

Ethical Considerations When Billing Your Time

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Rule 1.5: FEES

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

Rule 1.5: FEES (cont.)

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;

Rule 1.5: FEES (cont.)

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

Examples of Rule 1.5(a) violations:

- Inflating billing entries (aka padding your bill).
 - Billing for work not performed.
- Billing non-lawyer services at lawyer rates.
 - Organizing file, filing court documents, delivering documents.
- Charging excessive fees for little work.
 - Unreasonable to charge 40% recovery for writing a one-page demand letter.

Examples of Rule 1.5(a) violations (cont.):

- Spending one hour in court at docket call for four different clients and charging each client the full hour.
- Billing two clients during travel time.
- Billing for work that only benefits the lawyer
 - Charging client for time lawyer spends responding to ethics complaint.
 - May not charge client for time participating in fee dispute resolution.

No matter what a client agrees to, an unreasonable fee can subject a lawyer to discipline.

Rule 1.5: FEES (cont.)

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

Rule 4.1: TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person.

(ACCURATELY DESCRIBE YOUR WORK)

Rule 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

(ACCURATELY DESCRIBE YOUR WORK)

Rule 1.15: SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

Rule 1.15: SAFEKEEPING PROPERTY (cont.)

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

Rule 1.15: SAFEKEEPING PROPERTY (cont.)

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

Rule 1.15: SAFEKEEPING PROPERTY (cont.)

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall distribute all portions of the property as to which the interests are not in dispute.

Rule 1.16: DECLINING OR TERMINATING REPRESENTATION

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled.

Rule 1.16: DECLINING OR TERMINATING REPRESENTATION (cont.)

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client.

Rule 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) ... A concurrent conflict of interest exists if:

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by the personal interests of the lawyer, including family and domestic relationships.