

Client Intake: Streamlining Procedures and Converting Prospects into Clients

January 12, 2016

10:00 – 11:00

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OSB Professional Liability Fund

MCLE FORM 1: Recordkeeping Form (Do Not Return This Form to the Bar)

Instructions:

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in **accredited** CLE activities. You may wish to use this form to record your CLE activities, attaching it to a copy of the program brochure or other information regarding the CLE activity.

Do not return this form to the Oregon State Bar. This is to be retained in your own MCLE file.

Name:		Bar Number:	
Sponsor of CLE Activity:			
Title of CLE Activity:		Program Number:	
Date:	Location:		
<input type="checkbox"/> <i>Activity has been accredited by the Oregon State Bar for the following credit:</i> <div style="text-align: center;"> ___ General ___ Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Elder Abuse Rep. ___ Practical Skills ___ Pers. Management Assistance </div>	<input type="checkbox"/> Full Credit. <i>I attended the entire program and the total of authorized credits are:</i> <div style="text-align: center;"> ___ General ___ Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Elder Abuse Rep. ___ Practical Skills ___ Pers. Management Assistance </div>	<input type="checkbox"/> Partial Credit. <i>I attended _____ hours of the program and am entitled to the following credits*:</i> <div style="text-align: center;"> ___ General ___ Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Elder Abuse Rep. ___ Practical Skills ___ Pers. Management Assistance </div>	

***Credit Calculation:**

One (1) MCLE credit may be claimed for each sixty (60) minutes of actual participation. Do not include registration, introductions, business meetings and programs less than 30 minutes. MCLE credits may not be claimed for any activity that has not been accredited by the MCLE Administrator. If the program has not been accredited by the MCLE Administrator, you must submit a Group CLE Activity Accreditation application (See MCLE Form 2.)

Caveat:

If the actual program length is less than the credit hours approved, Bar members are responsible for making the appropriate adjustments in their compliance reports. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

IMPORTANT NOTICES

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Faculty

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Michael Chasin is a native of Los Angeles, California. He migrated to the east coast where he completed his BS in Business Administration with an emphasis in Entrepreneurship from the University of North Carolina at Chapel Hill.

After finishing his undergraduate degree, he moved back to California to pursue his law and MBA degrees at Loyola Marymount University. He completed his J.D./M.B.A. in 2013. Understanding the inefficiencies existing in an ancient profession, he co-founded LawKick.com, one of the first marketplaces for connecting lawyers with potential clients. Michael focused primarily on the financial management, business strategy, and business development of LawKick. After 2 years of operating LawKick, Michael and his team discovered another big gap in the legal profession, the client intake process. With his co-founder Aaron George, they developed Lexicata, the industry's first cloud-based client intake software. It creates a seamless client intake process in which new clients can fill out forms and sign engagement letters online from any type device while providing automation and organization for the firms to better manage the process.

Agenda

- 9:45-10:00 Final Registration for Webcast
- 10:00 Program Begins
- The Current Client Intake Landscape
 - Pitfalls of Client Intake
- 10:10 Overview of the Intake Process
- What Information is Needed from the Client?
 - Organizing Intake Processes
 - Ethical Considerations – Solicitation / Conflict Checks
 - Assigning Roles
- 10:15 Breaking Down the Intake Process - Intake Roles: Lawyer vs. Staff
- Responding to the Initial Client Inquiry
 - Telephone Consultations
 - Post-Consultation Follow-Up
 - In-Person Consultation
 - Engagement
- 10:25 Screening Clients – Potential Referral Sources
- Social Media
 - Website Visits
 - Personal Referrals
 - Cold Calls
 - Events (Seminars / Speaking Engagements)
- 10:30 Managing Initial Client Contact
- Referral Source of Client
 - First Contact Sets the Tone for the Lawyer-Client Relationship
 - The Rule of 7
 - Managing Expectations / Explaining the Next Step
 - Client Tracking
- 10:40 The Role of Technology in Managing Client Intake
- Streamlining Intake Processes – Collecting Client Information
 - Accurate Information is Key to Avoiding Malpractice, Screening Out Bad Clients, Avoiding Ethics Complaints, Avoiding Miscommunication
 - Balancing the Need to Screen vs. Wasting the Client's Time or Damaging Client Rapport

Agenda, Continued

- 10:50 Client Engagement
- The Client “Signing” Process – Managing the Workflow from Consultation and Initial Documents and Information Collection to Engagement Letters and Setting the Tone for the Attorney-Client Relationship
 - Remove Barriers to Client Engagement / Signing of Written Engagement Letters
 - Communicate Next Steps
- 10:55 Evaluate Your Intake Process
- Ask for Client Feedback
 - Improve Procedures
- 11:00 Concluding Remarks / Program Ends

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NEW CLIENTS

Case and Client Screening

Careful case and client screening can eliminate the threat of a legal malpractice suit and greatly reduce the stress in your life. Evaluate potential cases and clients with these factors in mind:

1. Do you have a good “gut reaction” to the client and the course of action he or she proposes? If your first impression is unfavorable, you may want to reject the case. Lawyers who are sued for malpractice almost always knew at the outset that they should have rejected the case.
2. Be cognizant of the client’s relationship and experience with previous lawyers. Beware of the client who constantly changes lawyers. Look out for the case that has already been rejected by one or more lawyers.
3. Be cognizant of the client’s attitude toward other professionals such as doctors, accountants, bankers, or lenders.
4. What is the client’s attitude toward the case? If he or she wishes to proceed because of principle and regardless of cost, you may find yourself pressed to pursue a case that you do not believe in or, worse, find offensive.
5. Do you have the skill, expertise, and time needed to pursue the case?
6. Are you taking the case simply because the potential client is a relative, a friend, related to a friend, or knows a friend? These cases should be avoided unless you have confidence in your ability to handle the case and have a good feeling about the potential client. Ask yourself whether you would take the case if the client walked in off the street. If not, you should reject the case.
7. Are you and the client able to agree on fee arrangements? If not, you may be dealing with someone who will have difficulty making other decisions or compromises.
8. Consider the client’s attitude and method of operation. If he or she has come to you with a “done deal,” researched the case extensively, or failed to attend to the matter until it became an emergency, the case may require special handling.
9. Consider the client’s ability to pay for your services. A client’s financial situation may warrant declining the case unless you are willing, at the beginning, to provide pro bono services.

Creating Realistic Expectations

Even some of the best cases are lost when presented to the jury. After obtaining the necessary information from the client regarding the problem, start by laying out the adverse facts about his or case. If you begin by advising the client that he or she has a good case, the client will not hear anything else. It is also important to explain to the client the economics of settling the case.

If a lawsuit is or may be involved, don’t give the client the impression it will take only a few months to resolve. Lawsuits are rarely resolved in a couple of months. Explain fully to the client the time limits involved. In an effort to be brief and simple, lawyers often misguide their clients by simplifying the process. (“Once the complaint is filed, the other side has 30 days to respond. When the case is at issue, we can request a trial date.”) As a result, clients get the mistaken impression that their cases will be over in a month or two. It is far better to explain the possibilities of problems with service, requests for extensions of time, or motions that may require filing an amended complaint. The client should be told that discovery will take additional time, and that you then have to wait for the court to set a trial date. Be familiar with the court’s time line for setting cases. Explain trial setovers, and get the client’s consent. Clients who are aware of these time frames will not be calling the office constantly wanting to know why something isn’t happening.

When the matter does not involve litigation, explain the various steps involved and the time required for each. If there is a delay, advise the client immediately and provide a new estimate of when the matter will be completed.

Using Intake Sheets

Have every new client complete an information sheet listing the client's address, telephone number, Social Security number, place(s) of employment, emergency contacts, spouse's or partner's information, and referral sources. While new clients are waiting to see you, you can also give them additional information sheets relating to the specific case, such as an intake sheet for a personal injury case, a domestic relations case, probate of an estate, or preparation of a will. If desired, add a disclaimer clarifying that you are not obligated to provide services to the client until you and the client mutually agree in writing to the terms of representation. (See "New Client Information Sheet with Disclaimer," available on the PLF Web site, www.osbplf.org.) Information sheets save you from having to ask routine questions during the initial interview.

The PLF's sample New Client Information Sheet provides spaces for docket control and conflict information. It also has a line to be initialed when the file is opened, conflicts are checked, and docket information is entered on the calendar. You can use the back side of this form to take notes during the initial interview, including supplementary conflict information. You can then use the sheet to open the client's file and enter the necessary information into the office docket and conflict systems. Once you have opened the file and entered information into both the docket and conflict systems, place the sheet in the client's file for reference. If your office is paperless, the sheet can be scanned and saved to the client's electronic file. This is a good time to send a thank-you letter to any referral sources.

NEW CLIENT INFORMATION SHEET

TODAY'S DATE _____

Client's Full Name _____ SS# _____

Client's Former Name/ Other Names Used _____

Spouse's/Partner's Full Name _____ SS# _____

Spouse's/Partner's Former Name/ Other Names Used _____

Street Address _____

City/State _____ Zip _____ E-mail Address _____

Telephone (Home) _____ Client Work _____ Spouse/Partner Work _____

Client's Employer _____ Spouse's/Partner's Employer _____

Emergency Contacts:

Name _____ Relationship _____ Telephone _____

Name _____ Relationship _____ Telephone _____

Why You Chose Our Office _____

Conference With Attorney Regarding: _____

FOR OFFICE USE ONLY

Fee arrangement: _____

Billing arrangement: _____

DOCKET CONTROL	
Statute of Limitations Deadline	
Tort Claims Act Notice Due	
First Appearance Due	
Other Deadlines	
File Review Frequency	
INSTRUCTIONS:	

CONFLICT CONTROL	
NAME	RELATIONSHIP

File opened by _____ Conflicts checked by _____ Deadlines docketed by _____
 Engagement letter sent by _____ Date: _____

Fees

The client has the right to know what your legal services are going to cost. Some clients ask about fees right away, but others are quite timid about discussing money. Nevertheless, you need to fully discuss fees with the client before proceeding with the case. Clients who don't understand their responsibilities to pay are likely to be unhappy with the amount charged and may end up not paying their bill.

We strongly recommend that you have each client sign a fee agreement. Go over the fee agreement in detail with the client before the client signs it. This advice applies to all kinds of fee agreements – hourly, fixed, contingent, hybrid, and value-based. Either have the client take the fee agreement home to read again, sign, and send back or prepare a fee agreement after the initial interview and send it to the client with the same instructions. Also, advise the client in writing that you will not do any work on the case until the fee agreement is signed and returned. If your agreement requires your client to provide you with funds for deposit in your trust account (funds you will earn as you do the work), be sure to explain that your representation cannot proceed until the money has been provided. If you take the case on a contingency basis, you may want to ask that a specific amount be paid to cover the initial costs of commencing the litigation (i.e., filing and service fees) and any charges for reports necessary to determine the value of the case (i.e., doctor or police reports). You should not finance your clients' litigation.

Generally, clients cooperate more fully with their cases when they are financially invested. If they are not sufficiently interested in the case to be willing to invest some money, the matter quickly becomes your problem rather than theirs. A surprising number of malpractice claims are brought against lawyers who spent enormous amounts of time on cases without collecting a cent in fees.

Many legal malpractice suits result from counterclaims in response to a lawyer's action to recover fees. The risk of being countersued for malpractice is greatly reduced if you take the time to explain your fees to clients early on, document your agreement, and provide frequent fee bills. Your explanation should include how you bill (i.e., units of time) and whether you have a minimum billing unit (e.g., .10 hour, which is six minutes). These fee bills should be detailed and should identify the specific services rendered for the fee charged. Listen carefully to your client's need for services before you provide a quote for fees. Then follow these practice tips to promote good client relations:

1. Enter into a written fee agreement early in the course of representation. Be sure it is specific and complete.
 - a. **Identify the Scope of Services.** The fee agreement should specify the services to be rendered and provide the client with clarity and written proof of what he or she has agreed to do.
 - b. **Specify the Timing of Services.** A fee agreement that clearly states that you will commence representation after the client performs a future act (e.g., paying a retainer fee, providing money for filing fees, or providing crucial background information) can avoid a misunderstanding.
 - c. **Explain the Type of Fee.** Clients are generally not familiar with legal terms such as contingent fee, costs, retainer fee, flat fee, fixed fee, or value-based billing. Be certain to explain these terms carefully. For example, if you charge a contingency fee, explain what the percentage fee will mean in terms of dollars. Be certain the client understands that he or she will be responsible for costs regardless of the outcome. If you charge an hourly fee, estimate the number of hours the case may take and periodically update the client. Provide revised estimates if the case takes more time than originally planned. If the fee arrangement is for an uncontested case,

define the term uncontested for the client. For example, if the fee applies only if you do not have to negotiate support or property division, let the client know this.

It may be difficult for clients to understand fees that are earned upon receipt. This type of fee arrangement can increase your risk of a legal malpractice or ethics claim. Be sure to fully advise the client of the nature of the fee and always put your fee agreement in writing. Avoid calling fees earned upon receipt “nonrefundable.” Such a designation may be misleading, if not false, in violation of ORPC 8.4(a)(3), which prohibits conduct involving “dishonesty, fraud, deceit, or misrepresentation that reflects adversely on the lawyer’s fitness to practice law.” Remember: clients always have the right to challenge a fee as excessive, even if the agreement is in writing, and all fees are subject to refund if the work is not performed. OSB Formal Ethics Opinion No. 2005-151.

- d. **Stick to the Payment Terms.** The fee agreement should specifically state when the client is expected to pay for services, even if the arrangement is for a contingent fee. Many contingent fee cases involve the expenditure of large amounts of money for costs. Outlining the terms of payment in the fee agreement enables you to recover these costs on a monthly or other basis.

Once the fee agreement is signed, treat it as the contract it is. Follow through on the legal work to be performed, and require the client to pay in accordance with the agreement. Do not change your method of compensation in the middle of the case.

- e. **Choose the Appropriate Form of Agreement.** The fee agreement can be a separate letter or memorandum, or it can be incorporated into an initial acknowledgment letter to the client. Whichever method you use, the agreement should (1) specify the scope and timing of the representation; (2) delineate what the client is expected to pay for and when; (3) explain billing practices and when the client can expect to receive bills; (4) identify what will occur if payment is not made; and (5) be signed and dated by the client. It is important to personally review the agreement with the client. You should also provide a copy to the client, encourage the client to review the agreement in the client’s own home or office, and encourage the client to ask questions before signing the agreement. The agreement should be stated in terms the client can understand. Note: If you are representing a client on a contingent fee basis, use a written fee agreement and comply with ORS 20.340 by having the client sign an OSB-Approved Explanation of Contingent Fee Agreement **before** the fee agreement itself is signed. (Sample agreements and a bar-approved model explanation form are available on the PLF Web site, www.osbplf.org.)

2. Prepare itemized bills so the client can determine what is being done, and send bills on a regular basis (preferably monthly). Inconsistent billing practices disrupt firm cash flow, infuriate clients, and make collection more difficult.
3. Maintain detailed and complete time records, even on contingency fee or flat/fixed fee cases. This procedure will enable you to analyze the amount of time you spent on the case. It will also help you determine how much to charge for similar cases in the future. These time records will also serve as evidence in the event of a fee dispute.
4. Do not allow outstanding fees to accumulate during the course of your representation. If you are not paid as agreed, call the client as soon as possible and discuss the situation. You may find that the client has new financial circumstances and that you are willing to renegotiate the terms of the client’s account. Or you may find that you need to address issues related to

your attorney-client relationship. For example, perhaps the client is dissatisfied with an aspect of your representation. Speaking with the client helps you to decipher and address the applicable issues. Once you understand the situation, you can decide whether you want to continue or withdraw from the representation. If you withdraw, comply with all provisions of ORPC 1.16, as well as applicable court or agency rules. Do not discontinue providing essential legal services due to non-payment unless you have properly withdrawn.

5. As a general rule, avoid suing clients for fees. Make an effort to determine the cause of the client's dissatisfaction. Really listen to the client's side of the dispute. If appropriate, offer to arbitrate the fee dispute through the OSB Arbitration Program or consider other alternative dispute resolution methods.

If you decide to sue a client for fees, consider the following:

- a. Do you stand to gain or lose a substantial amount of money?
- b. Was a good result obtained in the underlying case?
- c. Has an uninvolved, experienced lawyer reviewed the file for possible malpractice?
- d. Are there any grounds on which the client can credibly dispute the debt or any part of it?
- e. Have you offered to arbitrate or compromise?
- f. Will a judgment be collectible if obtained?
- g. Will a lawsuit result in bad publicity reflecting negatively on you or your law firm?

Exercise extreme caution in deciding to sue to collect a fee. Many legal malpractice suits result from counterclaims in response to a lawyer's action to recover fees. Frequently, your effort to sue for fees is rewarded only with further aggravation, wasted time, wasted money, and poor client relations. A straightforward discussion of fees, financial arrangements, and billing procedures at the beginning of the attorney-client relationship will reassure clients, reduce the possibility of fee disputes, and eliminate the need for collection litigation.

The OSB publishes a collection of fee agreements in a handbook entitled the *Fee Agreement Compendium*. The handbook is available through the Order Department of the OSB, 503-620-0222 or 1-800-452-8260 (ext. 413) and is included in BarBooks™.

Engagement, Nonengagement, and Disengagement Letters

Engagement, nonengagement, and disengagement letters are crucial to effective malpractice avoidance. Engagement, nonengagement, and disengagement letters set the stage for the relationship and the responsibilities between the parties. They protect you and the client by providing a clear written description of the client's relationship with counsel. Many legal malpractice claims are successfully defended because the lawyer can produce a letter that establishes that he or she did not have responsibilities to the client. Generally, an attorney-client relationship may be formed whenever it is reasonable under the circumstances for the potential client to look to the lawyer for advice. *See In re Weidner*, 310 Or 757, 801 P2d 828 (1990). Documenting your relationship with current, former, and declined clients avoids these misunderstandings.

Using engagement, nonengagement, and disengagement letters does not have to be time-consuming, difficult, or offensive to the client. On the contrary, most clients welcome (and expect) a clear written description of their association with their lawyer. Providing these letters to potential clients will clarify and formalize your own relationship to the client or potential client. This practice will also increase the likelihood that the legal matter is entered into your conflict of interest and calendaring systems.

Sample engagement, nonengagement, and disengagement letters are available on the PLF Web site, www.osbplf.org.

Engagement Letters

Always follow the initial client interview with a letter that establishes the limits of representation. The letter should set out which legal problems will be handled and which ones will not, which steps will be taken (or have already been taken), and which responsibilities are the client's. This type of letter is equally important for an ongoing client with a new matter.

Engagement letters are crucial because clients generally come to you expecting you to fix everything related to a particular legal problem. If you are a personal injury lawyer and a client who has been hurt comes to you for help, you will probably assume that you will be representing the client only on the personal injury claim and possibly on a property damage claim. Yet the accident may have given rise to more than a personal injury or property damage claim; it may also involve a workers' compensation claim, a product liability claim, a social security disability claim, or an employment discrimination claim. Unless you specifically limit the scope of your representation, the client will assume you will resolve all of these problems.

Here is a vivid example of the importance of using an engagement letter:

The mother of a child who had been involved in a serious automobile accident called a lawyer. The lawyer advised the mother over the telephone that he would obtain a copy of the police report and would get back to her. There was no further communication between the lawyer and the mother. The lawyer forgot to obtain a copy of the police report, forgot to write back to the client, and forgot that he had made promises to her. After the statute of limitations ran, the lawyer was sued for legal malpractice. If the lawyer had sent an engagement letter to the client, a file would have been opened and the case would have been entered into the lawyer's calendaring system.

You can incorporate your fee agreement in the engagement letter rather than using a separate fee agreement. If you choose this method, the *entire* fee agreement needs to be set out in the letter. Include two originals of the engagement/fee agreement letter to the client with instructions to sign and return one of the originals to the office before representation begins.

Nonengagement Letters

When you do not wish to accept the case, sending a nonengagement letter is equally important. In many instances lawyers are sued by non-clients or by those who are considered by the lawyer to be non-clients. An example of this occurrence is as follows:

A woman who had extensive health problems consulted with her "family" lawyer about a potential medical malpractice case. The lawyer listened empathetically to the woman's story, commented that he felt she had a good case, and advised her that he did not handle medical malpractice cases. The woman left the office believing that she had established a rapport with the lawyer and expecting that the lawyer would be handling her medical malpractice case. When the woman later sued the lawyer for missing the statute of limitations, he could only offer his verbal testimony that he had not accepted the case. He failed to send the client a nonengagement letter, and could not offer any additional proof. The jury entered a verdict in favor of the woman.

In the above example, the lawyer could have avoided the legal malpractice claim by writing a simple, three-line nonengagement letter. The letter could have protected him and also served as a reminder

to the client that she needed to obtain another lawyer for that matter. There may be times when you cannot send a nonengagement letter to your prospective client, as in a family law matter where the consulting client continues to live at home with his or her spouse. In these cases, use a New Client Information Sheet that contains a disclaimer clarifying that you are not obligated to provide services to the client until you and the client mutually agree in writing to the terms of representation. *See New Clients, supra.*

If you remain unconvinced that nonengagement letters are an important part of malpractice avoidance, consider for a moment how the jury will view the situation. If you decline a case and do **not** send a follow-up letter, your verbal testimony will be pitted against the client's. The plaintiff's lawyer in the legal malpractice case against you will probably point out that you interview over two hundred clients or potential clients a year. The jury is likely to believe that the client's recollection is better than yours since the client probably only has the one case.

Consider these guidelines when drafting a nonengagement letter:

1. Specifically state in the letter that you are not able to accept the case. It is not necessary to give a reason for declining the case, but you may do so if you wish.
2. Avoid commenting on the merits of the case. If you are not taking the time to research and investigate it, you should not offer an opinion as to its worth. This is particularly true if you are not skilled in the area of law in question.
3. If time limits apply to the case, generally advise the client that time limitations apply. Do not specifically state your calculations for the time limitations. Instead, emphasize that it is imperative to consult with another lawyer immediately.
4. Use the nonengagement letter as an opportunity to return any original documents the client may have given you during the interview.

Keep a file copy of all nonengagement letters in a miscellaneous file, and be sure to enter information concerning the declined client in your conflict system.

Disengagement Letters

When your legal services are complete:

1. Send a disengagement letter letting the client know that your representation in the matter has ended.
2. Thank the client for allowing you to be of service and return all original documents.
3. Set out any tasks the client needs to perform to *finalize* the matter, such as sending a certified copy of the General Judgment to a life insurance company if the adverse spouse is to keep life insurance in effect for your client or their minor children.
4. Set out any tasks the client needs to perform in the *future*, such as renewing a UCC filing, exercising an option to renew a lease, and so on.
5. If you are going to undertake any follow-up responsibilities, they should also be set out in the closing letter.
6. If you have chosen a destruction date for the file, let the client know that the file will be destroyed and when it will happen.

If you wish to terminate the attorney-client relationship before the case is concluded, be sure to comply with all ethics rules, including ORPC 1.16, and take the following steps:

1. Advise the client of the reason for termination in writing. Avoid commenting on the merits of the case. Since you are terminating representation before conclusion of the case, advise the client generally of any time limitations and stress the need to obtain another lawyer immediately. Be certain to properly withdraw as attorney of record.
2. Provide the client with a copy of your file and retain a copy for your records. Return any original documents or papers belonging to the client.
3. Refund any unearned fees.
4. Cooperate fully with the client's new legal counsel, if any. Provide that person with a complete copy of the file, and make sure the appropriate substitution of counsel is timely filed with the court.

CONTINGENT FEE AGREEMENT - ADVANCED
(Sample – Modify as appropriate)

I, [Client], hereby retain [Attorney], Attorney at Law, to represent me for the purpose of recovery of damages arising out of an accident or incident occurring on [date], at [location].

I agree to pay the actual expenses reasonably incurred by my attorney on my behalf. These expenses may include filing fees, service fees, witness fees, charges for obtaining doctors' reports, the cost of obtaining medical records, court reporter fees, court trial fees, photocopying costs, long-distance telephone calls, postage, witness fees, mileage fees, and other necessary court and office costs. I understand that my attorney is not required to advance these expenses, and that I must provide the funds for these expenses.

With my consent, my attorney may employ investigators and experts as may be required to prepare, pursue, and litigate my case. I will pay all fees and expenses charged by the investigators and experts. My attorney is authorized to pay the investigators' or experts' fees or expenses from the funds I deposit with the attorney or from the proceeds of any settlement or judgment in my case.

I agree to pay my attorney from the proceeds of any recovery according to the following schedule:

Hourly at the rate of [Insert Hourly Rate] per hour, or:

33¹/₃% of all sums recovered if settlement is negotiated before filing a complaint or demand for arbitration, whichever of these two calculations will result in a **lower** attorney's fee.

40% of all sums recovered after filing a complaint or demand for arbitration.

"Sums recovered" means the total economic benefit obtained. If a structured settlement is obtained, the fee percentage will be applied to any present payment **plus** the present value of future lump sum and periodic payments. The percentage fee due my attorney will be paid in full from the sums presently received, and not out of future or periodic payments.

This agreement does not cover attorney's fees in the event of an appeal or retrial.

No fee will be charged for assistance to me in obtaining recovery of benefits under my insurance policy for Personal Injury Protection (PIP), unless PIP benefits are denied or contested by the PIP insurer. My attorney may charge the percentage fee based on the above schedule on any PIP benefits collected after a denial or contest by the PIP

insurer. Also, if my insurance company agrees, my attorney may collect a percentage of the subrogated proceeds paid by the party at fault to my PIP insurer.

My attorney may charge the percentage fee based on the above schedule against the claims of health insurers or other service providers, or the PIP insurer. I understand that medical care providers may be entitled to be paid out of my recovery, and I authorize my attorney to pay these sums out of my recovery.

If there is a basis for recovery of attorney's fees in addition to my damages, I authorize my attorney to recover those fees. Such attorney's fees will work first as an offset to any percentage fee I owe, and if they exceed the amount of the percentage fee, then I will not owe any of the percentage fee and my attorney will recover the whole attorney's fee.

If no recovery on my behalf is made, I am not liable for attorney fees to my attorney but will be responsible only for the actual expenses incurred by my attorney.

My attorney may assign all or any portion of the work to be performed in my case to an associate or to other attorneys in the firm, and may use paralegals or others working under my attorney's supervision. In the event of my attorney's death, disability, impairment, or incapacity, I agree that another attorney appointed by my attorney can protect my rights and help close my attorney's practice.

My attorney agrees to send me copies of all documents filed in my case, all correspondence, and any and all other printed materials for my personal file. My attorney will also keep a copy of all information for [his/her] file. When my attorney has completed all the legal work necessary for my case, my attorney will close [his/her] file and return all my original documents to me. My attorney will then store [his/her] file for approximately 10 years after my case is closed. After that time, my attorney will destroy [his/her] file.

My attorney agrees to provide conscientious, competent, and diligent services, and I agree to cooperate with my attorney and others working on my case by keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments required under this agreement. I also agree to keep my attorney informed of any change of address or telephone number within five days of the change.

My attorney has the right to resign as my attorney: (a) if the investigation of the facts and circumstances leads [him/her] to believe that my claim is not one that should be pursued; (b) if I am not truthful with my attorney or [his/her] staff; (c) if I do not fully cooperate with my attorney or [his/her] staff; (d) if a conflict develops between me and my attorney; or (e) if my attorney, cannot, in [his/her] exclusive judgment obtain adequate expert testimony as needed.

I AM ENTITLED TO RESCIND THIS AGREEMENT WITHIN 24 HOURS AFTER SIGNING, UPON WRITTEN NOTICE TO MY ATTORNEY.

PLEASE READ THE EXPLANATION ON THE FOLLOWING PAGE BEFORE SIGNING.

SIGNED by me on _____, _____.

APPROVED:

[Attorney]

[Client]

Enclosure

[NOTE: Practitioners should review the following pertinent OSB Ethics Opinions: [2005-124](#), "Fee Agreements: Excessive Fees, Contingent Fees, PIP Benefits," [2005-15](#) "Fee Agreements: Contingent Fees Paid in Installments," and [2005-69](#) "Fee Agreements: Dividing Court-Awarded Fees with Nonlawyer."]

**Oregon State Bar
Model Explanation of Contingent Fee Agreement**

This is an explanation of your Contingent Fee Agreement with us. Please read it and sign it before you sign the Agreement.

The Contingent Fee Agreement says:

1. We agree to handle your case.
2. If we handle your case to completion and do not recover any money for you, you do not have to pay us for our services.
3. If we handle your case to completion and recover some money for you, you must pay us for our services. Our fee will be a percentage of what we recover for you. The percentage is set forth in the Contingent Fee Agreement.
4. If we advance money for filing fees, witness fees, doctors' reports, court reporters' services or other expenses on your behalf (lawyers selects one):
 - You must repay us whether the case is won or lost;
 - You must repay us only if we recover money for you; or
 - You do not need to repay us regardless of the outcome of your case.
5. You may cancel the Contingent Fee Agreement by notifying us in writing within 24 hours after you sign it.
6. If you cancel the agreement within the 24-hour period, you will have no obligation to us.

I have read the foregoing explanation before signing a Contingent Fee Agreement with _____ (Name of Lawyer or Firm).

Client's Signature

Date

02/22/13 Revision [OSB Approved Model Explanation]

CONTINGENT FEE AGREEMENT - BASIC *(Sample – Modify as appropriate)*

I, [*Client*], hereby retain [*Attorney*], Attorney at Law, to represent me for the purpose of recovery of damages arising out of an accident or incident occurring on [*date*], at [*location*].

I agree to pay the actual expenses reasonably incurred by my attorney on my behalf. These expenses may include filing fees, service fees, witness fees, doctors' reports, medical records, court reporter fees, court trial fees, photocopying costs, long-distance telephone calls, postage, witness fees, mileage fees, and other necessary court and office costs. My attorney will not incur costs of more than [*dollar amount*] without first notifying me.

With my consent, my attorney may employ investigators and experts as may be required to prepare, pursue, and litigate my case. I will pay all fees and expenses charged by the investigators and experts. My attorney is authorized to pay the investigators' or experts' fees or expenses from the funds I deposit with the attorney or from the proceeds of any settlement or judgment in my case.

I agree to pay my attorney from the proceeds of any recovery according to the following schedule:

- 25% of all sums recovered if settlement is negotiated before filing of the complaint;
 - 33¹/₃% of all sums recovered if settlement is negotiated before commencement of trial or arbitration hearing;
 - 40% of all sums recovered during or after trial or arbitration has commenced.
- "Sums recovered" means [*insert appropriate language*].

If no recovery on my behalf is made, I am not liable for attorney fees to my attorney but will be responsible only for the actual expenses incurred by my attorney. I have deposited [*dollar amount*] with my attorney, which is to be used toward costs and other expenses.

No fee will be charged for assistance to me in obtaining recovery of benefits under my insurance policy for Personal Injury Protection (PIP), unless PIP benefits are denied by my insurance company. My attorney may charge the percentage fee based on the above schedule on any PIP benefits collected after a denial by my insurance company. Also, if my insurance company agrees, my attorney may collect a percentage of the subrogated proceeds paid by the party at fault to my insurance company.

My attorney may assign all or any portion of the work to be performed in my case to an associate or to other attorneys in the firm, and may use paralegals or others working under my attorney's supervision. In the event of my attorney's death, disability,

impairment, or incapacity, I agree that another attorney appointed by my attorney can protect my rights and help close my attorney's practice.

My attorney agrees to send me copies of all documents filed in my case, all correspondence, and any and all other printed materials for my personal file. My attorney will also keep a copy of all information for [his/her] file. When my attorney has completed all the legal work necessary for my case, my attorney will close [his/her] file and return all my original documents to me. My attorney will then store [his/her] file for approximately 10 years after my case is closed. After that time, my attorney will destroy [his/her] file.

My attorney agrees to provide conscientious, competent, and diligent services, and I agree to cooperate with my attorney and others working on my case by keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments required under this agreement. I also agree to keep my attorney informed of any change of address or telephone number within five days of the change.

This agreement does not cover attorney's fees in the event of an appeal or retrial.

I AM ENTITLED TO RESCIND THIS AGREEMENT WITHIN 24 HOURS AFTER SIGNING, UPON WRITTEN NOTICE TO MY ATTORNEY.

(Please read the explanation on the following page before signing.)

SIGNED by me on _____, _____.

APPROVED:

[Attorney]

[Client]

Enclosure

**Oregon State Bar
Model Explanation of Contingent Fee Agreement**

This is an explanation of your Contingent Fee Agreement with us. Please read it and sign it before you sign the Agreement.

The Contingent Fee Agreement says:

1. We agree to handle your case.
2. If we handle your case to completion and do not recover any money for you, you do not have to pay us for our services.
3. If we handle your case to completion and recover some money for you, you must pay us for our services. Our fee will be a percentage of what we recover for you. The percentage is set forth in the Contingent Fee Agreement.
4. If we advance money for filing fees, witness fees, doctors' reports, court reporters' services or other expenses on your behalf (lawyers selects one):
 - You must repay us whether the case is won or lost;
 - You must repay us only if we recover money for you; or
 - You do not need to repay us regardless of the outcome of your case.
5. You may cancel the Contingent Fee Agreement by notifying us in writing within 24 hours after you sign it.
6. If you cancel the agreement within the 24-hour period, you will have no obligation to us.

I have read the foregoing explanation before signing a Contingent Fee Agreement with _____ (Name of Lawyer or Firm).

Client's Signature

Date

02/22/13 Revision [OSB Approved Model Explanation]

**ENGAGEMENT LETTER -
EXISTING CLIENT WITH NEW MATTER**
(Sample – Modify as appropriate)

Re: [Subject]

Dear [Name]:

The purpose of this letter is to confirm, based on our conversation of [date], that [firm name] will represent you in [describe matter]. We appreciate your continued business and the trust you have placed in [firm name].

We will handle this matter *[in accordance with our normal fee structure and billing procedures]* **or** *[for a fee of [dollars per hour] for services performed by lawyers of this firm and [dollars per hour] for services performed by our non-lawyer staff. You will also be billed for expenses and costs incurred on your behalf.]* All other aspects of our most current engagement letter will remain in effect.

I have included a copy of this letter for you to review, sign, and return to me. If any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing the letter. Otherwise, please sign the enclosed copy and return it to me.

On behalf of the firm, I would like to thank you for the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]
[Firm]

I have read this letter and consent to it.

[Client]

[Date]

Enclosure

ENGAGEMENT LETTER AND FEE AGREEMENT - ADVANCED
(Sample – Modify as appropriate)

Re: [Subject]

Dear [Name]:

Pursuant to our conference at my offices today, this will confirm that I have agreed to represent you in connection with [type of matter], and we agreed to [insert appropriate details].

Thank you for selecting our law firm to represent you in this matter. [Firm] is pleased to undertake this engagement on your behalf. At this time, I wish to set forth our agreement regarding payment of our fees. Please note this agreement will not become effective and [firm] shall not be obliged to furnish or render any professional services before [firm] receives a duly signed copy of this agreement and the retainer referred to below.

Attorneys Fees and Costs

Retainer: You have deposited [dollar amount] with us for fees and costs. We will hold your funds in our lawyer's trust account. We will provide you with a monthly statement of fees, costs, and expenses as described below.

Attorneys Fees and Costs: Our fees for legal services are [dollar amount] per hour, plus any expenses incurred, such as filing fees, deposition charges, copying costs, postage, and related expenses. At this point, it is difficult to estimate the amount of time and expense that will be necessary to adequately represent you in this case. However, as we discussed, we estimate the fee will be approximately [dollar amount]. We will also advise you before we do any work that will substantially increase the estimated amount of fees.

Billing: Fully itemized statements will be issued on a monthly basis with the first monthly statement commencing [insert date] and every 30 days thereafter. All itemized statements will include full descriptions identifying the date of service, the amount of time spent in rendering such service in minimum increments of one-tenth (0.1) per hour, and a full description of all services rendered. Supporting invoices for costs in excess of \$100 per billing cycle will be provided. We recommend that you treat our invoices as confidential documents and safeguard them appropriately to protect your attorney-client privilege.

Each invoice is due and payable [insert days] business days after mailing. If we do not receive your written objection to any charges designated in our invoice by [insert date], your invoice will be deemed approved for payment in full, and the appropriate funds will

be withdrawn from your retainer on deposit in our Lawyer Trust Account. You are also responsible for paying fees, costs, and expenses in excess of the funds that we hold.

Your Obligations as a Client

Clear communication between us is essential to effective representation. We cannot properly represent you without your full assistance in furnishing us with accurate and complete information and written materials as and when requested. Accordingly, our obligation to continue providing services is subject to the following:

- Your full and prompt cooperation in accurately, completely, and truthfully producing or disclosing any and all information we, our experts, or consultants may reasonably request in the course of this engagement.
- Your full and prompt assistance in responding to discovery demands by opposing parties, including appearing at depositions and trial.
- Keeping us advised at all times of your current address, telephone number, and whereabouts.
- Your full and prompt payment of all sums due under this agreement for services rendered or expenses incurred or advanced.

Failure to comply with any of the conditions listed above constitutes grounds for us to terminate this agreement and withdraw as your attorney.

Termination

You may terminate our services at any time upon delivery of written notice to us stating that you wish to terminate this agreement. Should you terminate our services, we are entitled to bill and be paid for all fees and costs incurred to the date of termination. Unless we specifically agree to do so in writing, we will not be obligated to perform any further services, or advance any expenses to, for, or on your behalf after receipt of your notice of termination. If we are attorney of record for you in any proceedings at the time we receive a terminate notice, you agree to promptly authorize the filing of a Substitution or Withdrawal of Counsel.

E-Mail Communication, Copy Services, and Experts

To reduce cost to you, and to expedite communications, we routinely use *unencrypted* e-mail. Use of *unencrypted* e-mail necessarily involves some risk of accidental disclosure of confidences notwithstanding care on our part and yours. Specifically, all our e-mail messages include headers designating the message as “confidential and privileged.” Furthermore, unless you have retained us on a business matter involving your work, we will send e-mail only to your personal e-mail address. Since we endeavor to designate messages as “confidential and privileged,” and avoid e-mailing you at

work, we believe a court would recognize our intent to preserve client confidences and hold that the attorney-client privilege applies to our e-mail messages. However, preserving the attorney-client privilege depends in part on you. Some jurisdictions have held that no attorney-client privilege applies when an employee uses a computer at work to access personal e-mail over the employer's Internet connection. **Therefore, we ask that you refrain from reading, downloading, or responding to attorney-client e-mail while at work.**

Because the attorney-client privilege belongs to the client, we will abide by your instructions and directions respecting communication by e-mail. If you wish to avoid the possibility of an accidental waiver of the attorney-client privilege, we will communicate via telephone, facsimile, ordinary mail, and Fed Ex, but not via the Internet. Unless we receive instructions from you to the contrary, it is understood we are authorized to use *unencrypted* e-mail to communicate with you and others about your case.

We may engage an outside copy service to assist us in copying documents needed to represent you. We believe that disclosure of your confidential documents to the copy service and its employees does not violate the attorney-client or work product privilege. However, though we believe the potential is remote, it is possible that a court could disagree with us. It is agreed that you have authorized us to contract with an outside copy service to photocopy documents at our discretion.

Likewise, your representation may require us to consult with consultants and experts to prepare your case. It is agreed that you have authorized us to contact consultants and experts as we deem necessary, subject to your approval of the terms and conditions of any contracts with such consultants or experts. All consultant/expert engagements will be under a "direct billing" arrangement in which you shall be solely responsible to pay all approved fees and expenses charged or billed by any consultant or expert we have engaged with your approval.

Returning Original Client Documents/Destruction of File

I will send you pleadings, documents, correspondence, and other information throughout the case. These copies will be your file copies. I will also keep the information in a file in my office. The file in my office will be my file. Please bring your file to all our meetings so that we both have all the necessary information available to us. When I have completed all the legal work necessary for your case, I will close my file and return the original documents to you. I will then store the file for approximately 10 years. I will destroy the file after that period of time.

Assisting Attorney

My goal is to provide you with conscientious, competent, and diligent legal services. I also want to protect your interests in the event of my unexpected death, disability, impairment, or incapacity. In order to accomplish this, I have arranged with another attorney to assist with closing my practice in the event of my death, disability,

impairment, or incapacity. In such event, my office staff or the assisting attorney will contact you and provide you with information about how to proceed.

Retaining our Services

I have included a copy of this letter for you to review, sign, and return to me. If any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing the letter. Otherwise, please sign the enclosed copy and return it to me along with your retainer in the amount of \$ *[amount]*.

On behalf of the firm, we appreciate the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]

[Firm]

I have read this letter and consent to it.

[Client]

[Date]

ENGAGEMENT LETTER AND FEE AGREEMENT - BASIC
FOLLOW-UP LETTER TO INITIAL INTERVIEW
(Sample – Modify as appropriate)

Re: [Subject]

Dear [Name]:

We met to discuss your case on [date], and I have agreed to represent you in connection with [type of matter], and we agreed to [insert appropriate details].

Thank you for selecting our law firm to represent you in this matter. At this time, I also wish to set forth our agreement regarding payment of our fees. Our fees for legal services are [dollar amount] per hour, plus any expenses incurred, such as filing fees, deposition charges, copying costs, postage, and related expenses. We will bill you approximately monthly, depending on the amount of work that was done on your file during that period of time. At this point, it is difficult to estimate the amount of time and expense that will be necessary to adequately represent you in this case. However, as we discussed, we estimate the fee will be approximately [dollar amount]. We will also advise you before we do any work that will substantially increase the amount of fees.

You have deposited [dollar amount] with us for fees and costs. We will hold your funds in our lawyer's trust account. We will provide you with a monthly statement of fees, costs, and expenses. After we mail you the monthly statement, we will apply the funds to fees earned, costs, and expenses incurred. You are also responsible for paying fees, costs, and expenses in excess of the funds that we hold.

My goal is to provide you with conscientious, competent, and diligent legal services. However, I cannot achieve this goal without your cooperation. This includes keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments required under this agreement. It is also important that you promptly notify me of any changes of address or telephone number so I will always be able to reach you. In addition, I may suggest that we consult with another attorney about issues in your case. Before I do this, I will discuss the issue with you and ask you to decide whether you want to retain the attorney as a consulting attorney on the case.

I also want to protect your interests in the event of my unexpected death, disability, impairment, or incapacity. In order to accomplish this, I have arranged with another attorney to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the assisting attorney will contact you and provide you with information about how to proceed.

I will send you pleadings, documents, correspondence, and other information throughout the case. These copies will be your file copies. I will also keep the information in a file in my office. The file in my office will be my file. Please bring your file to all our meetings so that we both have all the necessary information available to us. When I have completed all the legal work necessary for your case, I will close my file and return the original documents to you. I will then store the file for approximately 10 years. I will destroy the file after that period of time.

I have included a copy of this letter for you to review, sign, and return to me. If any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing the letter. Otherwise, please sign the enclosed copy and return it to me.

On behalf of the firm, we appreciate the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]

[Firm]

I have read this letter and consent to it.

[Client]

[Date]

Enclosure

ENGAGEMENT LETTER

(Sample – Modify as appropriate)

Re: [Subject]

Dear [Name]:

The purpose of this letter is to confirm, based on our conversation of [date], that [firm name] will represent you in [describe matter]. We will provide the following services: [list services to be provided].

Attached for your use is information on our billing and reporting procedures. Our fee is [dollar amount] per hour for services performed by lawyers of this firm and [dollar amount] per hour for services performed by our nonlawyer staff. You will also be billed for expenses and costs incurred on your behalf.

Our expectations of you are: [list any expectations concerning payment of bills, responses to requests for information, etc.].

This firm has not been engaged to provide the following services: [list services that are outside the scope of the representation].

I estimate that fees and expenses in this case will be [provide a realistic, worst-case estimate of fees and expenses]. Please keep in mind that this is only an estimate and that, depending on the time required and the complexity of the action, actual fees and expenses may exceed this estimate. You will be billed for actual fees and expenses.

It is very difficult to accurately predict how long it will take to conclude your case. Generally, these cases take [provide a realistic, worst-case estimate of time to be spent on the case]. This is only an estimate, and the actual time required to conclude this matter may be greater than expected.

I have enclosed a copy of the initial interview form. If any of the information on this form is incorrect, please notify [primary contact] immediately. If you have any questions about this information, please call [primary contact].

My goal is to provide you with conscientious, competent, and diligent legal services. However, I cannot achieve this goal without your cooperation. This includes keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making payments as required. It is also important that you promptly notify me of any change of address or telephone number so I will always be able to reach you. In addition, I may suggest that we consult with another attorney about issues in your case. Before I do this, I will discuss the issue with you and ask you to decide whether you want to retain the attorney as a consulting attorney on the case.

I also want to protect your interests in the event of my unexpected death, disability, impairment, or incapacity. To accomplish this, I have arranged with another attorney to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the assisting attorney will contact you and provide you with information about how to proceed.

I will send you pleadings, documents, correspondence, and other information throughout the case. These copies will be your file copies. I will also keep the information in a file in my office. The file in my office will be my file. Please bring your file to all our meetings so that we both have all the necessary information available to us. When I have completed all the legal work necessary for your case, I will close my file and return original documents to you. I will then store the file for approximately 10 years. I will destroy the file after that period of time.

I have included a copy of this letter for you to review, sign, and return to me. If any of the information in the letter is not consistent with your understanding of our agreement, please contact me before signing the letter. Otherwise, please sign the enclosed copy and return it to me.

On behalf of the firm, we appreciate the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]

[Firm]

I have read this letter and consent to it.

[Client]

[Date]

Enclosures

[NOTE: This is a sample form only. Use of this letter will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.]

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**FEE AGREEMENT -
AUTHORIZATION TO CHARGE CREDIT CARD
(Sample – Modify as appropriate)**

THIS FEE AGREEMENT (“Agreement”) is made this _____ day of _____, _____ between [Name of Client], hereinafter referred to as “Client,” and [Name of Attorney(s)], Attorney at Law, hereinafter referred to as “Attorney”:

1. Client agrees to employ Attorney for representation in a legal matter in connection with [describe].
2. Attorney has consented to accept such employment and agrees to render the services required of [him/her] as Attorney by this Agreement on the terms and conditions herein stated. Client agrees to cooperate fully with Attorney and others working on Client’s case by keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments. Client also agrees to keep Attorney informed of any change of address or telephone number within five (5) days of the change.
3. The fee for legal services on behalf of Client shall be Client’s sole responsibility and shall be billed at the rate of [dollar amount] per hour, plus any expenses and costs incurred on Client’s behalf.
4. Attorney will provide Client with a detailed statement of fees, costs, and expenses on the _____ day of each month. Client will have _____ days from the statement date to review the bill and contact Attorney with any questions.

Option 1: Thereafter Attorney is authorized under the attached Credit Card Payment Authorization to charge Client’s credit card for the full amount due. If Attorney is unable to process Client’s payment by credit card, Attorney will notify Client immediately. Client will then be responsible for arranging an alternate form of payment in full within _____ days.

Option 2: Client is responsible for paying [his/her] bill in full within _____ days of the statement date. If payment is not received on a timely basis, Attorney is authorized under the attached Credit Card Payment Authorization to charge Client’s credit card for the full amount due. If attorney is unable to process Client’s payment by credit card, Attorney will notify Client immediately. Client will then be required to pay the full balance of [his/her] bill in [specify payment method, such as “cash” “wire transfer,” or “check”] within _____ days.

5. Attorney reserves the right to withdraw from further representation of Client at any time on reasonable written notice to Client at Client’s last known mailing address. Failure to timely pay Attorney’s fees, costs, and expenses may result in Attorney exercising this right.
6. Attorney may appoint another attorney to assist with the closure of Attorney’s law office in the event of Attorney’s death, disability, impairment, or incapacity. In such event, Client agrees that the assisting attorney can review Client’s file to protect Client’s rights and can assist with the closure of Attorney’s law office.
7. Attorney will send Client information and correspondence throughout the case. These copies will be Client’s file copies. Attorney will also keep the information in Attorney’s file. When Attorney has completed all the legal work necessary for Client’s case, Attorney will close Attorney’s file and return original documents to Client. Attorney will then store the file for approximately 10 years. Attorney will destroy the file after that period of time.
8. Client acknowledges reading a copy of this Agreement and consents to its terms.

[Attorney]

[Date]

[Client]

[Date]

[NOTE: This is a sample form only. Use of this agreement will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action. Use the attached Credit Card Payment Authorization in conjunction with this agreement.]

CREDIT CARD PAYMENT AUTHORIZATION FORM

Instructions:

Complete and sign this authorization and return to [*Name of person to receive form*]

Client Name:		
Matter:		
Attorney:		
Check One:	<input type="checkbox"/>	Visa
	<input type="checkbox"/>	MasterCard
Credit Card #:		
Exp. Date on Credit Card (mm/yr):		
Name as it appears on card:		
Company name on card (if applicable):		
Credit card billing address:		
City:	State:	Zip:
Telephone:	Fax:	E-mail:
<p>This authorization is given subject to the terms of the attached Fee Agreement which are incorporated by reference herein.</p> <p>By signing this authorization, I acknowledge that I have read and agree to all of the above information and warrant all information given is true.</p>		
Signature of Card Holder:		
Printed Name of Card Holder:		
Date:		

Note: Be sure you comply with [PCI](#) (Payment Card Industry) [e-commerce guidelines](#): “You must follow the terms of your merchant agreement. Most merchant agreements require you to have original signed standing authorizations from credit card holders. This bit of signed paper will help you if the customer challenges your charges. It is best practice to encrypt credit card numbers. This is a mandatory requirement in the PCI guidelines. Limit the term of the recurring payment to no more than one year, particularly if you have ‘Card holder not present’ (CNP) transactions. Expunge the credit card details as soon as the agreement is finished. The problem with encryption is that you must be able to decrypt the data later on in the business process. When choosing a method to store cards in an encrypted form, remember there is no reason why the front-end web server needs to be able to decrypt them. Database-layer column or table level encryption is considered the best practice.”

FEE AGREEMENT - EARNED UPON RECEIPT (Sample – Modify as appropriate)

THIS FEE AGREEMENT (“Agreement”) is made this _____ day of _____, _____, between [Name of Client], hereinafter referred to as “Client,” and [Name of Attorney(s)], Attorney at Law, hereinafter referred to as “Attorney”:

1. Client agrees to employ Attorney for representation in a legal matter in connection with [describe].
2. Attorney has consented to accept such employment and agrees to render the following services on the terms and conditions herein stated: [Carefully describe scope of services.] This agreement does not include [describe services that are not included within the scope of the earned upon receipt fee agreement.]
3. Client agrees to cooperate fully with Attorney and others working on Client’s case by keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments. Client also agrees to keep Attorney informed of any change of address or telephone number within five (5) days of the change.
4. Client agrees to pay Attorney the sum of [dollar amount] for [his/her] services in this matter. Attorney will not commence representation of Client until such funds are received. **These fees are fully earned upon receipt.** Payment indicates Client’s understanding that these fees will not be deposited into Attorney’s Lawyer Trust Account.
5. Client may discharge Attorney at any time, and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed. Attorney reserves the right to withdraw from further representation of Client at any time on reasonable written notice to Client at Client’s last known mailing address.

If Client discharges Attorney or Attorney withdraws from the Client’s case before Attorney has completed the services for which Attorney is employed under this agreement, Attorney is entitled to a fee that is proportional to the amount of work completed by Attorney. Any unearned fees shall be refunded to Client. Client shall be responsible for all costs incurred in [his/her] case under Paragraph 6 below.

6. In addition to the attorney fees described above, Client agrees to pay all of the costs incurred in [his/her] case. Examples of such costs include filing fees, service fees, court reporter fees, and [describe other costs]. Attorney will provide Client with a monthly itemized invoice describing [optional: services rendered and] costs incurred. Each invoice is due and payable [insert days] business days after mailing. Client’s failure to pay costs on a timely basis may result in Attorney withdrawing from Client’s case as described in Paragraph 5 above.
7. Attorney may appoint another attorney to assist with the closure of Attorney’s law office in the event of Attorney’s death, disability, impairment, or incapacity. In such event, Client agrees that the assisting attorney can review Client’s file to protect Client’s rights and can assist with the closure of Attorney’s law office.
8. Attorney will send Client information and correspondence throughout the case. These copies will be Client’s file copies. Attorney will also keep the information in Attorney’s file. When Attorney has completed all the legal work necessary for Client’s case, Attorney will

close Attorney's file and return original documents to Client. Attorney will then store the file for approximately 10 years. Attorney will destroy the file after that period of time.

9. Client acknowledges reading a copy of this Agreement and consents to its terms.

[Attorney]

[Date]

[Client]

[Date]

NOTE:

This is a sample form only. Use of this agreement will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.

Practitioners are advised to carefully read and understand:

- OSB Formal Opinion No. 2005-151 – Fee Agreements: Fixed Fees, <http://www.osbar.org/docs/ethics/2005-151.pdf>
- Oregon ORPC 1.5(c)(3), <http://www.osbar.org/docs/rulesregs/orpc.pdf>
- Oregon RPC 1.15-1(c), <http://www.osbar.org/docs/rulesregs/orpc.pdf>
- Amber Hollister, "How Much Do I Owe You?: "New" Guidelines for Fixed and So-called Nonrefundable Fees," *Oregon State Bar Bulletin* (October 2011) <http://www.osbar.org/publications/bulletin/11oct/barcounsel.html>

**Oregon State Bar
Model Explanation of Contingent Fee Agreement**

This is an explanation of your Contingent Fee Agreement with us. Please read it and sign it before you sign the Agreement.

The Contingent Fee Agreement says:

1. We agree to handle your case.
2. If we handle your case to completion and do not recover any money for you, you do not have to pay us for our services.
3. If we handle your case to completion and recover some money for you, you must pay us for our services. Our fee will be a percentage of what we recover for you. The percentage is set forth in the Contingent Fee Agreement.
4. If we advance money for filing fees, witness fees, doctors' reports, court reporters' services or other expenses on your behalf (lawyers selects one):
 - You must repay us whether the case is won or lost;
 - You must repay us only if we recover money for you; or
 - You do not need to repay us regardless of the outcome of your case.
5. You may cancel the Contingent Fee Agreement by notifying us in writing within 24 hours after you sign it.
6. If you cancel the agreement within the 24-hour period, you will have no obligation to us.

I have read the foregoing explanation before signing a Contingent Fee Agreement with _____ (Name of Lawyer or Firm).

Client's Signature

Date

RETAINER AGREEMENT (Sample – Modify as appropriate)

THIS RETAINER AGREEMENT (“Agreement”) is made this _____ day of _____, _____, between [Name of Client], hereinafter referred to as “Client,” and [Name of Attorney(s)], Attorney at Law, hereinafter referred to as “Attorney”:

1. Client agrees to employ Attorney for representation in a legal matter in connection with [describe].
2. Attorney has consented to accept such employment and agrees to render the services required of [him/her] as Attorney by this Agreement on the terms and conditions herein stated. Client agrees to cooperate fully with Attorney and others working on Client’s case by keeping appointments, appearing for depositions, producing documents, attending scheduled court appearances, and making all payments. Client also agrees to keep Attorney informed of any change of address or telephone number within five (5) days of the change.
3. The fee for legal services on behalf of Client shall be Client’s sole responsibility and shall be billed at the rate of [dollar amount] per hour, plus any expenses and costs incurred on Client’s behalf.
4. Client will deposit with Attorney the sum of [dollar amount] to be held by Attorney in [his/her] trust account. Attorney will not commence representation of Client until such funds are received. Attorney will provide Client with a monthly statement of fees, costs, and expenses. Upon mailing the monthly statement to Client, Attorney will apply the retainer to fees earned, costs, and expenses incurred on Client’s behalf. Client is responsible for paying all fees, costs, and expenses in excess of the retainer held in trust.
5. Attorney reserves the right to withdraw from further representation of Client at any time on reasonable written notice to Client at Client’s last known mailing address. If Attorney withdraws, Attorney shall refund to Client the part of the retainer that Attorney has not earned.
6. Attorney may appoint another attorney to assist with the closure of Attorney’s law office in the event of Attorney’s death, disability, impairment, or incapacity. In such event, Client agrees that the assisting attorney can review Client’s file to protect Client’s rights and can assist with the closure of Attorney’s law office.
7. Attorney will send Client information and correspondence throughout the case. These copies will be Client’s file copies. Attorney will also keep the information in Attorney’s file. When Attorney has completed all the legal work necessary for Client’s case, Attorney will close Attorney’s file and return original documents to Client. Attorney will then store the file for approximately 10 years. Attorney will destroy the file after that period of time.
8. Client acknowledges reading a copy of this Agreement and consents to its terms.

[Attorney]

[Date]

[Client]

[Date]

[NOTE: This is a sample form only. Use of this agreement will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.]

FEE AGREEMENTS

Fee Agreements are included in the collection of sample Engagement Letters available on the PLF Web site, www.osbplf.org.

We also recommend reviewing the *Fee Agreement Compendium*, available as a BarBook™ on the Oregon State Bar Web site, www.osbar.org.

Client Intake – Streamlining Procedures and Converting Prospects into Clients

presented by Michael Chasin – CEO Lexicata



The Current Client Intake Landscape

- All Focus on Case Management, Why No Intake Management?
- Very Cumbersome & Slow Approach (Both Law Firm & Client)
- No Repeatable/Systematic Processes In Place
- Limited Use of Technology



The Current Client Intake Landscape

- Poll: What Kind of Software Does Your Law Firm Use?
 - A: Case Management
 - B: Intake Management
 - C: Both
 - D: None



The Current Client Intake Landscape

- All Focus on Case Management, Why No Intake Management?
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The Pitfalls of Current System

FRONT END (Client-facing)

- Poor Client Experience:
 - Inefficient
 - Frustrating
- Bad Communication
 - Response Time/Type
 - Misinformed
 - Miscommunication

BACK END (Law Firm Operations)

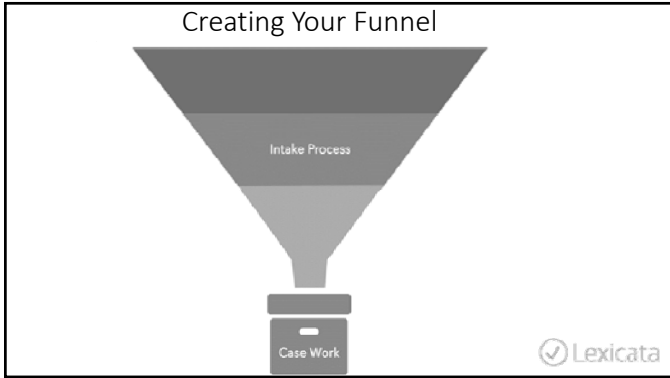
- Disorganized
 - Wasted Time
 - Unhappy Staff
 - Likelihood of Malpractice
- Lower Retention Rate
 - Lost Revenue
 - Wasted Marketing \$\$\$



Poll

- Does Your Firm Have, What A 3rd Party Would Define As, A Structured And Organized Intake/Sales Process?
 - Yes
 - No





- ### Internal Processes
- **Setting Up The Funnel (The Plastic Casing):**
 - Speed, Organization, Needed Information
 - How/Where to Market
 - ABA Rule 7.2 (Advertising) & ABA Rule 7.3 (Direct Contact with Prospective Clients)
 - Ethical Rules/Conflicts Checks
 - ABA Rule 1.7 - Need to Maintain a Current Conflicts Check System
 - Assigning Roles/Responsibilities
 - Evaluating Cases



Before The Funnel – Uniform Branding

- Dating Analogy (Match.com → First Date → 1st Anniversary)
 - Always managing expectations, at all stages
- All Elements:
 - Website
 - Blog
 - Dress
 - Office Space
 - Client Sales Presentation
 - Virtual Receptionist
 - Post-Retention
 - Post-Completion



Top of Funnel – First Contact



Poll

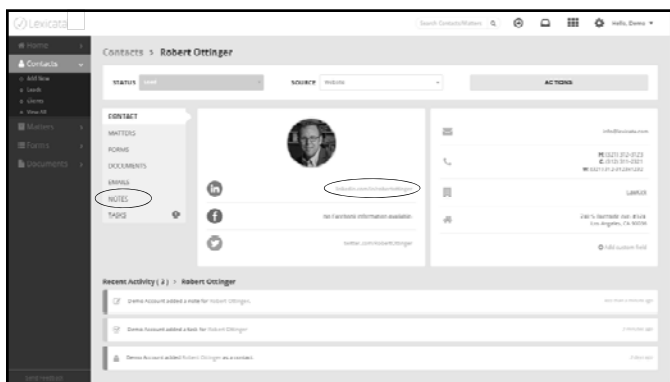
- Do you research your potential client before your meeting?
 - Yes
 - No



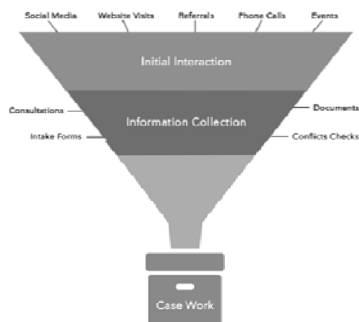
Initial Contact

- Starts from First Connection with a Lead
 - Any kind of meeting (social media, referral, email, phone call)
- In-line with your brand
- "The Rule of 7"
 - 35%-50% of leads are retained by first responder
 - 100x better chance if answered within 5 minutes vs 30 minutes
- Manage Expectations/Explain Next Steps
- Need to Track at the Top of the Funnel (CRM)
 - Important to Segment Systems (Lexicata vs Clio)
 - Know Your Client – Social Media? (Sales and Service)





Second Level – Collecting Information



A1 Author, 9/24/2015

Information Collection

- How Are You Collecting Your Information? (Remember this step represents your brand)
 - Receptionist?
 - Virtual Receptionist?
 - Paralegal?
 - Lawyer?
 - Clerk?
 - Intern?

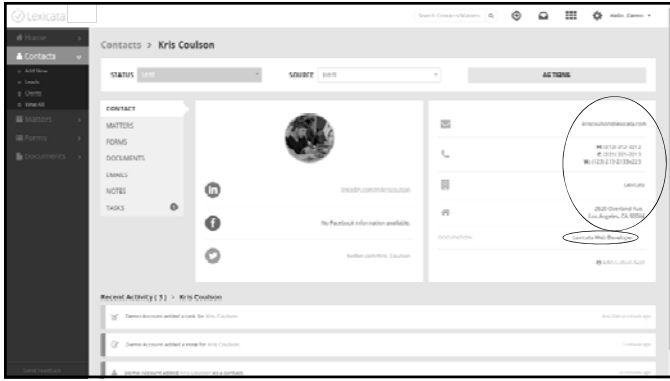


Information Collection

- "The 1:100 Rule"
- Strong Need to Collect Extensive & Accurate Information:
 - Avoid Malpractice
 - Avoid Bad Clients/Bad Cases
 - Avoid Miscommunication (Rabbi lawyer PI story)
- Finding a Balance – Information vs Inconvenience
 - Law Firm & Client Time
 - Unnecessary back-and-forth
 - Disrupts the Building of Rapport
- Develop a Repeatable/Scalable Process (think like a startup)



The screenshot shows a Lexicata contact form with several fields. A large oval highlights the 'Contact Information' section, which includes fields for Name (First, Last, Middle), Email, Company, Phone Number, and Address. A smaller oval highlights the 'What is your occupation?' dropdown menu.





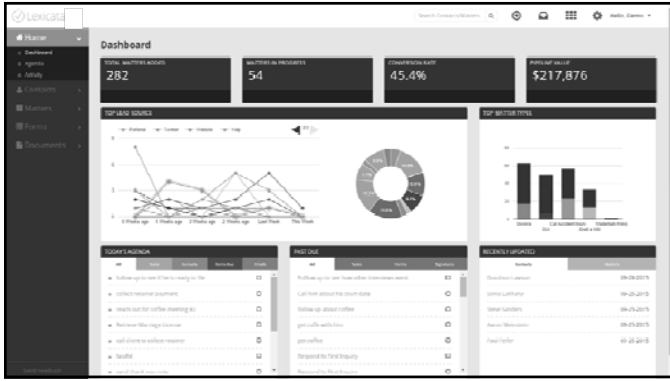
Retention Process

- Time to Seal the Deal
 - Remove all barriers
 - Make it as EASY as humanly possible
- Clearly Explain All Important Provisions (even though it is in the contract)
 - Personal Story
- Clearly Explain Next Steps (Manage Expectations)



- ### Perform, Analyze, Iterate, Improve
- Leverage Data to Improve
 - Adapt Funnel
 - Time Spent
 - Shift Focus of Practice?
 - ROI?
 - Get Feedback
 - Act Like a Startup, Not a Law Firm
-

- ### Referral Nurturing
- Are You Effectively Managing Your Referral Network?
 - Golf Outings
 - Thank You Notes
 - Pay Out Referral Fees (QUICKLY & NICELY!)
 - Your Referrals Aren't Just Lawyers/Accountants
 - Your previous clients can be your best resource
 - Constantly connect with previous clients, they are your cheapest marketing
 - Also thank you notes
-



Poll

- After listening to this section on retention, do you feel that your law firm has enough data/information about your process/clients to greatly improve your intake process?
 - Yes
 - No

Conclusion

- 1) Build Your Ideal Funnel
- 2) Analyze Your Existing Funnel
- 3) Iterate Your Funnel Based On Results/Feedback

Google NPR Interview Quote: "Don't look at how Google can help you do what you are already doing, just better. Look how Google can open your eyes to things that you never thought were possible"

Poll

• Are you interested in learning more about Lexicata and the service it offers?

- Yes
- No