



CONFLICTS IN CAR CRASH CASES

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TOO LITTLE MONEY, TOO MANY CLIENTS: Ethical Issues With Multiple Claimants

SCENARIO 1:

A drunk driver with minimum limits runs into the back of a car hurting several people all of whom are close friends. One of them tell the others, "I know a great lawyer." They all end up in your office. After talking to them, looking at the police report and staring into your crystal ball you strongly suspect that there will not be enough money to go around. What are your options?

Option 1:

Take the safe route. Represent your old client (the one who knew a great lawyer) and send the others to seek other counsel. Do this over the phone if you can, before any confidential information is given to you by the other occupants. Under this option you have a free reign to do what we do best. Zealously represent your client with only the narrowest concern for the other folks. Gather your evidence of damages and quickly and got to the front of the line.

Option 2:

Your client insists that all of the other folks are good friends, they want everyone treated fairly and they want you to be *the lawyer*, not one of many. Tread carefully here. It can be done and in fact there are advantages to a united front, but there are mines buried in this field. First, explain the conflicts, actual and potential in detail. Since there will be limited funds to pay, these folks may be competing for the same dollars. An agreement between them in advance of settlement might be advisable.

SCENARIO 2:

A mother and daughter are in a bad wreck. Both are injured significantly. There is not enough liability insurance to cover the full damages for both folks. Naturally, the mom will be making decisions both for herself and for her minor daughter. Likely, daughter's settlement will be structured. Where does the money go? Does mom get the bulk of it so the family has immediate access to the funds? Does most of it go to the daughter's structured funds so there are college funds available when she turns 18?

Option 1:

Make the best distribution you can, considering the circumstances of the family. Perhaps give the most money to Mom. If she is a good parent, she will be looking after her daughter first and foremost anyway. Mom can pay the daughter's medical expenses out of her funds, and see to her daughter's immediate needs as well. Or if the family is well off, structuring the funds for the child may be preferable. Even in this situation, the conflict needs to be examined, explained, and ideally waived. Finally, of course, you will need to convince the ad litem and the court that this is the best outcome.

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