

**ALASKA BAR ASSOCIATION  
ETHICS OPINION 2023-2**

**Modification of Alaska Bar Association Ethics Opinion 85-5**

*Whereas*, the Committee was asked by Bar Counsel to review Alaska Ethics Opinion 85-5 regarding the requirement that credit card charges for attorney's fees and costs may only be made by contemporaneous agreement of a client;

*Whereas*, the Committee was advised of the concerns of an attorney who requested examination of Alaska Ethics Opinion 85-5 because of its prohibition on pre-authorizing payments with a credit card as part of an engagement agreement with a client;

*Whereas*, the Committee discussed that the pre-authorization of credit card payments may be no riskier than the practice of withdrawing funds from trust when a monthly invoice is sent to a client;

*Whereas*, the Committee discussed the challenges of drafting a new ethics opinion that provides guidance on a broad range of payment methods that have developed since 1985;

*Whereas*, the Committee decided the topic of addressing current and emerging payment methods was too broad and would take too long to resolve the current concerns of lawyers regarding the prohibition on pre-authorization of credit card payments;

*Whereas*, the Committee determined to address only the narrow issue of the prohibition of pre-authorization of credit card payments in Alaska Ethics Opinion 85-5; and

*Whereas*, the Committee voted to withdraw the portion of Alaska Ethics Opinion 85-5 that begins near the bottom of page 3, through the end.

As a result, Ethics Opinion 85-5 is modified as follows: The second sentence of the second paragraph on page 1 of that opinion and the portion of the opinion beginning on page 3, at the header: "Generally, Credit Card Charges May be Made Only by Contemporaneous Agreement," are hereby withdrawn. The remainder of Ethics Opinion 85-5 remains valid.

Approved by the Alaska Bar Association Ethics Committee on May 12, 2023 and September 19, 2023.

Adopted by the Board of Governors on September 20, 2023.