

ETHICS ADVISORY PANEL
Opinion #93-37, Request #371
Issued June 2, 1993

The inquiring attorney, Attorney #2, seeks an itemization of legal fees on a case from the predecessor attorney, Attorney #1 regarding the same matter. Attorney #1 will not comply with this request and maintains that she is entitled to be paid fifty percent of any fee obtained in the case. The inquiring attorney believes that Attorney #1 is entitled to quantum meruit and not a percentage fee.

Rule 1.5(e) entitled "Fees" 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 or the Fee Arbitration Unit of the Rhode Island Bar Association may have to make the determination. See, Ethics Advisory opinion #91-71 and #92-61.

In addition, both attorneys are under an obligation, pursuant to Rule 1.15 "Safekeeping Property", to immediately disburse settlement funds to which the client is entitled without delay.