

2

Quality Control and the Practice/ Business of Law

ETHICS

Themes:

- Reflecting on the business development side of the practice of law, how to vet:
 - Cases particular to the practice area;
 - The kind of clients that those cases typically draw; and
 - How to work with or stop working with the client.

Activities:

CASE EVALUATION:

Every person has the right to representation...that does not mean they have the right to be represented by YOU.

- Spokane Attorney

- Identify the different kinds of cases that are likely to cross the mentee's desk, given the practice area, for which the mentee has sought the mentor's assistance. What cases does the mentee believe s/he would like to handle? Are there other opportunities for business in this practice area that the mentee has overlooked or not yet explored?
- Discuss what a good initial consultation should look like, what kind of follow-up should be had and how having a strong discussion and developing a good understanding of the case, in this practice area, early can facilitate a smooth exchange for the balance of the relationship.
- Exchange or draft case evaluation forms or checklists particular to the practice area.
- Review and discuss rules relating to case evaluation. Should the matter be brought at all (RPC 3.1)? Is the subject matter one that the mentee is equipped or can become equipped (RPC 1.1) to handle? What is the scope of representation intended to be (RPC 1.2)? Are the attorney and client on the same page, regarding the scope of representation (RPC 1.3, 1.4)? Discuss with the mentee how to have these conversations with the client.

ETHICS

Activities (continued):

What are the client's expectations? What is a reasonable outcome based on the information obtained during the consultation? What are the ranges of available outcomes given the situation that has been described? Does accepting this client's case impact management of other cases (i.e. when to say, 'no.')?

- What should a fee/retainer agreement look like (RPC 1.5, RPC 1.15A)?
- How do you screen a potential client for conflicts in your office? Why do you always do a conflicts check before agreeing to take on new cases (RPC 1.6, 1.7, 1.8, and 1.9)? What if you find a potential conflict? What should you do with that information?
- Discuss red flags that are raised during a consultation. How should mentee hold a conversation with a prospective client who is not going to become a client (RPC 1.7, 1.8, 1.9, 1.18) and what follow-up should take place, whether internally or with the prospective client?

DIFFICULT CLIENTS & CLIENT COMMUNICATION:

- What steps should you take to provide each of your clients with reasonable expectations for each of your cases?
- How can you create boundaries for your clients so that they know the type of work you can do for them and when you will be available to help them and answer their questions? One way to set boundaries is to determine forms of communication that clients should use to contact you. How can your client contact you? Is it appropriate for a client to contact an attorney by text on his or her personal cellphone? How about on Facebook or on any other social networking platform? Why or why not?
- What type of social networking communication policy have you adopted for yourself, your employees, and for your clients? Why have you adopted those policies? What specific guidance do you provide your clients about what they should post online?
- Discuss the importance of returning phone calls and responding to inquiries (i.e. the attorney's requirement to be diligent (RPC 1.3) and communicate information (RPC 1.4) to the client.)

Identify resources for the mentee to review regarding practice/business of law specific issues that can arise. What is unique about the "culture of practice" in your specific legal area (i.e. if you practice family law does that have a different "culture of practice" than tax law)?

ETHICS

Activities (continued):

- Discuss and identify non-legal resources for the mentee to review that may assist them in their interaction with clients.
- Discuss with the mentee what should happen when things go sideways with a client? At what point is the relationship unsalvageable (RPC 1.16, 1.7, and 1.9)? Once the client is a former client, what must the attorney do (RPC 1.6 and 1.9)?

Resources:

- Discuss what additional resources the mentor/mentee have found useful in their own practice.
- [Yale Law School Legal Scholarship Repository: Conflict and Trust between Attorney and Client](#)
- [Identifying and managing Difficult, High Conflict Personality Clients](#)

People are usually coming to us to solve a problem that they have and either cannot or do not know how to fix for themselves.

Every person who crosses our doorway – whether we take their case or not – is a walking, talking billboard who will either facilitate the development of our practice, or tell everyone what a terrible office we are and what an awful practice you have.

Our treatment of these people with their problems dictates how they feel about their cases and what they say about us.