

Rule 5**Rule 5 Fees and Retainers****5.01 FEES AND RETAINERS****Reasonable Fees and Disbursements**

- 5.01 (1) A paralegal shall not charge or accept any amount for a fee or disbursement unless it is fair and reasonable and has been disclosed in a timely fashion.
- (2) What is a fair and reasonable fee will depend upon such factors as,
- (a) the time and effort required and spent;
 - (b) the difficulty and importance of the matter;
 - (c) whether special skill or service was required and provided;
 - (d) the amount involved or the value of the subject matter;
 - (e) the results obtained;
 - (f) fees authorized by statute or regulation; and
 - (g) special circumstances, such as the loss of other retainers, postponement of payment, uncertainty of reward, or urgency.
- (3) No fee, reward, costs, commission, interest, rebate, agency or forwarding allowance, or other compensation related to his or her employment may be taken by the paralegal from anyone other than the client, without full disclosure to, and the consent of, the client.
- (4) In a statement of account delivered to the client, a paralegal shall clearly and separately detail amounts charged as fees and as disbursements.
- (5) A paralegal shall not appropriate any funds of the client held in trust, or otherwise under the paralegal's control, for or on account of fees, except as permitted by the by-laws under the *Law Society Act*.

Contingency Fees

- (6) Except in quasi-criminal or criminal matters, a paralegal may enter into a written agreement that provides that the paralegal's fee is contingent, in whole or in part, on the successful disposition or completion of the matter for which the paralegal's services are to be provided.

(7) In determining the appropriate percentage or other basis of a contingency fee under subrule (6), the paralegal shall advise the client on the factors that are being taken into account in determining the percentage or other basis, including the likelihood of success, the nature and complexity of the claim, the expense and risk of pursuing it, the amount of the expected recovery, who is to receive an award of costs and the amount of costs awarded.

(8) The percentage or other basis of a contingency fee agreed upon under subrule (6) shall be fair and reasonable, taking into consideration all of the circumstances and the factors listed in subrule (7).

Joint Retainers

(9) If a paralegal is acting for two or more clients, the paralegal shall divide the fees and disbursements equitably between them, unless there is an agreement by the clients otherwise.

Division of Fees

(10) Fees for a matter may be divided between licensees who are not in the same firm if the client consents and the fees are divided in proportion to the work done and the responsibilities assumed.

[Amended April 2008]

Fee Splitting

(11) A paralegal shall not,

- (a) directly or indirectly share, split, or divide his or her fees with any person who is not a licensee, including an affiliated entity; or
- (b) give any financial or other reward to any person who is not a licensee, including an affiliated entity for the referral of clients or client matters.

(12) Subrule (11) does not apply to multi-discipline practices of paralegal and non-licensee partners where the partnership agreement provides for the sharing of fees, cash flows or profits among members of the firm.

[Amended October 2008]

Referral Fees

(13) A paralegal who refers a matter to another licensee because of the expertise and ability of the other licensee to handle the matter may accept, and the other licensee may pay, a referral fee if,

- (a) the referral was not made because of a conflict of interest,
- (b) the fee is reasonable and does not increase the total amount of the fee charged to the client; and

- (c) the client is informed and consents.