

Ethics and Law Office Management for Paralegals

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I. How to handle client intake

- a. Use a client intake form – make sure you know who all the parties are and how the client was referred to your office. Run conflicts check prior to the potential client’s appointment or before you begin your consultation.
- b. Non-lawyer employees are permitted to conduct initial client interview but the practice is discouraged and limited to gathering facts.
- c. Screen potential clients for potential conflict of interest at the beginning of the representation: Was client previously represented? If so, who and why did representation end? Watch out for unreasonable expectations and/or failure to listen.

II. How to avoid conflicts of interest

- a. Rule 1.7 addresses the requirements for representation of multiple clients in a single matter.
- b. To be valid, waivers of conflict of interest must be after full disclosure and “informed consent” in writing

- c. Avoid business transactions with clients (including loans), or acquiring an interest adverse to the client. This is a conflict of interest and is prohibited unless strict requirements are met.
- d. Rule 1.13 Organization as Client. Lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

III. How to preserve client confidentiality

- a. 1.6 Confidentiality of Information
 - b. 1.6(a) prohibits a lawyer from revealing information “relating to representation of a client” except as stated in subdivisions (b), (c), and (d), unless the client gives informed consent.
 - c. 1.6(b) requires disclosure of confidential information to prevent a client from committing a crime or to prevent a death or substantial bodily harm to another.
 - d. 1.6(c) permits disclosure to respond to Bar complaint, legal malpractice claim, or criminal allegation against lawyer).
- e. Confidentiality and E-Filing
- f. Blogs and Client Confidentiality

IV. How to avoid ethics and social media pitfalls

- a. Ethics opinions in Oregon (Op. 2013-189), Kentucky (Op. KBA E-434), New York State (Op. 843), and New York City (Op. 2010-2) conclude that lawyers are not permitted (either themselves or through agents) to engage in false or deceptive tactics to get around social media users' privacy settings to reach non-public information.
- b. Ethics opinions by the Philadelphia Bar Association (Op. 2009-02) and the San Diego County Bar Association (Op. 2011-2), among others, conclude that lawyers must affirmatively disclose their reasons for communicating with the third party.
- c. Florida Bar Advisory Opinion 14-1 (June 25, 2015). Consistent with NYC Lawyers Association Ethics Opinion 745 (2013) which states that a lawyer may advise client to use highest level of privacy setting on the client's social media pages and may advise client to remove information from social media page prior to litigation, regardless of its relevance to a reasonably foreseeable proceeding, as long as removal does not violate substantive law regarding preservation and/or spoliation of evidence.
- d. Ethics opinions in Oregon (Op. 2013-189), Kentucky (Op. KBA E-434), New York State (Op. 843), and New York City (Op. 2010-2) conclude that lawyers are not permitted (either themselves or through agents) to

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