CLS 2026 National Conference Written Materials

Title: Setting Client Expectations
Workshop # W7

Workshop description (submitted):

Applicable to a broad range of practice areas, the skill of expectation-setting is crucial to every attorney-client relationship. The workshop will explore how to effectively set expectations with new clients, to the benefit of both the client and the legal practitioner. Setting realistic expectations at the outset of a case can equip clients with an accurate perspective of litigation, ensure the attorney is not over-selling or under-selling professional services, set appropriate boundaries on uses of AI adjacent to the attorney-client relationship, disclose anticipated billing practices; and help clients understand the attorney-client relationship itself.

OUTLINE

I. Setting Client expectations is "part art and part science" and occurs at various stages in the representation. Doing this intentionally can mean the difference between arguing with your client in defense of the value of your excellent legal work (i.e. such as after they've received an invoice), versus, exceeding client expectations and having a satisfied client who understands and values the work you're doing for them.

II. First Contact. Consider your area of practice in order to make these topics more personal and avoid surprise / misunderstanding:

- A. Marketing:
  1. Specialization v. Expertise: (not misleading to advertise "specialization")[1]
  2. But consider that your marketing is the first part of client's expectations when seeking to hire you. If you're advertising big wins, are you okay with having clients who come to you because they expect big wins?
     a) Better Call Saul: https://www.youtube.com/watch?v=1uq-f9_fi8M&t=195s (first 2-3 mins)
- B. Engagement
  1. At intake:
     a) Take a moment to consider what qualities your intake process conveys to a client...
        (1) Rushed/hurried or careful and deliberate? Prompt or delayed responsiveness? Outdated / low-tech or cutting edge? Careless

[1] CA Bar, Opinion 96-08, Found at https://www.isba.org/ethics/opinions/9608

or careful? Hospitable or boilerplate? Personal touch or impersonal / computerized?

2. At a robust initial client meeting / consultation:
    a) Set expectations early and assess case and the client.[2]
    b) The initial meeting will set the tone for the entire attorney-client relationship.[3] Dig in to the specifics, realistically assess possible & probable outcomes, and identify the Client's goals. *Id*.
3. In your Engagement Letter (more on this later)

C. Relationship (throughout the representation):
1. Communication: prompt, clear (reduce "legalese"), and thorough[4]
    a) NH Bar Ethics Section[5]: Most frequent complaint was lack of communication
    b) Minnesota Rules of Professional Responsibility 1.4(a)[6]: Prompt communication and informed consent[7]

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[2] Initial Client Meeting, *2017 TXCLE Advanced Consumer & Com. L. 19.II (2017)* presented by Paula J. Pierce.

[3] Tarun Sridharan, *Tips for Managing Client Expectations as a Law Firm*, Walker Advert. (Feb. 4, 2025), https://www.walkeradvertising.com/managing-client-expectations-law-firm/

[4] (Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app. (Vernon Supp. 1995)(State Bar Rules art X [[section]]9)) Comment 2. "Adequacy of communication depends in part on the kind of advice or assistance involved. For example, in negotiations where there is time to explain a proposal the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that might injure or coerce others. On the other hand, a lawyer ordinarily cannot be expected to describe trial or negotiation strategy in detail. Moreover, in certain situations practical exigency may require a lawyer to act for a client without prior consultation. The guiding principle is that the lawyer should reasonably fulfill client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation."

[5] https://www.nhbar.org/tips-for-ethics-and-diligent-client-communications/ "To underscore how important client communication is to ethical practice, one need only look at the last two years of violations found through the Attorney Discipline System. In 2015 and 2017, Rule 1.4 (Client Communication) was the second most common rule violation found. Attorney-client relationship related rule violations in general (Rule 1.1-1.19) made up 47.5% of the violations in 2017, 45.75% in 2016, and 62% in 2015. 104 of 219 total violations in 2017 were relative to Rule 1.1-1.19"

[6] Minnesota Rules of Professional Conduct Rule 1.4 Communication "(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the rules of Professional Conduct or other law. (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

[7] MRPC 1.4: "In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to the

c) Confidentiality[8]
(1) The role of the attorney and client
(2) Protection of information

2. Clearly Defined Relationship:
a) Your client's intentions matter.[9]
b) Protect your interest with a clear definition of the relationship in the representation/engagement agreement and then act in a manner consistent with the agreement.

3. Clear Expectation of Relationship:
a) Vermont Bar Counsel: "Disciplinary complaints are not driven by resentment. They are driven by a lawyer's failure to meet a client's expectations"[10]
b) What are the client's expectations?[11]

III. Help clients set realistic expectations of **litigation** at the beginning. [12]

A. A lawyer who is able to have an effective lawyer-client relationship is going to "Begin with the end in mind" and help their client to do the same.[13]

1. Ask intentional questions aimed at identifying client's true objectives: *i.e.* "If you could wave a magic wand and I could make anything happen to fix your problem - what would happen when I waved my wand?

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representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law."

[8] ABA Model Rules §6.5

[9] Id. "In re Grand Jury Proceeding, 79 Fed. Appx. 476, 477 (2d Cir. 2003) (Communications between attorney and investigator were not protected by the attorney-client privilege because "at the time they were created, there were not intended by the parties to be confidential.") U.S. v. (Under Seal), 748 F.2d 871, 874, 17 Fed. R. Evid. Serv. 190 (4th Cir. 1984); Syngenta Crop Protection, Inc. v. U.S. Environmental Protection Agency, 2006 WL 6654882, *3 (M.D. N.C. 2006) ("[T]he attorney-client privilege is limited to communications between the attorney and client that the client 'intended to be confidential.'... 'the primary requirement, one which has been often characterized as "the essence" of the privilege, is that the communication was intended to be confidential.'").

[10] https://vtbarcounsel.wordpress.com/2020/01/14/set-reasonable-expectations-for-clients/

[11] *Managing Client Expectations,* 65 La. B.J. 106 (2017), by Ashley M. Flick "Clients will set their own expectations and, if you deliver anything less, they will be unhappy or dissatisfied."

[12] *1 Tex. Prac. Guide Family Law § 4:281* "After the attorney has evaluated the financial and other aspects of the case, he or she should be able to give the client a realistic idea of what to expect if the case goes to trial. If the client has inflated expectations early in the case, whether from the attorney or from some outside source, he or she is likely to be disappointed later, and the attorney's settlement attempts may be hampered."

[13] Stephen R. Covey, *The 7 Habits of Highly Effective People: Powerful Lessons in Personal Change* 95–144 (Free Press rev. ed. 2004) (Habit 2: "Begin with the End in Mind")

B. Don't take the client's expectations for granted - and don't minimize them. You have no idea what they know or don't know about litigation.[14] Describe up-front the many twists and turns the case could take, the many stops that could / will be made along the way, various possible outcomes and potential risks, and any alternatives to litigation including alternative dispute resolution.

C. Disclose / don't underestimate and BE HONEST / Realistic:
    1. Length of time
        a) Dependent on jurisdiction and judge
        b) Dependent on contentiousness of opposing party and counsel
        c) It is better to overestimate, rather than underestimate, length of time.
    2. Cost[15]:
        a) Financial toll
            (1) Expense - set expectations not just to how expensive it could get globally, but also frankly discuss how quickly those fees can rack up when rapid action is necessary.
                (a) *Don't shy away from having this conversation at initial meeting out of fear that this will scare away the business!
                    (i) First, there IS a way to do this without scaring away business - just be honest that your intentions are to ensure that the client isn't going in blind. The client will appreciate that and will trust you to help them make informed decisions throughout the litigation.
                    (ii) Second, if this conversation scares away a client, it might just indicate the this client had expectations they weren't willing to let go of and it might not have been a client you would have worked very effectively with.
            (2) Discuss BOTH:
                (a) Legal prospects of a fee recovery award from opposing party based on case...AND
                (b) Practical variables impacting likeliness of recovery, even if awarded recovery, in your state.

[14] *Managing Client Expectations,* 65 La. B.J. 106 (2017), by Ashley M. Flick.

[15] On the Emotional Costs of Litigation, June 2023 Publication, *Denise Rahne - The Robins Kaplan Spotlight* https://www.robinskaplan.com/newsroom/insights/on-the-emotional-costs-of-litigation

b) Emotional toll[16]
    (1) Illegality ≠ Justifiably Negative Emotions
    (2) What does a win look like
c) Relational toll
    (1) Loss of relationship with opposing parties
    (2) People in sphere of influence "taking sides"
d) Physical toll
    (1) Loss of sleep, stress, anxiety.
    (2) Interruptions, lost time at work, chores related to the case such as documents to compile.

3. Options / Alternatives
    a) Laying out Pros and Cons of alternatives to the best of your ability.
4. Risk/Uncertainty[17]: The Harsh Reality
    a) Ability to get a judgment in client's favor
    b) Ability to collect judgment - is Defendant judgment proof?
5. *Think of it this way:* If you were going to the Doctor with cancer and he is outlining your treatment options, wouldn't you want to know how it will impact you in all of those (above) ways before making a decision?

IV. Avoid either over-selling or under-selling your services.

A. No under-selling
    1. Your Background/Education/Experience.
    2. Be honest about how complicated an issue is. Don't make something complicated sound simple so that you sound impressive..., that will backfire when the client gets their invoices or more is demanded of them.

B. No over-selling
    1. No Guarantees:
        a) "As lawyers, when we first meet clients, we want to promise them the moon, to help them feel better and make them feel like they have more than a fighting chance at receiving reasonable and significant compensation for their injuries. However, throughout the entire process, we still need to ensure that this relationship is not built on

[16] Id. "This discussion is perhaps the first and most important between a potential client and lawyer before embarking on a process that looks cathartic at the start but that assuredly will not remain in that vein beyond the early stages of the fight."

[17] *3 Tex. Prac. Guide Torts § 11:268* "Counsel should discuss with the client what the realistic expectations are of litigation of the type involving the client's matter. This can be the most crucial aspect of the initial attorney-client discussions. The client must be given realistic expectations about the claim. Counsel should not build up false hopes or otherwise create a misleading impression about the chances of success or the amount of recovery."

unrealistic expectations; otherwise the relationship will quickly disintegrate when reality does not meet their vision." [18]

b) Rule 7.1 of the ABA Model Rules: "A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading."[19]

c) You are not God and there are too many factors.[20]

d) Hairy Hand Case: Avoid guarantees *Hawkins v. McGee* and a "one hundred percent good hand."[21]

e) Discuss your own limitations

(1) When you will have to ask for help (agreement and fee) and

(2) Whether the client needs to go elsewhere.

2. OC's background/education/experience: Rule 7.4(a) of the ABA Model Rules: "(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law."[22]
3. What is too much information? (Don't get lost in the weeds.)
   a) Attention limitations
   b) What is interesting to you isn't necessarily interesting to the client (that's why you have a representation agreement).
4. False advertising: Rule 7.1 of the ABA Model Rules (claims in advertising related to specialties, designations or associations)[23]

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[18] Laura F. Sedrish, *Managing Client Expectations: Don't Promise Them the Moon*, Advocate Mag., Jan. 2016, https://www.advocatemagazine.com/article/2016-january/managing-client-expectations-don-t-promise-them-the-moon

[19] Model Rules of Pro. Conduct r. 7.1 (Am. Bar Ass'n 2025).

[20] "The heart of man plans his way, but the Lord establishes his steps." (Proverbs 16:9, ESV)

[21] *Hawkins v. McGee*, 84 N.H. 114, 146 A. 641 (N.H. 1929): The court, however, found that the Defendant's statement "I will guarantee to make the hand a hundred per cent perfect hand or a hundred per cent good hand" arguably "would establish the giving of a warranty in accordance with his contention."

[22] ABA Model Rules Rule 7.4(a) "A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law."

[23] ABA Model Rule 7.1: "A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading."

5. Hidden conflicts: Rule 1.7 of the ABA Model Rules (Client-Lawyer Relationship*)[24]

V. Set client expectations for boundaries on appropriate uses of AI adjacent to the attorney-client relationship

A. Attorney use of AI[25] (See DC Bar Ethics Opinion 388)

1. Put in representation agreement
2. Do not use privileged information in a public AI[26]
3. AI Drafting: Verify sources
    a) "Hallucinations" and Falsifying law: *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023) (Lawyer did not check law cited in AI generated documents submitted to the court)[27].
    b) Questions determine quality

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[24] ABA Model Rule 1.7: "(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."

[25] DC Bar Ethics Opinion 388 "The Rules of Professional Conduct require lawyers to be competent. Competence includes understanding enough about any technology the lawyer uses in legal practice to be reasonably confident that the technology will advance the client's interests in the representation." Found at: https://www.dcbar.org/for-lawyers/legal-ethics/ethics-opinions-210-present/ethics-opinion-388

[26] Id. "Regarding confidential client information, lawyers should determine whether the product will save information that the lawyers provide to the GAI, and whether the lawyers' interaction with the GAI product will affect the answers the GAI gives to future users of the product outside of the lawyer's law firm."

[27] Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 448–49 (S.D.N.Y. 2023). Judge P. Kevin Castel of the United States Southern District of New York's District Court opined and ruled that, "In researching and drafting court submissions, good lawyers appropriately obtain assistance from junior lawyers, law students, contract lawyers, legal encyclopedias and databases such as Westlaw and LexisNexis. Technological advances are commonplace and there is nothing inherently improper about using a reliable artificial intelligence tool for assistance. But existing rules impose a gatekeeping role on attorneys to ensure the accuracy of their filings. Rule 11, Fed. R. Civ. P. Peter LoDuca, Steven A. Schwartz and the law firm of Levidow, Levidow & Oberman P.C. (the "Levidow Firm") (collectively, "Respondents") abandoned their responsibilities when they submitted non-existent judicial opinions with fake quotes and citations created by the artificial intelligence tool ChatGPT, then continued to stand by the fake opinions after judicial orders called their existence into question. Many harms flow from the submission of fake opinions.[1] The opposing party wastes time and money in exposing the deception. The Court's time is taken from other important endeavors. The client may be deprived of arguments based on authentic judicial precedents. There is potential harm to the reputation of judges and courts whose names are falsely invoked as authors of the bogus opinions and to the reputation of a party attributed with fictional conduct. It promotes cynicism about the legal profession and the American judicial system. And a future litigant may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity. [...] For reasons explained and considering the conduct of each individual Respondent separately, the Court finds bad faith on the part of the individual Respondents based upon acts of conscious avoidance and false and misleading statements to the Court. [...] Sanctions will therefore be imposed on the individual Respondents [...and, based on precedent, the] Levidow Firm."

c) Editing/Source-checking cost[28]

B. Use by client
   1. Client drafting documents (nothing is free: cost of review of document[29])
   2. Client asking AI questions
      a) *United States v. Heppner*, No. 25-cr-00503-JSR (S.D.N.Y. Oct. 28, 2025)
         (1) On Feb. 10, 2026, Judge Jed S. Rakoff of the U.S. District Court for the Southern District of New York issued a bench ruling holding that documents prepared using generative AI were not protected by attorney-client privilege or the work-product doctrine. The action was not taken at the attorney's direction and the information was shared through AI learning.
         (2) Clients need to be made aware that independent use of public-facing generative AI – particularly to assess legal exposure – may not be protected by the attorney-client privilege or the work-product doctrine, even when such materials are created in anticipation of discussions with counsel.
      b) If attorney intends to bill the client to review AI-generated material transmitted by client to the attorney for review, then the related cost should be disclosed in the representation agreement.

C. Impact of Client's outside AI use on Attorney-Client Privilege
   1. *United States v. Heppner* (United States District Court S.D. NY) 2.17.2026 held that information a client entered in gen AI and later shared with his attorney regarding his own case was **not** protected by attorney client privilege.

VI. Help clients understand what to expect from the attorney-client relationship itself[30]

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[28] AI-generated documents: Insights on Accuracy, Ethics, and Compliance, Washington University Law, October 30, 2025, no author listed, found at https://law.washu.edu/news/ai-generated-documents-insights-on-accuracy-ethics-and-compliance/ Editing includes: (1) Factual accuracy; (2) Citation correctness; (3) Consistency with precedent; and (4) Logical coherence.

[29] Id.

[30] *Eight Suggestions For Avoiding Fee Disputes,* 45-AUG Hous. Law. 16 (2007) by Charles Aycock, et al. (1) Get a Written Fee Agreement with the Client; (2) Discuss and Memorialize the Parties' Expectations; (3) Make No Guarantees; (4) Communicate Regularly With the Client During the Course of Representation; (5) Be Efficient; (6) In an Hourly Matter, Bill Often and With Detail; (7) In an Hourly Matter, Bill Contemporaneously; and (8) In an Hourly Matter, Bill in Reasonable Increments.

A. Review verbally and also get it in writing (if you don't have an engagement agreement - GET ONE!) "Pics or it didn't happen"[31]
B. Topics addressed with client (verbally and in writing)[32] should include:
    1. Communication to / from lawyer
        a) Communication to attorney
            (1) Expected response window: State your general policy and procedure in order to be productive for all clients.
            (2) Expected turn-around time: how fast the client should expect a response back
            (3) Explanation of why
        b) Communication from attorney
            (1) Establish responsiveness early on and continuously. But don't respond at times you don't want to be expected to respond in the future (i.e. responding at all hours of the night might set your client's expectation of replies on demand).
            (2) Don't just say it - do it. Have your office communicate promptly, respectfully, and thoroughly from Day 1 of the engagement.
        c) Correspondence will be billed
    2. Limited scope (clear boundaries)
    3. Protection[33]:
        a) Of information
        b) Of relationship: With AI, clients are getting more demanding of controlling the means of representation. The ABA model rules say that attorneys must "reasonably consult[34]" with a client regarding the means of accomplishing the client's objectives. But ultimately, if the client is demanding a means of representation that is against their best interests, it needs to be clear from the outset that the final decision

[31] *Accept It: Engagement Letters Document Attorney And Client Expectations, And Help To Cover-Your-Bases, 67-DEC Wis. Law. 56,* Wisconsin Lawyer (December 1994) by Ann Massie Nelson. "Here's a simple mnemonic — ACCEPT — to help you recall the six elements you need to include in a letter of engagement: acknowledge, client, circumstances, expectations, payment, timing."

[32] Lawyers Mut., *ATTORNEY-CLIENT AGREEMENTS TOOLKIT* p. 3 (2017), https://nmcdn.io/e186d21f8c7946a19faed23c3da2f0da/556712d9bf0f4cb2a916cc810687d52b/files/risk-management-resources/practice-guides/Agreements.pdf ("Everything that is contained in the engagement letter should first be discussed with the client. The engagement letter then serves as a written record documenting the scope of the representation and the expectations and responsibilities of both the attorney and the client.").

[33] ABA Model Rules §6.5

[34] ABA Model Rules §1.4(a)

regarding the means lies with the attorney. Rules 1.2(a) [35] and 1.4(a)[36] of the ABA Model Rules.

4. Determination of conflicts
5. Disclaimers/Limitations (again, don't oversell and disclose when you or the client will need an expert)
6. Fee structure and definition (Cost per/hour or flat fee or contingent or hybrid)
7. Area of law specifics to highlight

C. Avoiding Legal Fee Disputes[37]: I.e. Billing practices be clear with clients about anticipated billing practices

1. Firm policy
    a) How frequently will you bill
    b) Amount per hour for attorney/paralegal/assistant
2. Industry practices. *Have you worked with attorneys before? What is your experience working with attorneys and billing practices?* "teach" the client if they haven't worked with attorneys before.
    a) Deposit / retainer
    b) Billing in tenths of an hour, etc.
3. Understanding why billing is "high"
    a) It's not "just a text"
    b) Background/education/experience
4. Include in representation agreement

VI. Personable & honest contact: The way an attorney engages with a client can set the client's expectations regarding the attorney's earnestness, trustworthiness, and care. This type of contact builds rapport with the client that is critical to a functional attorney-client relationship.

A. Tactics for a "Good Bedside Manner"

a. Intentionally Kind / Hospitable
    i. Offering water / coffee, asking about room temperature. "Niceties" show clients that you care about them.
b. Asking Good Questions

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[35] ABA Model Rule 1.2 "(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter..."

[36] ABA Model Rule 1.4(a) "A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other laws."

[37] *Eight Suggestions For Avoiding Fee Disputes,* 45-AUG Hous. Law. 16 (2007) by Charles Aycock, et al.

c. Active Listening / Empathic Listening[38].
    i. Not just listening but genuinely listening with an aim to understand not just what the client is saying, but their underlying perspective / paradigm.
d. Use Empathy in all communications.
e. Email etiquette
    i. How do you address / sign your e-mails? Consider that it might **not** be "one size fits all!" (hint: Maybe don't leave off the opening and closing salutations and leave it to your default signature block...)

B. Be honest, even when it is uncomfortable. If something goes wrong or you make a mistake, take ownership early and make it right with your client to the best of your ability.[39] If you don't know, don't guess. If you asked someone for directions on the road, would you want them to guess as to which way you need to drive? Clients will appreciate your candor and honesty, if you say you don't know but you're going to try and find out.

C. Avoiding malpractice claims[40]
    a. High risk behaviors:
        i. Failure to communicate
        ii. Missed deadlines
        iii. Conflicts of interest
        iv. Lack of clear expectations over handling of client funds
    b. High risk practice areas:
        i. Personal injury
        ii. Real Estate (when economy is slow)
        iii. Trust & Estate
        iv. Business Transactions
        v. Corporate Security

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[38]Stephen R. Covey, The 7 Habits of Highly Effective People: Powerful Lessons in Personal Change 239–54 (Free Press rev. ed. 2004) (discussing "empathic listening" as a means of understanding another person's frame of reference before seeking to be understood)

[39] *Engagement Letters and Setting Fees Tips to help prevent fee disputes and ethical violations*, by Robert Tobey and Chad Baruch found at https://www.texasbar.com/AM/Template.cfm?Section=articles&ContentID=69962&Template=/CM/HTMLDisplay.cfm

[40] Malpractice Claims Trends: Insights from the 2025 ABA LPL Study September 30, 2025/in Newsletter, October 2025 by Camille Stell, found at https://www.greensborobar.org/newsletter/malpractice-claims-trends-insights-from-the-2025-aba-lpl-study/

VII. During the Client Engagement, client expectations will either be confirmed or undermined on an ongoing basis.

a. Preferred method / timing of client communications
b. Prompt, clear and consistent by attorney.
b. Habits / course of dealings with your client creates / confirms continued expectations.
C. Only set the patterns you want to keep.

VIII. What to include in a representation/engagement agreement to help manage client expectations:[41]

B. Client identification
C. Definition of Attorney-Client relationship
D. Scope: Clear representation parameters
E. Waiver of conflicts (if any)
F. Fee: (Rule 1.04 Of The Texas Disciplinary Rules Of Professional Conduct)[42]
    a. Type (flat, contingent, hourly, hybrid)
    b. Timing (due dates)
    c. What it covers and doesn't
    d. Reasonableness
    e. How will client "help" affect billing (includes AI)
    f. Minimum billing
    g. Refundable and non-refundable
G. Consulting other experts
    a. AI
        i. Use by (and how charged by) the attorney
        ii. Use by and cost for client
        iii. Whether AI will come "into the conversation" or come "between" you an your client.
    b. Disclosure when seeking advice from another attorney (CA Bar Opinion 96-08)
H. Consent (when will you get their direct input)

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[41] Id. and *Accept It: Engagement Letters Document Attorney And Client Expectations, And Help To Cover-Your-Bases, 67-DEC Wis. Law. 56,* Wisconsin Lawyer (December 1994) by Ann Massie Nelson.

[42] Texas Disciplinary Rules of Professional Conduct (Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Gov't Code Ann., tit.2, subtit. G, app. "(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable. (b) Factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other relevant factors, the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered."

I. Communication
J. Withdrawal rights and Disputes
K. Closure timing and procedures
L. File retention

IX. Indicators of Success - Making it Measurable

A. Your success in setting helpful client expectations can be evident in many ways...
    a. In a client who is disappointed, but remembers the options you presented and recalls how they played a genuine role in the decision(s) that led to the disappointment.
    b. In a client who is exhausted mentally, emotionally, and financially, but is still thankful because you warned them - and because of your honestly, they expected it could be like this. They are thankful to have you.
    c. A client who pays their bills on time and understanding the value.

X. How to Start:

A. Have Consultations, if you don't have them. (make sure to communicate the expectation that the attorney client relationship doesn't extend past the consultation unless retained)
B. Use Engagement Letters, if you don't already.
C. Be personable, hospitable, empathetic, and kind. Be a good listener.
D. Start practicing a non-boring and non-pessimistic way of presenting a range of possible outcomes and the toll it can take.
E. Start giving clients choices. Include them where possible. Give them options and opportunity for input (set the expectation proactively regarding how you'll respond to [copy+paste] AI-generated input your client sends to you.

REFERENCES FOR FURTHER STUDY:

Lawyers Mut., *ATTORNEY-CLIENT AGREEMENTS TOOLKIT* p. 3 (2017), https://nmcdn.io/e186d21f8c7946a19faed23c3da2f0da/556712d9bf0f4cb2a916cc810687d52b/files/risk-management-resources/practice-guides/Agreements.pdf (sample engagement letters for various practice areas)

**Client-Lawyer Relationship*

ABA Model Rule 1.7: (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

Use of AI by attorney and reasonableness of fee:
https://vsb.org/common/Uploaded%20files/LEOs/1901.pdf "It is not per se unreasonable for a lawyer to charge the same non-hourly fee for work done with the assistance of AI as work done without the use of AI. Any legal fee, regardless of the basis or type of fee, must be reasonable considering all the factors identified in Rule 1.5(a), but the time spent on a task or the use of certain research or drafting tools should not be read as the preeminent or determinative factor in that analysis. Contrary views fail to appreciate the value of advancing technology and the reaction of the legal markets to that technology; while over time, the market rate might drop based on dramatic improvements in efficiency, Rule 1.5 should not require the lawyer to surrender any benefit from the efficiency gains if clients continue to receive value from the lawyer's output."

Short video about "my lawyer won't call me back"
https://www.youtube.com/watch?v=8CtZKoeK1mA