

The logo for "Dear Ethics Lawyer" is written in a black, cursive script font. The word "Dear" is smaller and positioned to the left of "Ethics Lawyer". A small "TM" trademark symbol is located to the right of "Lawyer". The background of the logo is a light-colored, textured surface with faint, handwritten notes and a red diagonal stripe in the top right corner.

Dear Ethics Lawyer™

The Legal Ethics Project. Supporting professionalism with information.

Q: Dear Ethics Lawyer,

My best friend asked me to prepare an estate plan for her giving various family members substantial gifts. With gratitude for our friendship she also wishes to bequeath my daughter, her goddaughter, a first edition book of philosopher Jeremy Bentham, whom she knows is one of her favorites. She will sign a written waiver of any conflict and confirming that she had the opportunity to seek advice of other counsel. May I do this under the ethical rules?

A: First, your friend and daughter have good taste in 18th Century Utilitarian philosophers. This question implicates Model Rule 1.8(c), which prohibits a lawyer from preparing a document for a client that gives the lawyer or a person related to the lawyer in a "close familial relationship" (which includes children, among other relationships) "any substantial gift" unless the lawyer or recipient is related to the client. Is the first edition Bentham book a "substantial gift"? Most likely, if it has a value more than a token amount. If so, does the "goddaughter" relationship fall within the "related to the client" exception? This exception is not clarified in Comments to the rule and is less specifically defined than the "close familial relationship" used earlier in Rule 1.8(c). However, the Ethics Lawyer does not recommend relying on it as meeting the exception; you should have another lawyer prepare these documents.

The Ethics Lawyer

About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 125 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to mark.hinderks@stinson.com.

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.