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February 27, 2008

Professor Lester Brickman
Benjamin N. Cardozo School of Law
55 Fifth Avenue, Suite 521
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Dear Lester,

This Committee has studied and considered the issues that were raised in your letter of September 17, 2007 regarding the propriety of plaintiffs' counsel negotiating attorneys' fees directly with settling defendants. On balance, our attention was drawn to the fact that the types of settlements you reference are supervised by courts, implicating the principle expressed in Scope [15] of the Model Rules of Professional Conduct:

The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general.

It is the unanimous view of the Committee that the issues discussed in your letter are best addressed by the courts that have been entrusted as a matter of law with the supervision of the suits in question, not by an interpretation or application of the Model Rules of Professional Conduct. Accordingly, the Committee declines to issue an opinion in response to your letter.

Sincerely,



Steven C. Krane