

(0009J)

ETHICS ADVISORY PANEL
Opinion #92-85, Request #313
Issued November 18, 1992

An attorney seeks Panel advice regarding the following set of circumstances. The attorney represents a client with regard to a variety of legal matters. The attorney informs the Panel that the client has questioned the attorney's ability in each case. During the representation, the attorney informed the client that advanced fees are necessary in order to carry out the proper representation of these legal matters. At this point, the client responded with more accusations. The attorney asks whether it is ethical to bill a client for one-third attorney fee when the client refuses to cooperate with the collection process.

The Panel believes that Rule 1.5(c) entitled "Fees" governs this inquiry. The Rule states that:

A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement should be in writing and should state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated.

It is the Panel's belief that in order for an attorney to collect a contingency fee from a client, that the attorney should have set forth this agreement in writing for the client as stated in the above cited paragraph. The attorney should suggest to the client that the fee arbitration program established by the Rhode Island Bar Association may provide a means for resolving this matter.