

It's that Time of Year - Professional Responsibility and Risk Management to the New Associates who will be Arriving Soon

There has been a lot of discussion recently about the difficulties integrating new associates into firm culture faced both by the new associates themselves and their law firms. This article will provide practical guidance for newly minted attorneys joining the legal profession as well as their law firms, and will suggest key guidance that needs to be communicated to the “newbies” by their firms.

1. Record and enter time contemporaneously and in no event later than one business day after performing the work.

Late recording of time results in significant loss of fees – not to mention “credit” for hard work performed but not recorded. Late recording and entry of time can lead to allegations of billing improprieties, with potentially serious consequences for the firm’s reputation and client relationships.

In addition, attorneys either underestimate the time they spent on an assignment or do not recite all the work done in the narrative (because they cannot recall due to the passage of time). But even if tasks take longer than expected, associates should leave write-off decisions to be made by the supervising partner at the time of billing.

2. Clients should be kept advised of the status of all matters AND return telephone voice mail messages and email communications within 24 hours.

New associates need to recognize that initially their “clients” are the senior lawyers who assign work to them. They need to follow the following principles with those clients as well as with the firm’s clients:

Lack of communication is a disgruntled client’s most

frequent complaint – including supervising lawyers within associates’ law firms. In addition, failure to maintain communication with the firm’s clients is very often a major evidentiary factor in malpractice suits. Here is guidance for the new lawyers:

- A quick response stating that you will get back to the client by a date-certain will give the client peace of mind that you are acknowledging and addressing their inquiry.
- A periodic status email, even just reporting that nothing has happened on a file, does a world of good.
- Prompt and frequent contacts with a client will result in prompt and frequent payment of fees by the client.
- While the call/message might not seem (or be) urgent or important substantively, it may very well be important in the mind of the client.
- Use of “out-of-office” reply if you will be unavailable when a client is looking for you, or requesting assistance.

3. Communicate with supervising attorneys about assignment conflicts and expectations.

It is important to communicate with the supervising attorney if there are conflicting deadlines for another

client's matter—or a personal matter.

Partners will coordinate with each other on what takes priority. Clients and opposing counsel will understand (within reason) if something else needs to take precedence.

Managing your own deadlines also requires you to ask the supervising attorney on what they expect and when they expect it. This includes asking for clarification on the amount of time that should be spent researching an issue.

Finally, if you do not know the answer to a question, say “I don't know, but I'll find out.”

4. **Maintain complete and accurate calendar and docket information – using the firm's computers and software.**

To be fully effective, calendar and docket management requires that all calendaring and docketing information for each practice group be contained in one database. As low person on the totem pole, new associates are often tasked with overseeing calendaring and docketing of matters.

5. **Keep all conflicts of interest data up-to-date.**

When the identity of parties change, or new parties are added or identified, you may be the first to be aware of the change. It is critical to run a new, formal conflicts check – or make sure someone else does.

Run conflict checks on witnesses expected to be subpoenaed. You could be issuing a subpoena to a client of the firm.

6. **Diligently KEEP CLIENTS' SECRETS and confidences.**

The one attribute that is unique to lawyers is the attorney-client privilege and the fiduciary duty to keep client confidences – respect the obligation.

- Avoid “loose lips” – walls (and bystanders) have ears, as do all your social media contacts
- Respect client directions regarding means of communication

- Advise regarding inappropriate communication tools
- Actively oversee measures to avoid inadvertent disclosure of client confidences
- Use technology with care and forethought – a recent reminder of the dangers of thoughtless emails was the email that went viral containing the colorful(?) phrase “churn that bill, baby!”
Think before you hit the send button – and think twice (or three times) before you hit reply all.

7. **Follow the reasonable instructions of supervising attorneys BUT consult with the firm's designated General Counsel or ethics committee member (or, if necessary, an ethics lawyer outside the firm) whenever you are confronted with professional responsibility questions.**

It is the duty of each of the firm's attorneys and staff members to aid the firm in minimizing the risks that are inherent in law practice. The vast majority of problems that arise can be resolved appropriately if they are identified and dealt with immediately when they arise. Furthermore, all firm attorneys and staff members are expected to be loyal to the firm's clients, to the individuals with whom they work in the firm, and to the firm itself.

Within this context:

- Loyalty to the firm's clients means that if you have reason to believe that a client is not receiving the kind of service that the firm expects, you have an obligation to bring that belief to the attention of the firm's General Counsel (if there is one), or whichever partner is designated to respond to professional responsibility questions;
- Loyalty to the individuals with whom you work means that if you perceive that any of them is impaired or in need of assistance, they receive the appropriate assistance as soon as possible;
- Loyalty to the firm means that you will protect the reputation of the firm. If you have reason to believe that any attorney or staff member of the firm is taking actions that will harm the reputation of the firm or is violating any of the policies or procedures, including those discussed in this article further below, you have an

obligation to bring such matters to the attention of the firm's General Counsel (if there is one), or a partner designated to respond to professional responsibility questions.

8. Avoid working alone on any file and DO NOT DABBLE in practice areas outside your normal area of competence – and, especially, do not “moonlight” by taking cases “on the side” for family members or friends.

Practice group or at least partner oversight of the handling of client matters has enormous benefits for the clients, for every individual lawyer, and for the firm.

Further information

If you would like further information on any issue raised in this update please contact:

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Doing current or prospective clients, or friends or family members a “favor” frequently leads to:

- Inability to bill (or collect) fees commensurate to the time and effort involved
- Malpractice – and malpractice claims
- Conflicts of interest with “real” clients of the firm

Above all, remember that your job is to help the firm serve its clients well – but also remember that, as an associate, *your* client is the law firm. Serve the firm well so that in turn you receive appropriate recognition for your efforts.