

Sample "State Bar" letter to trial counsel

Dear :

I have tried unsuccessfully to reach you by telephone on []. By letter dated [], I informed you that I am representing our mutual client, [], in her appeal from the orders terminating her parental rights. It is imperative that I speak to you about this case. There is a potential issue of ineffective assistance of counsel and notice that I need to discuss with you.

We believe that the Rules of Professional Conduct impose a duty upon trial counsel to fully and candidly discuss matters relating to the representation of the client with appellate counsel and to respond to the questions of appellate counsel, even if to do so would be to disclose that trial counsel failed to provide effective assistance of counsel. This decision is in accord with the general rule that the attorney owes a duty of complete fidelity to the client and to the interests of the client. (See *Clancy v. State Bar* (1969) 71 Cal.2d 140; see also State Bar Formal Opinion No. 1984-83.) And, inasmuch as the attorney's duty to the client survives the termination of the attorney-client relationship, the fiduciary duty to the former client requires the attorney to protect the interests of the client and make appropriate disclosure. ¶It is the opinion of the Committee that the attorney's obligation to cooperate with successor counsel is grounded in rule 3-700, and that the original attorney is obligated to assist her former client by providing him or her with all materials generated as a result of the representation.

Where the need arises for successor counsel to learn matters that have not been reduced to writing, the original attorney should provide this information to the client and to the successor counsel, and if such assistance would require extensive effort from former counsel, the attorney may properly seek compensation for such effort. (Formal Opinion No. 1992-127, State Bar of California, Standing Committee on Professional Responsibility and Conduct.)

The opening brief is due in this matter on []. Please call me today or tomorrow to discuss this case.

Yours truly,

Attorney at Law

cc: [client]
[panel attorney buddy]