

Committee Opinion
December 9, 1996

LEGAL ETHICS OPINION 1691

ATTORNEY CHARGING FEE TO
CLIENT OBTAINED THROUGH LEGAL
AID REFERRAL AS PRO BONO CASE.

You have presented a hypothetical situation in which an attorney receives a client by referral from the Legal Aid Society with the agreement that the case would be handled on a pro bono basis. Subsequently, the attorney negotiates a fee agreement with the client and ultimately receives a fee.

Under the facts you have presented, you have asked the committee to opine as to the propriety of an attorney requesting and accepting a fee from a client who is referred by the Legal Aid Society as a pro bono case. The appropriate and controlling disciplinary rule relative to your inquiry is DR:1-102(A)(4) which states that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation which reflects adversely on a lawyer's fitness to practice law.

The importance of pro bono legal services is highlighted in EC:2-27, which states in part, "the rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer. . . . Every lawyer should support all proper efforts to meet this need for legal services."

In your inquiry, the Legal Aid Society sought to pursue that critical public purpose by referring clients in need of free legal services to private attorneys who agree to provide services free of charge for their time. For an attorney to agree to receive cases on a pro bono basis from Legal Aid and then, with no notice to the Legal Aid Society, to extract a fee from the referred client is a clear misrepresentation regarding the attorney's fulfillment of the Society/attorney referral agreement. The committee opines that, due to the importance of the availability of free legal services to the public, the misrepresentation by the attorney in your inquiry does constitute a violation of DR:1-102(A)(4).

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