
E-80-13 Interest charge on delinquent accounts

Question

Does a lawyer have the right to insert on his billing an interest charge in the event that the bill remains unpaid for 30 days?

Opinion

Until 1974, the opinions of the Ethics Committee of the American Bar Association uniformly prohibited the charging of interest by attorneys since “the profession is a branch of the administration of justice and not a mere money-getting trade.” See Canon 12 of A.B.A. Canons of Professional Ethics, A.B.A. Formal Opinion 151, and Informal Decision C-741. However, in Formal Opinion 338, dated November 16, 1974, without discussion, the following was set forth:

“. . . It is also the committee’s Opinion that a lawyer can charge his client interest providing that the client is advised that the lawyer intends to charge interest and agrees to the payment of interest on accounts that are delinquent for more than a stated period of time.”

Thus, it is the committee’s opinion that interest may be charged to a client providing the client knows of the charge and agrees to it. It would be the committee’s further opinion that the typical language on statements indicating that a “finance charge” or “late charge,” etc. would be imposed, is not sufficient to support the charging of interest to a client absent a clear agreement by the client to be so charged.

Your other questions are legal in nature, but you are specifically cautioned that any lawyer contemplating the charging of interest to clients (or the use of installment payments of fees if more than four installments, and with or without interest) must be certain to be in compliance with the Truth in Lending provisions of the Federal Consumer Credit Protection Act and other pertinent laws.