

**Rule 1.5.1: Financial Arrangements Among Lawyers**  
(Commission’s Proposed Rule – Clean Version)

(a) Lawyers who are not in the same law firm shall not divide a fee for legal services unless:

- (1) The lawyers enter into a written agreement to divide the fee;
- (2) The client has consented in writing, either at the time the lawyers enter into the agreement to divide the fee or as soon thereafter as reasonably practicable, after a full written disclosure to the client that a division of fees will be made, the identity of the lawyers who are parties to the division, and the terms of the division; and
- (3) The total fee charged by all lawyers is not increased solely by reason of the agreement to divide fees.

**COMMENT**

- [1] A division of a fee under paragraph (a) occurs when a lawyer pays to a lawyer who is not in the same law firm a portion of specific fees paid by a client. For a discussion of criteria for determining whether a division of a fee under paragraph (a) has occurred, see *Chambers v. Kay* (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536].
- [2] Paragraph (a) applies to referral fees in which a lawyer, who does not work on the client’s matter, receives a portion of any fee paid to another lawyer who is not in the same law firm. Paragraph (a) is also intended to apply to a division of a fee between lawyers who are not in the same law firm but who are working jointly for a client.

[3] Paragraph (a) requires both the lawyer dividing the fee and the lawyer receiving the division to comply with the requirements of the Rule.

[4] Paragraph (a)(2) requires lawyers to make full disclosure to the client and to obtain the client’s written consent when the lawyers enter into the agreement to divide the fee in order to address matters that may be of concern to the client and that may not be addressed adequately later in the engagement. These concerns may include 1) whether the client is actually retaining a lawyer appropriate for the client’s matter or whether the lawyer’s involvement is based on the lawyer’s agreement to divide the fee; 2) whether the lawyer dividing the fee will devote sufficient time to the matter in light of the fact that the lawyer will be receiving a reduced fee; and 3) whether the client may prefer to negotiate a more favorable arrangement directly with the lawyer dividing the fee.

[5] This Rule does not apply to a division of fees pursuant to court order.

[6] This Rule does not subject a lawyer to discipline unless the lawyer actually pays the divided fee to a lawyer who is not in the same law firm without having complied with the requirements in paragraph (a).

[7] Under Rule 1.5, a lawyer cannot enter into an agreement for, charge, or collect an illegal or unconscionable fee. Under Rule 1.5 a lawyer cannot divide or enter into an agreement to divide an illegal or unconscionable fee.