
E-95-5 Formation of attorney-client relationship

Question

Assume that an attorney works as a volunteer counsel for an organization that provides information about landlord-tenant law. If the attorney advises a caller that he or she is an attorney, is a lawyer-client relationship formed? Is the attorney-volunteer precluded from answering questions from both the landlord and tenant relating to the same matter?

Opinion

Whether an attorney-client relationship is formed depends upon the intent of the parties and is a question of fact. *Marten Transport v. Hartford Specialty Co.*, 194 Wis. 2d 1, 533 N.W.2d 452 (1995). An attorney-client relationship is not formed simply because one of the parties knows that the other is an attorney. Such knowledge, however, coupled with legal advice being sought and provided, ordinarily is enough to establish the relationship.

As an attorney-volunteer providing information about landlord-tenant law, it is important to emphasize that only general information is being provided and that legal advice specific to a particular set of facts is beyond the scope of the services. If the attorney intends to avoid forming an attorney-client relationship in this context, the attorney should clearly announce that intention by appropriate warnings or disclaimers and then should refrain from providing legal advice specific to the person's situation.

If no attorney-client relationships are formed, an attorney may answer questions asked both by a tenant and the landlord from whom the tenant rents. If an attorney-client relationship is formed with either party, conflicts of interest may arise by communicating with both parties, and special care should be taken. *See* SCR 20:1.7, 20:2.2 and 20:4.3.