

Restatement of the Law Governing Lawyers

§ 51. Duty of Care to Certain Nonclients

For the purposes of liability under § 48, a lawyer owes a duty of care within the meaning of § 52 in each of the following circumstances:

- (1) to a prospective client, as stated in § 15;
- (2) to a nonclient when and to the extent that:
 - (a) the lawyer or (with the lawyer's acquiescence) the lawyer's client invites the nonclient to rely on the lawyer's opinion or provision of other legal services, and the nonclient so relies; and
 - (b) the nonclient is not, under applicable tort law, too remote from the lawyer to be entitled to protection;
- (3) to a nonclient when and to the extent that:
 - (a) the lawyer knows that a client intends as one of the primary objectives of the representation that the lawyer's services benefit the nonclient;
 - (b) such a duty would not significantly impair the lawyer's performance of obligations to the client; and
 - (c) the absence of such a duty would make enforcement of those obligations to the client unlikely; and
- (4) to a nonclient when and to the extent that:
 - (a) the lawyer's client is a trustee, guardian, executor, or fiduciary acting primarily to perform similar functions for the nonclient;
 - (b) the lawyer knows that appropriate action by the lawyer is necessary with respect to a matter within the scope of the representation to prevent or rectify the breach of a fiduciary duty owed by the client to the nonclient, where (i) the breach is a crime or fraud or (ii) the lawyer has assisted or is assisting the breach;
 - (c) the nonclient is not reasonably able to protect its rights; and
 - (d) such a duty would not significantly impair the performance of the lawyer's obligations to the client.