

ETHICS ADVISORY PANEL  
OPINION # 95-12, REQUEST # 570  
Issued March 6, 1995

The inquiring attorney represented a client in a personal injury matter which has been settled. Prior to the disbursement of any funds, the inquiring attorney contacted the medical providers to verify whether any outstanding medical bills were owed.

One treating physician indicated that the client owed the balance not covered by his/her medical insurance. The client questioned the physician's billing for the balance not paid by the medical coverage. In fact, the medical insurance provider confirmed to the inquiring attorney that the physician cannot collect the balance from the client if the physician contracted not to do so. The client did sign a medical lien form in this matter. The client has directed the inquiring attorney not to pay the physician; the physician is demanding payment.

Rule 1.15 of the Supreme Court Rules of Professional Conduct addresses an attorney's dilemma when a dispute arises between a client and a third party over funds held by the attorney. That Rule provides in pertinent part:

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third persons, shall promptly render a full accounting regarding such property.

(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.

In addition, the Comments to Rule 1.15 states that:

Third parties, such as a client's creditors, may have just claims against funds or other property in a lawyer's custody. A lawyer may have a duty under applicable law to protect such third party claims