

ETHICS ADVISORY PANEL
OPINION #94-51 REQUEST #521
Issued July 27, 1994

The inquiring attorney represents Client A against B in a commercial claim. B's attorney, Attorney #2, suggested that the inquiring attorney's office represent Client C in future commercial claims. Attorney #2 suggests that the inquiring attorney share a one-third of this fee with Attorney #2. The inquiring attorney asks whether or not the fee arrangement between him/herself and Attorney #2 violates any ethical rules.

Rule 1.5 entitled "Fees" is the applicable rule under this set of circumstances. Particularly Rule 1.5(e) addresses division of fees between lawyers who are not in the same law firm. The rule states that:

(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 "A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm Paragraph (e) permits the lawyers to divide a fee on either the basis of the proportion of services they render or by agreement between the participating lawyers if all assume responsibility for the representation on a whole and the client is advised and does not object." The inquiring attorney may divide a fee with Attorney #2 pursuant to Rule 1.5(e)(1)(2) and (3) provided that the division is proportionate to services rendered by each lawyer or by written agreement with the client, joint responsibility is assumed by each lawyer, the client is advised and does not object to the attorneys' involvement and the total fee is reasonable.