

ETHICS ADVISORY PANEL  
OPINION # 95-18, Request # 578  
Issued March 23, 1995

The inquiring attorney asks whether he/she may be paid a referral fee with respect to all fees paid to the lawyer to whom the work was referred by a client or whether the referral fee is limited to fees generated by the first case referred to a lawyer from another state. The inquiring attorney asserts that both attorneys are not members of the same firm. Therefore, Rule 1.5(e) is applicable. That Rule states the following:

(e) 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 comments to Rule 1.5(e) state that the Rule permits attorneys to divide a fee either based upon the proportion of services rendered or by agreement between attorneys, if all assume responsibility on a whole for the representation and the client is apprised of and consents to the agreement.

Based upon the facts provided by the inquiring attorney, a division of the fee between attorneys may be made if the division is in proportion to work performed by each attorney or by a written agreement with the client and each attorney assumed joint responsibility for the representation of the client. In addition, the client must consent to the division of the fee and the total fee must be reasonable.