

Rule 1.5 Fees

(d) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee:

~~(1) in a domestic relations matter, except in rare instances; or~~

~~(2) for representing a defendant in a criminal case.~~

Comment

*Contingent Fees in Domestic Relations Cases*

~~[6] Contingent fees in domestic relations cases are permitted in order that lawyers may provide representation to clients who might not otherwise be able to afford the payment of fees on a noncontingent basis. An arrangement for a contingent fee in a domestic relations matter has been previously considered appropriate only in those rare instances where:~~

~~(a) the contingent fee is for the collection of, and is to be paid out of (i) accumulated arrearages in child or spousal support; (ii) an asset not previously viewed or contemplated as a marital asset by the parties or the court; (iii) a monetary award pursuant to equitable distribution or under a property settlement agreement;~~

~~(b) the parties are divorced and reconciliation is not a realistic prospect;~~

~~(c) the children of the marriage are or will soon achieve the age of maturity and the legal services rendered pursuant to the contingent fee arrangement are not likely to affect their relationship with the non-custodial parent;~~

~~(d) the client is indigent or could not otherwise obtain adequate counsel on an hourly fee basis; and~~

~~(e) the fee arrangement is fair and reasonable under the circumstances.~~