

(0009J)

ETHICS ADVISORY PANEL  
Opinion #92-73, Request #299  
Issued September 16, 1992

An attorney seeks Panel advice regarding the ethical propriety of billing an estate based upon a percentage fee for work performed on an estate which was set forth in a written contract signed by the client.

The Panel believes that Rule 1.5 "Fees" governs this inquiry. The Rule states that:

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

The Panel believes that the attorney should assess a fee which is reasonable under the circumstances and commensurate with the time and labor and the value of services rendered to the client. This holds true if a client agreed to a percentage fee. A fee may not be set based upon the value of a matter.