013, the New York City Bar Association issued Formal Opinion 2013-1 (the “Opinion”) explaining the duties owed by lawyers under Rule 1.18 of the New York Rules of Professional Conduct (the “Rule”) to prospective clients even when no lawyer-client relationship ensues. Rule 1.18 was adopted in 2009 to fill a gap in the governing New York attorney ethics rules, which previously did not define the duties owed by lawyers to prospective clients other than in case law. As reflected in Comment 1 to the Rule, the Rule addresses duties to prospective clients after beauty contests and other preliminary meetings, and seeks to “balance the need for protection of those who consult lawyers about a possible representation with the need for freedom of the parties to decide not to pursue the representation.” Thus, while the Rule imposes some substantial responsibilities to protect the interests of prospective clients, the responsibilities are not as extensive as those owed to former and current clients and include exceptions where informed consent is obtained or ethical screens are used.

Attorney

- Charles A. Gilman