

ETHICS ADVISORY PANEL
OPINION #94-60 REQUEST #531
Issued August 25, 1994

The inquiring attorney seeks advice regarding a fee dispute between attorneys. The inquiring attorney, while a member of another law firm, represented a client in a personal injury matter. The client executed a written fee agreement.

During this representation, an offer of settlement was not made. The attorney has since left the law firm and currently represents the same client. The attorney offered to pay the former law firm upon resolution of this case a quantum meruit amount. A partner in the former law firm filed an attorney's lien against the file requesting one-third of the total settlement amount. The attorney seeks guidance as to how he/she should calculate the attorney's lien made against the file by his former law firm.

Rule 1.5 entitled "Safekeeping Property" states the following, in pertinent part:

(c) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.

The Panel believes that the amount of the settlement owed to the client should be paid promptly to the client. The attorney's fees shall be kept separate by the inquiring attorney until the dispute is resolved through the Arbitration Unit at the Rhode Island Bar Association. In addition, the construction of the written fee agreement is a matter of contract law and is outside the realm of the Rules of Professional Conduct.