

The Nuts and Bolts of Law Practice Management

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Types of Fees

Time Basis	The number of hours worked times the per hour charge
Blended Rate	Different hourly rates based on different levels of staff
Contingency Fees	Percentage (usually 25%-40%) of recovery plus out-of-pocket expenses
Value Billing	Higher billing rate if attorneys achieve a favorable result
Non-Refundable Retainer (Engagement Fee)	Advance payment that guarantees attorney availability
Statutory/Probate Fees	Fees set by law
Flat Fee	Set or fixed fee for particular matters (e.g. contract review)

Engagement Fee v. Advanced Fee

Engagement:

- Consideration is paid in exchange for an Attorney's commitment of future availability to provide services.
- These funds may be placed into an operating account, but check your local rules.
- Considered 'earned upon receipt.'

Advanced:

- Pre-payment for future legal services.
- These funds must go into an IOLTA/attorney escrow account.



Fee Agreements

- Rule 1.5(b) states, “The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.”

Fee Agreements

- Ensure that the client understands the terms of the agreement
 - Many ethical complaints at their core involve fee disputes
- Discuss your rate or fee basis – avoid ‘sticker shock’
 - The client must understand and appreciate the lawyer’s financial expectations; likewise, the lawyer must understand and appreciate the client’s willingness and means to meet such expectation
- Explain policies/penalties for late payments
 - Be sure to comply with local laws; do not exceed the highest level of interest allowed in your state
- Explore alternatives for collecting late payments
 - Examples: use local bar association fee dispute programs, mediation services, use a collection agency, seek civil remedies, etc.

FOLLOW THE MONEY

- LET'S TALK ABOUT THE PAPER TRAIL





Attorney Trust Accounts

- ❑ Rule 1.15 governs a lawyer's responsibility as a fiduciary
- ❑ Familiarize yourself with any additional rules that your jurisdiction may have regarding attorney trust accounts
- ❑ Be aware of the record-keeping requirement in Rule 1.15
- ❑ Properly title your account



Attorney Trust Accounts

- ❑ Remove attorney's fees out of escrow **ONLY** when it is earned – avoid commingling
- ❑ Reconcile your escrow account regularly
- ❑ Do not borrow or misappropriate client funds
- ❑ Protect funds of third parties
- ❑ Keep client ledgers



Termination of Representation

- Rule 1.16 sets forth when an attorney must withdraw from or terminate a representation. It also includes guidance on when it is permissible for an attorney to withdraw from or terminate a representation.
- Important to understand because Rule 1.16 is very technical.



Common Pitfalls of Practice

- Rule 1.1 - Competence
- Rule 1.4 - Communication
- Rule 1.6 - Confidentiality
- Rule 1.7 - Conflicts of Interest
- Rule 3.3 - Candor



Practical Tips to Avoid Grievances and Malpractice Claims

- ❑ Study the applicable Rules of Professional Conduct
- ❑ Review court decisions on disciplinary matters
- ❑ Attend Continuing Legal Education seminars
- ❑ Join Bar Associations
- ❑ Find a mentor
- ❑ Call the Legal Ethics Hotline of your local bar

More Tips

- ❑ Seek advice from your bar's practice management advisory program
- ❑ If you have a drug, alcohol, mental illness or practice problems, contact your jurisdiction's Lawyers' Assistance Program
- ❑ Carry legal malpractice insurance
- ❑ Maintain good health and exercise regularly!





Reference Books

- ❑ *Red Flags: A Lawyer's Handbook on Legal Ethics* by Lawrence Fox & Susan R. Marlyn
- ❑ *The ABA/BNA Lawyer's Manual on Professional Conduct*
- ❑ *Legal Malpractice* by Ronald E. Mallen, Jeffrey M Smith
- ❑ *The Law of Lawyering* by Geoffrey Hazard, Jr. & William Hodes