
Moral Principles in Legal Practice - IV.

What are an attorney's duties in civil cases?

He is not allowed to undertake a civil case which he knows with certainty to be unjust. He may, however, defend a cause which is only doubtfully just -- even though the probability of its justice is very slight.

If in the process of a case he comes to see with certainty that the cause he represents is unjust, he must drop the case. Nor can he try to reach an agreement with the opposite party outside of court, for in so doing he would be cooperating in an injustice to the other party.

If an attorney represents a certainly unjust case, or, seeing the injustice of it after he has undertaken it, makes with the opposite party an unjust agreement, he is bound to repair the damage suffered by the other party.

In defending a cause an attorney has to use just means. He cannot, for example, cite false or abrogated laws; he cannot use lying witnesses, false documents, etc., lest he lead the judge to declare a false sentence and bring unjust damage upon the opposing party. He can, however, in the discharge of his duty, hide those facts that are prejudicial to his case, for thus he merely permits, doesn't cause deception, and it is the business of opposing attorneys to present the prejudicial facts.

If the cause of the client is certainly just but documents that would prove it have been lost or never existed, substitution or production of false documents would constitute a grave sin against the truth, but not against justice, and, therefore, would not require restitution.

What are an attorney's duties in criminal cases?

An attorney can defend a client, even though the client be certainly guilty, so long as the attorney, in the conduct of the case, refrains from all fraud, deceit, and illegitimate means. Since the criminal is not bound to punishment for his crime until he be convicted, an attorney can use legitimate means to break down the proofs against the criminal and to impede the demonstration of his guilt.

What are an attorney's duties towards his client?

An attorney is bound to diligently examine the case and the client concerning the case, concerning its justice, and its certainty or probability, and he is bound to advise the client as to the state of the case so that the client will not go through a useless and expensive proceeding not knowing his chances of success. Failing gravely in these obligations the lawyer is bound for the damages that accrue to his client.

An attorney is bound to exercise at least ordinary industry to try to win his case and to win it quickly. Again, gravely negligent here, he is morally bound to damages.

Obviously, an attorney is not allowed to assist both opposing parties in the same case.

What is a reasonable charge for the attorney's services?

The nature of the case, the means of the client, and the skill and reputation of the attorney will determine the fee. It is difficult to say here anything more definite.