

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

Opinion #224 - 1/26/72 (42-71)

Topic: Deduction of Legal Fees
From Bail of Money

Overruled, in part, by 567

Digest: Whether an attorney may
deduct his fees from bail
money is a question of
law

Code*: DR 9-102(B)

QUESTIONS

1. When a client has deposited bail money in court, and the clerk of the court has returned the money to the attorney, may the attorney, in the absence of agreement with the client deduct his fees before remitting the bail money to the client?

2. If bail money is deposited for the client by a third party and returned to the attorney, may the attorney deduct his fees before remitting the bail money to the third party?

OPINION

1. The remedies of an attorney in respect to the method of payment of legal fees are a matter of law. ABA 63 (1932); N.Y. City 291 (1933). Whether or not an attorney may deduct the amount of his fee from bail money deposited by his client and if he may, the extent of such right are questions of law upon which the Committee does not pass. If the attorney has no such right, he should after placing the money in his special account, promptly remit the bail money to his client. DR 9-102 (B) (4). If the attorney has such a right but there is a dispute with the client with respect thereto or as to the amount of the fee, the lawyer should promptly advise the client thereof and take prompt steps to secure a judicial determination of the dispute. DR 9-102(B).

2. Money advanced by a third party does not belong to the client and the client has no right to it. The attorney can have no greater right than the client, and it would be improper to deduct any fees from this money. Accordingly, in the absence of an agreement with the third party, the lawyer may not retain any portion of the third party's bail money.

Opinion #225 - 1/26/72 (58-71)

Topic: Fees

Digest: Attorney for judgment
creditor may charge
judgment debtor reason-
able fee for preparation
of satisfaction of
judgment.

Code*: EC 5-19

QUESTION

May the attorney for a judgment creditor charge the judgment debtor for the preparation of a satisfaction of judgment?