

**Rule 1.8.6 [3-310(F)] Compensation From One Other Than Client
(Commission's Proposed Rule Adopted on March 31 – April 1, 2016
– Clean Version)**

A lawyer shall not enter into an agreement for, charge, or accept compensation for representing a client from one other than the client unless:

- (a) there is no interference with the lawyer's independent professional judgment or with the lawyer-client relationship;
- (b) information is protected as required by Business and Professions Code § 6068(e)(1) and Rule 1.6; and
- (c) the lawyer obtains the client's informed written consent* at or before the time the lawyer has entered into the agreement for, charged, or accepted the compensation, or as soon thereafter as reasonably* practicable, provided that no disclosure or consent is required if:
 - (1) nondisclosure or the compensation is otherwise authorized by law or a court order; or
 - (2) the lawyer is rendering legal services on behalf of any public agency or nonprofit organization that provides legal services to other public agencies or the public.

Comment

[1] A lawyer's responsibilities in a matter are owed only to the client except where the lawyer also represents the payor in the same matter. With respect to the lawyer's additional duties when representing both the client and the payor in the same matter, see Rule 1.7.

[2] A lawyer who is exempt from disclosure and consent requirements under paragraph (c) nevertheless must comply with paragraphs (a) and (b).

[3] This Rule is not intended to abrogate existing relationships between insurers and insureds whereby the insurer has the contractual right to unilaterally select counsel for the insured, where there is no conflict of interest. (See *San Diego Navy Federal Credit Union v. Cumis Insurance Society* (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494].).

[4] In some limited circumstances, a lawyer might not be able to obtain client consent before the lawyer has entered into an agreement for, charged, or accepted compensation, as required by this Rule. This might happen, for example, when a lawyer is retained or paid by a family member on behalf of an incarcerated client or in certain commercial settings, such as when a lawyer is retained by a creditors' committee involved in a corporate debt restructuring and agrees to be compensated for any services to be provided to other similarly situated creditors who have not yet been

identified. In such limited situations, paragraph (c) permits the lawyer to comply with this Rule as soon thereafter as is reasonably* practicable.