

ETHICS ADVISORY PANEL
Opinion 92-61, Request #287
Issued July 23, 1992

An attorney seeks Panel advice with regard to a division of fees with another attorney. The attorney represents a client who was previously represented by another attorney. The former attorney asserted a lien on the client's file for services rendered. The client objects to the lien because it was the former attorney who terminated the attorney-client relationship, and not the client. The inquiring attorney asks whether the former attorney's lien should be paid in light of the fact that it was the former attorney who terminated the representation.

The Panel advises that Rule 1.5(e) governs this inquiry. The Rule states that:

A division of a fee between lawyers who are not in the same firm may be made only if:

- (1) the division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;
- (2) the client is advised of and does not object to the participation of all the lawyers involved; and
- (3) the total fee is reasonable.

The fees should be divided according to quantum meruit; the fair value of services rendered before the former attorney's termination of representation. Both attorneys should try to reach an agreement on the reasonable value of services prior to the termination and if that fails, then a court may have to make the determination. See Ethics Advisory Opinion 91-71.