

Wildes Addresses D.C. Chapter on Legal Ethics

By Leon Wildes, Esquire
Former President of AINL

Leon Wildes, former National President of AINL, and presently the Co-chairman of its Committee on Professional Ethics and Grievances, recently addressed the Washington, D.C. Chapter on the subject of professional ethics in the immigration field, it was reported by Jan Pederson, Chairperson of the Washington, D.C. Chapter.

Wildes addressed the Chapter at its monthly meeting at Gusti's Restaurant and discussed a variety of ethical problems peculiar to the practice of immigration law. He described the attorney's function as that of an agent standing in a special fiduciary relationship with his client to whom he owed a high degree of loyalty, while at the same time having an obligation of integrity to the legal system arising out of his oath of office.

A series of questions was posed by members of the Chapter regarding the retention of a client's documents, in cases where the client had discharged the attorney, without covering his fees. Wildes delineated the client's right to discharge his attorney as a principal discharges an agent, as well as the attorney's coordinate right to receive payment in *quantum meruit*, for the reasonable value of his services to the time of his discharge. He also described the attorney's right to exercise his lien to retain documents belonging to the client to assure the payment of his fees, noting that there were instances in which he believed that a client's documents must be returned to

him despite the fact that he had not paid the attorney's fee in *quantum meruit*. These instances related to cases where the client might suffer irreparable harm if the documents were not immediately returned.

Wildes further dealt with situations where information came to an attorney's attention indicating that his client might no longer be eligible for the benefit he seeks, as well as situations where an employer or spouse requested the attorney to take action in a case which might injure the alien's position. He noted that whenever the employer represented both the husband and wife in a marriage case or the employer and employee in a job offer case, there was a potential for a conflict of interest between the lawyer's clients, which would require a complete disclosure on the part of the attorney and perhaps his withdrawal from representing either or both parties. He stressed the attorney's obligation to counsel the client only to pursue an appropriate legal remedy, to urge his client to discontinue contemplated illegal action, and to avoid, at all costs, conspiring with an alien to violate the immigration law.

In responding to a question as to whether an attorney may assist a petitioner in applying for benefit to which the attorney knows the beneficiary is not entitled, Wildes drew the attention of the Chapter to the attorney's broader function in immigration cases. While confirming that an attorney should not assist a petitioner in applying for a benefit to which he is not legally entitled, Wildes cautioned that this rule should not discourage an attorney from expanding the rights of aliens through the decision-making process. For example, in applying for residence in behalf of a person convicted of a marijuana possession offense, it would be proper to respond that "although I was convicted of an offense involving the possession of marijuana, the conviction is not such as should be recognized to render me ineligible for immigrant status." So long as full disclosure is made, Wildes stated, no ethical rule should prevent an attorney from properly presenting his client's case, regardless of the present posture of the law.

About the Author:



Leon Wildes, practicing attorney in New York City, is a past National President of the Association of Immigration and Nationality Lawyers. Best known for his defense of former Beatle, John Lennon, and his wife Yoko

Ono, he has authored numerous law review articles and publications in the field of immigration law and lectures in behalf of The Practising Law Institute. He is currently Co-Chairman of the Committee on Professional Ethics and Grievances.

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