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# Attorney and Client: "Ambulance Chasing" is a violation of profession

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Where there is a second adoption the question arises whether the child inherits from both the first and second adopting parents. *In re Klapps Estates*[5] the court decides that although an adopted child may inherit from both his natural and adoptive parents, in case of a second adoption, the first adoption is *ipso facto* revoked and the child loses the right to inherit from the first adoptive parents. The later Kansas case of *Dreyer v. Schricht*,[6] takes an opposite view and says of the holding in the former case: "The law creates the capacity to inherit and not birth or adoption. The law invests those born and those adopted with that capacity without distinction. Some other law must be found which destroys the capacity in one case and not in the other, or it persists without regard to whether it originated with birth or adoption."

In case *In re Darling*,[7] is contrary to all those discussed above in that it holds that an adopted child cannot recover as the heir of his natural father. It does hold, however, that such a child can recover as the heir of his grandfather (father of his natural father).

Wisconsin has no leading cases on the subject. Section 4024 of the Statutes[8] which defines the rights of the adopting parents and the adopted child definitely provides that a child who is adopted, becomes capable of inheriting from his adoptive parents. He is not, however, made capable of taking property expressly limited to the "heirs of the body" of such parents. In no place does this statute deprive the child of the right to inherit from his natural parent.

R. F. ROCHE.

**Attorney and Client: "Ambulance Chasing" is a violation of profession.**—In the recent case of *Chunes v. Duluth R. R.* (Minn. 1924.) 298 Fed. 964. we have the following interesting case presented.

On March 20, 1923, Messrs. Dahl & McDonald, attorneys at law, commenced an action based on personal injuries in the state court of Dakota County, Minnesota. The case was removed to the federal court on diversity of citizenship.

On March 26, 1923, a second action on the same cause was instituted by them in the state district court of Wright County, Minnesota. This case was also removed to the federal court for diversity of citizenship.

On March 29, 1923, a third suit was started on the came cause, in the name of the plaintiff, in the state court of St. Louis County by Messrs. Barton & Kumuchey, attorneys at law, which was also removed to the federal court for the same reasons as the others.

[5] 197 Mich. 615, 164 N. W. 381.

[6] 105 Kansas 495, 185 Pac. 30.

[7] 173 Cal. 221, 159 Pac. 606.

[8] Sec. 4024, Wis. Stat. A child so adopted shall be deemed, for the purposes of inheritance and succession by such child, custody of the person and right to obedience by such parents by adoption, and all other legal consequences and incidents of the natural relation of parents and children the same to all intents and purposes the same as if the child had been borne in lawful wedlock of such parents by adoption, excepting that such child shall not be capable of taking property expressly limited to the heirs of the body of such parents, etc.

There were then three suits based on the same cause of action, seeking the same relief, pending at the same time. Both firms of attorneys claimed authority from the plaintiff to represent him. On motion of the defendant to require the two firms mentioned to show by what authority they appeared in the action, there was presented to the court in substance, the following contradictory affidavits:

1. That Dahl & McDonald were retained by the plaintiff. Later Kamuchey called to see the plaintiff at the hospital where he was ill. After the interview Dahl & McDonald were dismissed but the plaintiff, in a later meeting with McDonald, expressed his willingness for Dahl & McDonald to proceed with the case and agreed to dismiss Kamuchey.

To meet and controvert this affidavit of McDonald's, Kamuchey submitted an affidavit purporting to have been subscribed and sworn by the plaintiff.

2. That the plaintiff in the case was a track laborer and was injured while in the employ of the defendant. A few days later, two men came to see him in the hospital where he had been taken, asking about the facts of the case, which one man wrote down. He then signed a paper, so held that a large portion of it was covered, purporting to be a statement of facts relative to the injuries. The men left cards with the name of Dahl & McDonald thereon. Three days later one of them came bringing fruit and candy, and during the conversation at the time the plaintiff learned that that the paper he had signed was a contract employing Dahl & McDonald as lawyers to handle the case. The plaintiff asked for the return of the paper and requested that the firm do nothing about the case. Later, the plaintiff sent a letter to the attorneys withdrawing the case from them.

3. A later affidavit alleged that Barton & Kamuchey were retained.

4. In rebuttal was submitted an affidavit from McDonald denying the gaining of the contract through fraud and alleging that the letter of dismissal was sent at the instigation of Kamuchey as were the plaintiff's affidavits above. The reason why the plaintiff was loath to dismiss Kamuchey was that certain of the witnesses were friends of Kamuchey and would not testify if he did not handle the case.

Each firm entered affidavits of other individuals upholding their respective claims. On the hearing of the motion of the defendant the two firms of attorneys competing for the plaintiff's case made mutual charges of "ambulance chasing."

HELD: That the court being unable to find from the welter of contradictory affidavits that either firm had authority to commence the actions, they were dismissed.

If the first affidavit of McDonald's was true, then his firm had authority to bring suit.

If the affidavits of the plaintiff were true, the authority was obtained by fraud and deceit and McDonald committed perjury in making his affidavit.

If the second McDonald affidavit was true, the plaintiff committed perjury in making his affidavit and the attorneys who induced him to make them are guilty of subornation or perjury.

In dismissing the actions the presiding judge was extraordinarily dis-

passionate when he said, "It is very difficult to deal temperately with the situation disclosed by the foregoing affidavits."

The following extracts from *Savarin v. Union Pac. R. R.*, 292 Fed. Rep. (Minn.) 157, 161, 162, depicts the present situation in Minnesota as to the practice of bringing numerous suits on the same cause of action in the various counties of the state. "It is a matter of common knowledge that this practice is growing in Minnesota, and seems to be confined to attorneys who specialize in personal injury litigation, and largely to cases imported into Minnesota from foreign states. The object and purpose of the practice seems to be to ascertain the counties in which juries are most liberal in fixing damages in the class of cases mentioned. While in the present case only two cases have been commenced on the same cause of action, in other instances it is understood that as high as four or five cases have been commenced in as many different counties; the summons and complaint being identical in all of them. This practice requires defendants to retain counsel and to appear and answer in each case, and if they are removable cases, to effect a removal of the same to this court, thus unreasonably increasing the work in the clerk's office and further congesting calendars already badly congested.

"The two cases now before the court aptly illustrate the effect of this practice on the litigants and the court alike; that is, instead of one there are two cases, two removal proceedings, two motions to remand, and two motions to vacate the service of the summons. In other words, there is an increase of 100 per cent in the expense of the litigation to the defendants, and in the work of the clerks of both courts and of the court itself. It is a course of conduct that cannot be justified. It is at war with generally accepted ideas of professional conduct, ethics and decency. The judges of this court have had this matter under consideration and are in agreement on the proposition that the practice mentioned is a gross abuse of the process and machinery of both the national and state courts, and, if further pursued, this court will feel called upon to resort to disciplinary methods sufficient in severity to effectually put an end to the practice."

In the principal case the presiding judge being unable to decide by what right either firm of attorneys appeared in the actions, the only choice left him was to throw the cases out of court. As established by *Rosenthal v. Forman,* 115 N. Y. S. 282, the plaintiff is not prejudiced.

The opinion in the principal case reads, "The situation described in the affidavits is one calculated to make any one with a love for the legal profession blush with shame, and apparently is the natural resultant and product of the very demoralizing practice which has grown up in the legal profession in the large cities, and which has done so much to debase and degrade the honorable profession of the law." One but has to search the Digests to realize that the growth of the so-called "ambulance chasing" element of the profession seems to have arisen and kept pace with industrialism. The nearer one approaches to cases of present date, the more frequently the opprobrious term appears.

A great amount of righteous indignation is heard on all sides and the clamor increases with the cases, but as yet, no case has come to hand based solely upon "ambulance chasing" by the attorney himself, in which discipline of any weight has been meted out. There are cases where

this trade has been combined with other more serious offenses. *In re Newall,* 160 N. Y. S. 275, is such a case. Here the attorneys had a system of "runners" to search out victims of railway accidents, the added offense being that of cheating clients so obtained of all that was justly due them. The cases show an increasing stringency concerning those who violate the ethics of the profession which may be attributed to the growing strength and consciousness of the bar associations throughout the country.[1]

The *Cannons of Professional Ethics* of the various bar associations have sections devoted to this matter. Appended to many of them is the following portion from a law lecture delivered by Lincoln: "Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife and put money in his pocket? A moral tone ought to be infused into the profession which would drive such men out of it." Nicolay and Hay's *Works of Abraham Lincoln,* Vol. 11, page 142. The register worms of Lincoln's day have extended the field of their activities. If Lincoln's admonition was applicable in that period of the profession called the "Golden Era," it is doubly true today, for now they overhaul the street, hospitals and homes.

Warvelle, in his *Essays in Legal Ethics,* pages 56-57, stigmatizes "ambulance chasing" as a "vile prostitution of the advocate's calling. It is not law practice; it is simply a form of legalized piracy."

Few attorneys are so endowed with wealth that they can give their services gratis. Recognizing this a New York court observed, "The standard should be raised, rather than lowered, for the age in which we live is one which is much concerned with money and the things money will bring. The fact that the lawyer must support himself by his professional labors, and that he receives his compensation from a purely private source, unquestionably has a tendency to commercialize his work and obscure even from his own mind the fact that his real client is Justice," *In re Newall,* 160 N. Y. S. 275, 278.

V. W. D.

**Attorney and Client: Knowledge of first attorney imputed to client.**—The rule of law that knowledge of an attorney is knowledge of his client was given a rather rigid application in the recent case of *Farnsworth, v. Hazelett* (Iowa, 1924) 199 N. W. 410. The client in this case procured the service of the attorney for the purpose of collecting a debt. The attorney made arrangements with a bank whereby the debtor was to make full payment. Before he had communicated such knowledge to his client, the client learned that the debtor contemplated a disposal of some of his property. He immediately "hot-footed" over to the attorney's home. On arriving there he was informed that the attorney was seriously ill and in no position to see or talk to anyone. In his anxiety he immediately consulted another attorney and insisted that a suit be brought at once. At the trial of the case the defendant put in a counter-claim for malicious prosecution and recovered judgment.

[1] See Note and Comment in next issue of the Review on Hepp v. Petrie, 200 N. W. 857 (Wis.).