



Committee on Professional Ethics

Opinion #317 - 12/18/73 (47-73) Topic: Division of fees among lawyers

Digest: Lawyers for different parties
may not pool fees and share
in the combined total.

Code: DR 2-107(A)(2);
EC 2-22;
Canon 9

QUESTION

May lawyers for parties having different interests in the same transaction pool their respective fees and share equally in the combined total?

OPINION

Lawyers, who each represent different interests in the same transaction cannot by agreement allocate the work responsibility between them, individually bill their respective clients for the services performed, combine or "pool" the fees and, after adjusting disbursements, share the combined fee equally even with the consent of the clients. DR 2-107 (A)(2).

Where the services performed and the responsibilities assumed by each lawyer are different in scope, unequal fees would be produced. Therefore, the proposed arrangement for "pooling" of fees is clearly prohibited by the Code which provides that a lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of his law firm or law office unless the division is made in proportion to the services performed and responsibility assumed by each. DR 2-107 (A)(2); See also EC 2-22; N.Y. State 32 (1966).

Not only does the "pooling" of fees violate the above cited provisions of the Code but it also gives rise to the appearance of impropriety in violation of Canon 9. See, Edelman v. Levy, 42 A.D. 2d 758, 346 N.Y.S. 2d 347 (2d Dept. 1973).
