

MINUTES

COMMITTEE: Ethics Committee

DATE: September 5, 1996

3. CHAPTER 9: TREATMENT OF CONTRACTOR'S LEGAL FEES WHEN BILLING THE CLIENT

A lawyer is engaged in providing contract litigation services to law firms, mainly in the area of legal research. She asked the Committee the following:

1. When the firm or lawyer who contracts for services bills the client for those services, should her fees be rebilled as a legal fee or as a disbursement?
2. Whether her fees are treated as a fee or a disbursement, under what circumstances can the contracting firm or lawyer mark up or surcharge her account?

The Committee was of the view that there is no straightforward answer to the question of whether the charges of a research lawyer should be rebilled as a fee or a disbursement. This may very well depend on the nature of the contracting lawyer's arrangement with the firm or lawyer who contracts for her services. The important question is whether the charge is disclosed to the client pursuant to Chapter 9, Rule 7 of the *Professional Conduct Handbook*. The Committee was also of the opinion that it is not necessarily improper for the contracting firm or lawyer to mark up or surcharge the account of the contract lawyer. Surcharges are proper in circumstances where the lawyer or law firm incurred expenses in contracting for the work of the contract lawyer, added some value to the work of the contract lawyer or where the client has agreed in advance to the payment of the charges.