



> MEMBER RESOURCES

- [Alternative Dispute Resolution](#)
- [Classifieds](#)
- [Continuing Legal Education](#)
- [E-Blast](#)
- [Ethics Advisory Opinions](#)
- [Firm Announcements](#)
- [Law Related Education](#)
- [Lawyer Referral Service](#)
- [Lawyers Helping Lawyers](#)
- [Member Directory](#)
- [Practice Management \(PMAP\)](#)
- [Pro Bono Program](#)
- [Resources](#)
- [Rules Of Conduct](#)
- [South Carolina Lawyer](#)
- [Sections & Committees](#)
- [Senior Lawyers Division](#)
- [Young Lawyers Division](#)

> PUBLIC SERVICES

> CASEMAKER

> BAR FOUNDATION

[home](#) < [member resources](#) < [ethics advisory opinions](#) < [opinion information](#)



Ethics Advisory Opinions

Ethics Advisory Opinion 91-02

Upon the request of a member of the South Carolina Bar, the Ethics Advisory Committee has rendered this opinion on the ethical propriety of the inquirer's contemplated conduct. This Committee has no disciplinary authority. Lawyer discipline is administered solely by the South Carolina Supreme Court through its Commission on Lawyer Conduct.

Full Text

A county solicitor's office proposes to send letters to defendants and their attorneys which would state the time and date of a defendant's trial, notification of a roll call, notification that if a defendant fails to appear at the roll call the solicitor will apply to the presiding judge for a bench warrant for the defendant's arrest, notification that if a defendant is not present when his case is called for trial that the trial will proceed in his absence, and notification that any bond may be forfeited for failure to appear.

Question:

Does the proposed notice violate Rule 4.2 of the South Carolina Rules of Professional Conduct?

Summary:

This notice violates Rule 4.2 unless the solicitor's office has the consent of counsel for defendant to make such notice or if the solicitor is authorized by law to give the notice to the defendant.

Opinion:

Rule 4.2 of the South Carolina Rules of Professional Conduct provides as follows: In representing a client a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so. The notification described pertains to the subject of the representation and therefore falls within the ambit of the rule.

The subject notification would violate Rule 4.2 unless counsel for the defendant consents to the communication or unless the solicitor is authorized by law to give the subject notice to the defendant.

Whether the solicitor's office is authorized by law to give the subject notice to a defendant is a matter of substantive law. This Committee does not issue opinions on substantive law.

(Note: This opinion does not apply to pro se defendants).

South Carolina Bar

950 Taylor Street Columbia, South Carolina 29202
tel.803.799.6653 | fax.803.799.4118 | scbar-info@scbar.org

↑ Top