

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion No. 97-12, Request No. 715
Issued July 10, 1997**

Facts:

Upon his/her appointment to the bench, a former practicing attorney referred a pending-criminal injuries compensation case to the inquiring attorney who handled the matter to completion. Payment for attorneys' fees out of the criminal injuries compensation fund is pending. The inquiring attorney states that the former attorney had performed specified legal services on the case and is entitled to a fee for those services. The General Treasurer will not prepare separate checks for each of the attorneys. Consequently, the inquiring attorney will receive a single payment for the total attorneys' fees for the case, including the fees due to the predecessor attorney. The inquiring attorney appears before the judge during the course of his/her practice.

Issue Presented:

The inquiring attorney asks whether it is a violation of the Rules of Professional Conduct for a successor attorney to pay a former counsel, who is now a judge, for legal services that counsel provided on the case prior to becoming a judge.

Opinion:

It is not a violation of the Rules for a successor attorney to pay attorneys' fees to a judge for legal services he/she performed on the case before becoming a judge.

Reasoning:

The attorneys' fees that the inquiring attorney will receive unquestionably include amounts due to predecessor counsel who performed legal services on the case before being appointed to the bench. Upon receiving funds in which a client or a third person has an interest, an attorney has obligations imposed by Rule 1.15(b) to notify promptly, to deliver promptly, and to account. See R.I. Sup. Ct. Ethics Advisory Panel General Informational Opinion No. 7 (Apr. 10, 1997). The inquiring attorney has no less an obligation to predecessor counsel by reason of counsel's appointment to the bench.

The Panel concludes that payment of an attorney's fee to the judge for legal services he/she performed on the case is consistent with the Rules of Professional Conduct provided that the fee is based on the fair value of services he/she rendered on the case. See, Rule 1.5(e); R.I. Sup. Ct. Ethics Advisory Panel Op. 93-37 (1993). The Panel's guidance is restricted to inter-

pretations of the Rules of Professional Conduct and does not extend to issues under the Code

of Judicial Conduct or any other rules, regulations, or laws that may have a bearing on the issues raised by this inquiry.