

1 **Rule 5.8. Fee sharing between lawyers.**

2 ~~(a) Referral fees are prohibited.~~

3 ~~(b)~~(a) Fee sharing is only permissible if:

4 (1) no lawyer receives any part of the fee until the fee is payable by the client in the
5 matter;

6 (2) the fee sharing does not result in an increase of the total legal fee; and

7 (3) the client agrees to the arrangement, including the share each lawyer will receive,
8 and the agreement is confirmed in writing.

9 ~~(c)~~(b) A lawyer's portion of a fee must be reasonable relative to the total fee that
10 ultimately may be earned. The factors to be considered in determining the reasonableness
11 of a shared fee include the factors listed in Rule 1.5 and the amount of work the lawyer
12 anticipated versus~~and the amount of work the lawyer actually performed~~the following:

13 ~~(1) the portion customarily paid in the locality in similar fee sharing arrangements;~~

14 ~~(2) the amount of work the lawyer anticipated to perform and the amount of work the~~
15 ~~lawyer actually performed;~~

16 ~~(3) the amounts involved and the potential results; and~~

17 ~~(4) the nature and length of the lawyer's relationship with the client.~~

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19 **Comment**

20 [1] A lawyer should only refer a matter to another lawyer whom the referring lawyer
21 reasonably believes is competent to handle the matter diligently. See Rules [1.1](#) and [1.3](#).

22 [2] Fee sharing with non-lawyers is permitted only in accordance with [Rule 5.4](#) and
23 Supreme Court [Standing Order No. 15](#).

24 [3] In the case of a contingent fee matter, no lawyer may receive any portion of the fee
25 until at least one of the lawyers is entitled to receive the contingent fee, which may be at
26 the conclusion of the matter.

27 [4] Paragraph (a~~b~~)(2) prohibits a lawyer with a fee sharing arrangement from charging a
28 client a ~~a~~ higher fee, or from seeking payment of greater costs, than the lawyer charges
29 other clients where the fee is not shared. For the definitions of “informed consent,”
30 “confirmed in writing,” “lawyer,” and “legal fee,” see [Rule 1.0](#).

31 ~~[5] The term “amounts involved” in paragraph (c)(3) refers to things such as the estimated~~
32 ~~value of the case, claims, estate, commercial transaction, anticipated recovery, insurance~~
33 ~~limits, and statutory limits.~~

34 [5~~6~~] A fee sharing arrangement may be appropriate when a lawyer or law firm replaces
35 prior counsel in a matter.

36 [6~~7~~] This rule is not part of the ABA Model Rules.

37 *Effective date:*