

ETHICS ADVISORY PANEL
OPINION #94-33 REQUEST #494
Issued June 2, 1994

An inquiring attorney asks whether or not he/she may waive costs to a client where there is a successful recovery. The attorney does not believe that Rule 1.8(e) "Conflict of Interest: Business Transactions" applies in this matter because the client is not indigent and there has been a successful outcome.

Rule 1.8(e) states that:

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

The Panel agrees with the inquiring attorney's analysis that Rule 1.8(e) does not apply in this situation and therefore it is the attorney's prerogative whether or not to waive the costs in this matter.