



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.7 and 1.15(e). This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion No. 91-16
January, 1992**

Topic: Conflict of Interest; Safekeeping Property

Digest: Attorney cannot pay out settlement proceeds to clients' prior attorney contrary to the clients' directions until dispute with regard to the proceeds is resolved. Attorney may represent clients in resolution of such dispute only in compliance with Rule 1.7(b)

Ref.: Illinois Rules of Professional Conduct, Rules 1.7(b) and 1.15(c)

FACTS

Attorney A withdraws from a case. Attorney B settles the case and asks the clients to release funds to Attorney A to obtain a release of Attorney A's lien. The clients object to payment of any money to Attorney A. Attorney B believes that the expenses and quantum meruit payment must be paid to Attorney A. Attorney B believes that Attorney A's expenses were needed and that the amount based on quantum meruit services was reasonable. There is no dispute between the attorneys. No client funds are involved, except with regard to expenses. Attorney B is afraid to pay Attorney A because of clients' instructions.

QUESTION

May Attorney B reimburse Attorney A's expenses and share the attorneys' fees despite the clients'

objections?

OPINION

Rule 1.15(c) provides that:

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.

Although the dispute described appears to be between the client and Attorney A, it is our opinion that Attorney B should keep the amount in dispute separate in accordance with Rule 1.15 until the dispute between the client and Attorney A is resolved. Since Attorney B has an interest in the matter, Attorney B may represent the client in the resolution of the dispute only in compliance with Rule 1.7(b).

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