

CONTRACT LAWYERING: PROJECT MANAGEMENT & MALPRACTICE AVOIDANCE

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Finding the nest...

Or is it NESS?



Issues for the Contract Lawyer

- Screening Cases
- Scope of Representation
- File Management
- Sharing Information



SCREENING CASES

Identify the Task

- Use or create a form
- www.osbplf.org
- Practice Management > Forms > Contract Lawyering



Evaluate Your Competence

- | | |
|---|---|
| <p>Assess Your Skill</p> <ul style="list-style-type: none"> • Do you have the needed knowledge and skill? (ORPC 1.1) | <p>Access Resources</p> <ul style="list-style-type: none"> • CLEs • Practice Aids • Publications |
|---|---|

Check for Conflicts



- Create a reliable system
- Record all the parties
- Know how to use the system
- Know when to use the system

SCOPE OF REPRESENTATION

Who Do You Represent?

- The hiring lawyer?
- An individual client?



What Won't You Do?



- Document the task
- What will you do
- What won't you do
- Try a form letter

Splitting the Fee?

ORPC 1.5(d)

- Does the client consent?
- Is the total fee excessive?



FILE MANAGEMENT

Document Everything

- What do you know?
- What don't you know?
- What was your advice?
- Did the client decline to take your advice?

The Client File

- Includes lawyer notes & attorney work-product
- Some exceptions



File Retention

- Standard retention = 10 years
- Some files should be kept longer (i.e. adoptions)
- Paper or electronic retention?
- Original documents?

SHARING INFORMATION

Duty of Confidentiality



- Do not reveal client confidences without consent (ORPC 1.6)

Electronic Disclosures

- Disclosures to lawyers
Formal Op. 2011-184
- Third Party Storage
Formal Op. 2011-188
- Practice Aid – Online
Data Storage Providers



IN CLOSING...

Now You Know

- Screen Your Cases
- Limit Your Scope
- Manage Your Files
- Share Wisely





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