



**IOWA STATE BAR ASSOCIATION
COMMITTEE ON
ETHICS AND PRACTICE GUIDELINES**

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June 18, 2008

Mr. Dwight Dinkla
Executive Director
Iowa State Bar Association
625 E. Court Avenue
Des Moines, IA 50309

Re: Ethics Opinion 08-03 (Damage File Disposition)

Dear Mr. Dinkla:

As a result of the statewide floods of June, 2008, many Iowa law firms have experienced flood damage to their offices. In many instances flood waters have destroyed case files as well as other law firm documents. Many firms have contacted us for advice regarding the handling and destruction of the flood damaged files. To assist the practicing Bar we issue the following guidance regarding the disposal of damaged files.

1. To the extent possible given the flood damage and possible bio-hazardous conditions, damaged files should be inventoried to identify the client or matter and/or the date range for the affected files. The condition of the files should be noted as to whether they are water soaked, sewage damage, etc. If possible the scene showing the damaged files should be photographed.
2. If the law firm has insurance covering law firm contents and files, the insurance carrier should be notified of the loss

and the law firm should seek advice regarding file remediation or destruction in accordance with the terms of the policy.

3. Likewise, the law firm's malpractice insurance carrier should be notified of the damage to files and their advice should be taken regarding the disposition of the files.
4. An assessment should be made regarding the possibility of repairing the files, taking into consideration safety and health conditions. If it is determined that the files are incapable of repair, arrangements should be made to physically destroy the files taking into consideration the necessity to protect client confidences.
5. An affidavit should be prepared by one with first hand knowledge stating and documenting facts regarding Items 1 through 4.

For the Committee

A handwritten signature in cursive script that reads "Nick Critelli".

Nick Critelli, Chair