

## **CASE INTAKES: IDENTIFYING GOOD CASES AND ETHICALLY DISPENSING WITH THE REST**

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The lifeblood of any law office is the intake process. Without the phone ringing or people otherwise contacting the office to generate new cases, the office will be forced to close. While it may take some time and resources, one should probably never complain about having to deal with intakes. Having an effective system for dealing with intakes is a key component of a successful law office and greatly minimizing prospective professional liability problems.

As a paralegal or legal assistant (hereinafter referred to collectively as “paralegals” for sake of convenience) you are often the gatekeeper for persons seeking to become clients with your office. You are the potential client’s first point of contact with the office and depending on the nature of the office structure and the nature of the case you could be the person with whom the client has the most contact. As the gatekeeper it is vital you have a good working knowledge of the ethical rules, strategies, and essential information related to the client intake process.

One caveat to your role is that you should ensure you are not pressured or otherwise persuaded to engage in the practice of law. That task is reserved to licensed attorneys. “A paralegal must not perform any of the duties that attorneys only may perform nor take any actions that attorneys may not take.” Canon 1 of National Association of Legal Assistants Inc. (NALA) Code of Ethics and Professional Responsibility, 2007. In the intake context these duties include providing information about the value of a case, making statements regarding applicable statutes of limitations, suggesting a course of legal action or legal strategy, and making the final decision about whether to take a prospective client’s case. Paralegals can, however, conduct interviews, procure case information and documents, accept payments from prospective clients [to the office], and handle other facets of the case intake process without running afoul of the relevant statutes and ethics rules.

### **A. FACT-FINDING (The case for a case intake form)**

The first step to effectively handling intakes is to create a system to obtain the essential information from the prospective client. The best means of accomplishing this

is the creation and use of a case intake form that contains essential information about the prospective client. The intake form need not be terribly detailed but, at a minimum, it should list the date of your initial interview with the client and seek the following:

- Date of initial interview or meeting;
- Full name;
- Date and place of birth;
- Social security number (or make note if a client lacks a SSN; in such cases obtain ask if client has an ITIN/EIN);
- State and number of driver's license;
- Mailing address and physical address including county and state;
- Phone numbers (work, home, cell, etc.);
- Description of legal subject area (real property, estates, etc.);
- Name(s) of potential defendant(s) or responsible party(ies);
- Name(s) of witnesses or persons with relevant information;
- Date of incident(s) or relevant date that the claim(s) accrued---this is highly important in determining the expiration of any applicable SOL.

For more detailed information such as medical history, criminal history, or educational background, you may wish to provide the prospective client with a detailed questionnaire to complete and return but preferably *after* you have decided to take the case. This saves you a tremendous amount of time. If your office handles a variety of cases it is helpful to have several versions of a case intake form tailored to these different case types. Attached to this manuscript are a sample "basic" intake form (see Appendix A), a more detailed intake form which can be used for personal injury cases (Appendix B), and an intake form for criminal and traffic matters (Appendix C). For additional forms and helpful information regarding case intakes, visit

[http://files.www.lawyersmutualnc.com/risk-management-resources/risk-management-handouts/client-intake/Client\\_Intake.pdf](http://files.www.lawyersmutualnc.com/risk-management-resources/risk-management-handouts/client-intake/Client_Intake.pdf).

If your office has a website you can create an intake questionnaire, upload it to the website, and direct all prospective clients to print and complete the questionnaire prior to the initial meeting with your office. This questionnaire can supplement or replace portions of the intake form you would otherwise complete when speaking with the prospective client. Additionally, you may wish to provide the client with a checklist of items to bring or provide for your initial case meeting. A sample checklist is attached as Appendix D. Again, if your office has a website you can upload the checklist and prompt prospective clients to review it and bring the appropriate case documents to the initial case meeting.

Always try to meet with a prospective client before deciding to take their case. Often people make different impressions in-person than they do on the telephone or via e-mail. Phone, e-mail and fax communication are no substitute for your face-to-face assessment of a person with whom your office may have to work quite closely for some period of time.

On a personal level, the demeanor and behavior of the paralegal who is interviewing the prospective client can be a key determinant of the efficacy of the interview. Be cordial, be punctual, be a good listener, be clear in your questions and statements, be focused on the client, be flexible in the “structure” of the interview, and be honest. These same “be-attitudes” should be employed by any lawyer who is participating in the interview with you and the prospective client.

## **B. FILTERING THE GOOD (CASES) FROM THE BAD**

So you set the initial case interview and obtain the case facts from the prospective client. Now you must begin to assess the viability of this case. If you and one of the attorneys from your office are meeting with the prospective client in person to screen the case, it may be appropriate for the two of you should excuse yourselves from the conference room for a few moments to discuss your initial impressions of the prospective client and her case. You and the attorney assessing the case should consider the following:

Conflict of interest?: The identity of all potential defendants and opposing parties should be ascertained early during the initial case interview with the potential client. This is so you can determine if a conflict exists that will require non-engagement under the applicable ethics rules. The relevant ethics rule directs the legal professional to begin the interview with a goal of obtaining the minimum information needed to determine if a conflict exists. N.C. 2003 Amended Revised Rules of Professional Conduct Rule 1.18, Comment 4.

It is a virtual requirement that the office perform a conflict check before agreeing to undertake representation. This is especially true in a firm with multiple attorneys. You may be talking with a prospective plaintiff but a prospective defendant in the case may have already spoken with and possibly retained another attorney in your firm.

A frequent example of prospective conflict is what the ethics rules term a “concurrent conflict”. The concurrent conflict often arises in the personal injury context where multiple injured parties seek your legal services but one of the parties is subject to a defense of contributory negligence. For example, a driver and two passengers of a motor vehicle are involved in a one-vehicle collision after several hours of alcohol consumption by all vehicle occupants. The driver is cited for driving while impaired due to his blood alcohol readings. Even if there is no viable contributory negligence defense against the passengers [for entering a vehicle driven by a person that they knew or had reason to know was impaired], there may be an issue of the value of all claims exceeding the available insurance proceeds---i.e. too many spoons and not enough soup.

The conflict situation requires careful consideration and, if the representation is undertaken, written conflict waivers should be obtained from each prospective client. Read Rule 1.7 and Rule 1.9 very closely. Prior to undertaking the representation the attorney must explain the conflict or potential conflict with the prospective client(s) and

discuss the pros and cons of waiving the conflict. Alternative courses of conduct, including advising the client to seek independent counsel, should also be discussed. The depth and documentation of these discussions will be of great importance if the client files a malpractice claim. When it comes to client representation it is best to avoid all real or potential conflicts of interest.

Locus of litigation: In what state(s), county(ies), and level(s) of court can the case be filed if litigation is required? Where would you prefer to file the case? If the incident involves out-of-state acts or omissions, you may be able to resolve it out-of-court but if litigation is required do you have contact with an attorney licensed in the other state? In the case of an employment matter or other case involving claims with federal subject matter, if you file the case in state court and the defendant removes it to federal court, does the office have any attorneys admitted to practice in the particular federal district to which the case would be removed?

Statute of Limitations: Think long and hard and hard and long about undertaking representation in a case in which the SOL is near at hand. You may think that you can get the case resolved before the SOL expires but what if you are wrong? Are you prepared to handle the case beyond that point? This is especially important in medical malpractice cases as Rule 9(j) of the North Carolina Rules of Civil Procedure allows a plaintiff to file for an extension of up to 120 days of the SOL in order to allow time for investigation of the case. If you obtain an extension and then determine this is not a case you wish to pursue, you may need to file a motion to withdraw as counsel. Query as to whether your motion would be allowed given the ethical concern of your withdrawal in the face of the rapidly approaching SOL constituting prejudice to the client. Rule 1.16(b)(1) and (d). Don't be the paralegal assisting the lawyer who gets caught in this pickle and makes the front cover of North Carolina Lawyers Weekly for all the wrong reasons.

Learning curve: Does the case involve subject matter with which you are not familiar? Rule 1.1 states that “[a] lawyer shall not handle a legal matter that the lawyer knows or should know he or she is not competent to handle without associating with a lawyer who is competent to handle the matter”. This does not mean, however, that your office cannot take a case just because it is in a subject area with which you have neither experience nor familiarity. In the Comment to Rule 1.1 it is noted that “a lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation”. Thus you can take the case and review the relevant statutes, case law and other legal resources to get up to speed on a certain area of the law. Under these circumstances, it may be advisable to also consult a colleague who has more experience in the relevant legal subject area than you.

Red flags: Play devil's advocate and question any holes or weaknesses in the case. Wear the hat of your prospective opposing counsel. Apply the summary judgment standard which is essentially: even if what this prospective client says is true, is there a legal reason that he will not be able to sustain his case? Are there any defenses or

counterclaims that negatively affect the case?---contributory negligence, unreasonable reliance, failure to exhaust administrative remedies, failure to timely report an injury, failure to reasonably mitigate damages, etc. If you have a hard time overcoming these meritorious defenses in your mind, it may be a sign that you should not undertake the representation. If, however, you decide to accept the case, be clear and resolute in your responses and positions to these possible defenses. Last but not least, be sure to discuss these issues with your client at the outset of your representation.

Repeat offended?: If it is a personal injury case, does the client have similar prior or subsequent physical injuries? If it is a contract case, has your client had previous problematic dealings with the opposing party which could affect the case? In an employment case, had the client previously been disciplined for the same conduct that resulted in their termination? The mere existence of prior or subsequent similar incidents and occurrences may not convince your office to decline the case but it should force you to seriously consider how these incidents would affect the prospective case.

Any damages to your damages?: Does the prospective client's theory of injury or damage not pass the smell test and/or contradict relevant case documents? Do your target defendants have insurance coverage or a bond or assets or some source of *convenient* recovery for what damages you are projecting? Has the client failed to reasonably mitigate damages (ex: missing doctor's appointments, not having damaged property repaired)?

Cost factor: Will the case require the office to incur significant costs for investigation, litigation or both? Is the office willing to advance these costs or will it look to the prospective client to provide the money or some portion thereof? Rule 1.8(e) allows the office to advance the court costs and case expenses so long as the client remains ultimately responsible for said costs.

### **C. FOCUS ON YOUR PROSPECTIVE CLIENT**

In addition to assessing the facts and documents provided by the prospective client you need to assess the client. This is the person who could make and break the case. In assessing the prospective client consider the following:

- Is she discussing a large settlement figure or a blockbuster lawsuit instead of just the facts of their situation? This could be a sign of a client with the unrealistic case expectations.
- Is she *instructing* you what to do instead of *asking* you what to do?
- What type of questions, if any, is the prospective client asking and what do these questions suggest about the client's expectations?

- Does he keep good records or have a good sense of organization? If he lacks basic records needed to support his case contentions, you may need to think twice about the specific claims he seeks to advance or the representation as a whole.
- In the case of a potential personal injury client does she attribute all of her current health problems or other issues to the defendant's conduct? Is this causal nexus supported by the medical providers or other evidence? Some prospective clients may possess a victim mentality or suffer from symptom exaggeration complex. An already-skeptical jury will hone in on this feature of your client's personality. And also consider whether the potential client has previous injuries that may play into the case.
- Would your office be taking the case primarily because the prospective client is a family member or close friend? Your analysis of the case should remain the same regardless of the identity of the prospective client. It is best to be tactful and turn down a friend than to take the case and regret it in the end.
- How many law offices and firms has the prospective client spoken with before coming to your office? It is usually a fair question to ask the prospective client and it can be an indicator of whether the potential case has some problems. A closely related question is whether or not the prospective client has just parted ways with another lawyer and wants you to pick up where the other lawyer left off. Beware of this situation as you may find it difficult to ever live up to the prospective client's expectations.
- What do you think of the prospective client's demeanor, body language, and other non-verbal communication and cues? Is the prospective client come across as difficult, overbearing, rude, or otherwise unpleasant? If so, even the best case may become a nightmare when the client depletes office time, energy, and morale.

#### SPECIAL CASE: PHONE INTAKES:

As a paralegal you may first "meet" the client via a telephone call. During such "meetings" you should take a somewhat minimalist approach as you seek initial information that can help you screen intakes into one of two categories: "Let's have this person come in for a meeting" or "Let's go ahead and make the non-engagement decision now." Obviously the ultimate decision as to which category the intake falls rests with the attorney who is reviewing the intake information you obtained but your thoughts and opinion can be valuable in making said decision. When you are conducting the phone interview obtain the information listed in the bullet points above under "A. Fact Finding", above.

**D. FIRMING UP A FOUNDATION WITH THE NEW CLIENT (a/k/a Engagement)**

If the office has decided to undertake representation of the client, this decision should be committed to writing as soon as practical. There are two primary methods of confirming legal representation: execution of a contract for legal services (see sample at Appendix D) or an engagement letter (see sample at Appendix E). The standard contract for legal services should also include the following: name and signature of client(s), date of signature(s), the specific legal matter(s) the office will be handling, an explanation of the nature and amount of the attorney's fee including what happens in the event that the attorney-client relationship is terminated prior to the conclusion of the case, discussion of the nature of prospective out-of-pocket costs, statement of the right to associate or otherwise engage other attorneys to assist in the representation, and statement of the attorney's right to terminate service should the client fail to abide by the terms of the fee agreement. The only limit on the nature of the legal fee is that it must not be illegal or excessive. Rule 1.5. The attorney is charged with the task of devising the fee to be charged for the representation.

Engagement letters should reflect or summarize discussions with clients that set out the scope, terms and limitations of the lawyer's representation. Like contracts for legal services, engagement letters help to define expectations of both the lawyer and client and to avoid the misunderstandings that cause client dissatisfaction. Engagement letters should include the same essential information as would be found in your contract for legal services in addition to a discussion of a projected case budget and a general chronology of how the case will proceed including time estimates.

If you had not already done so be sure that you inform the client of your status as a paralegal or legal assistant and not an attorney. You would be surprised how many clients are unclear as to the role and identity of the persons on the legal team and it is imperative these details are clear at the outset of the representation. "A paralegal must disclose his or her status as a paralegal at the outset of any professional relationship with a client, attorney, a court or administrative agency or personnel thereof, or a member of the general public." Canon 5 of National Association of Legal Assistants Inc. (NALA) Code of Ethics and Professional Responsibility, 2007. Clarity helps you, the office, and the new client. A win-win for all involved.

**FREQUENT ASSESSMENT AND CONTINUING DUE DILIGENCE:** Just because you decide to take the case does not mean you should cease questioning your case. Continue the critical assessment of the case. Be on the lookout for inconsistent prior statements and other possibly harmful information in medical, financial or other documents you obtain during the course of the representation. Though you may have done quite a bit of work and the office spent a good deal of money on the case when you discover a big hole in your case, it is far better to make the tough decision and terminate the representation sooner rather than later. Too many firms find themselves in the uncomfortable position of spending time, money, and energy on a case from which they probably should have disengaged months earlier. Few things are worse than preparing

for trial in a case that you feel is a real loser. Also, if the client has repeatedly been delinquent or failed to pay firm invoices for legal services and expenses, it may be time to part ways.

If your firm took on the client's case and you have worked on the case you should be able to determine which of the following (or what combination thereof) describe the client:

- Junior lawyer client: "I did some research and I think we should pursue the following claims....here is our strategy and the supporting case law. These are our witnesses to be called and this is what we need from each. I could go on....in fact, I think I will." If this client could she would be an associate attorney at the law firm and your boss...yikes!
- Unavailable client: This client is rarely reached when you call him or need her...missing in action throughout the representation. Even worse the client misses doctors' appointments, case meetings, and other events important to the case.
- Too available client: This client calls excessively and can become a drain on your time and energy. The client may also appear at the office unannounced and demand a meeting with you when such a meeting may be neither warranted nor necessary.
- Professional client: Many accidents or incidents; has been through this before. The perpetual victim. This client often has the mindset of the junior lawyer.
- Uncooperative client: Will not follow instructions; insists on doing it "his way"; sometimes forgets what you tell her; intentionally or unintentionally.
- Worrier client: Quick to panic; can be overly emotional; may resort to frequent calling about case details or concerns. May require frequent hand-holding or reassurance.
- Dollar-sign client: Typically focused on the economics of the case and especially his or her recovery. May ask early and often during the representation about the value of the case. Quite good at providing information on settlements and verdicts in other "similar cases" and a master at explaining how these relate to his case. Often develops unrealistic expectations about the case and potential recovery. A variation of this client may even question the validity and amount of legal fees and expenses.

If you have one or a combination of the above clients it may be time to abandon the proverbial ship before it takes on more water. But if you have the classy client (cooperative yet thoughtful, well-dressed, punctual, cordial, well-prepared, reasonable

and considerate; makes the representation a sheer pleasure..) consider yourself quite fortunate.....but remain vigilant.

#### **E. FILTER OUT THE BAD CASE (a/k/a Non-engagement)**

If you have decided not to undertake the representation, for your own protection, you must confirm this decision in no uncertain terms. The best method for accomplishing this is the creation and provision of a non-engagement letter. For a sample non-engagement letter see Appendix F. The non-engagement letter helps to avoid malpractice and disciplinary problems that may occur when a client somehow “disremembers” your decision to decline the case.

You should consider the following elements when drafting your non-engagement letters:

- Thank the prospective client for making the personal contact, calling, or visiting the office and encourage her to contact you again. This letter serves as a marketing opportunity and you should leave a good impression with the prospective client despite the fact that you are declining representation in his case).
- Include the date and subject matter of your consultation with the prospective client.
- State clearly and unequivocally that representation will not be undertaken. No room for legal jargon or other gobbledegook here.
- While you can provide brief reasons for the declination, steer clear of stating why the potential client’s claim lacks merit or why other parties are not liable.
- Repeat any legal advice or information given -- making sure that it complies with the applicable standard of care.
- Advise that there is always a prospective for a statute of limitations associated with a legal claim. Providing specific statute of limitations should be avoided because of the limited information typically received in a preliminary consultation. If, however, it appears that a limitations period will expire in a short period of time, you should inform the prospective client of this concern and urge her to seek another lawyer immediately.
- Advise that the prospective client seek consultation with another attorney.

Send the non-engagement letter via regular mail or, if a key case deadline is coming up soon, via certified mail, return receipt requested. You can also utilize electronic mail (e-mail) transmission of a non-engagement letter but (1) be sure the letter does not have any confidential or sensitive information lest it be intercepted by a third party and (2) if possible, require the recipient to acknowledge receipt of your e-mail. If you do send your non-engagement letter via e-mail, print and retain your e-mail message so as to have a record of the date and time it was sent and the e-mail address to which it was sent.

Place a copy of the non-engagement letter in the prospective client’s file and keep the copy until the risk of a malpractice or disciplinary claim has passed---usually four years after the last contact with the client. If the non-engagement letter comes back to

you as undeliverable, make notes of your efforts to locate the client, and attempt to send the letter again. Keep these notes in the file. Finally, be sure that all documents and other property left with the office by a prospective client are returned to the prospective client.

Even if your office declines to take the case the manner in which you relay this decision to the prospective client could lead to her calling you back or referring your office to another person with a really great case. The prospective client is more likely to refer family or friends to your office if she feels that you were honest and showed some sense of compassion and professionalism despite your rejection of her case. At the end of the day you have provided someone with the dignity of a response and review of their legal matter and hopefully improved the image of the oft-criticized legal profession.

#### **F. FLEEING AN EXISTING CASE (a/k/a Disengagement)**

Although the focus of this presentation is on case intakes it is worth taking a few minutes to discuss how to terminate an existing case. If a decision has been made to terminate representation of a client you should document this in writing and provide said writing to the client. A sample disengagement letter is attached as Appendix G. This letter is important to establish the statute of limitation for malpractice claims and ethics complaints (if such statutes exist). Use a disengagement letter that:

- Confirms that the relationship is ending, the effective date the relationship ended, and a brief description of the reasons for withdrawal.
- Provides reasonable notice before withdrawal is final.
- Avoids imprudent comment on the merits of the case.
- Indicates whether payment is due for fees or expenses and encloses any outstanding invoices.
- Recommends seeking other counsel.
- Explains under what conditions the lawyer will consult with subsequent counsel.
- Identifies all important upcoming deadlines.
- Includes arrangements to transfer client files.
- If appropriate, includes a closing status report.

When appropriate, I prefer to meet with the prospective client and have her date and sign a short “File Closing and Return of Documents” form acknowledging (1) the date of the termination of the attorney-client relationship, (2) she has received her file materials, (3) I shall be providing no legal services, and (4) the existence of any monetary balance due to the office or a lack thereof. A sample file closing form is attached as Appendix H. If a meeting is not in order or not a good idea, I opt for the disengagement letter.

It is also a good idea to copy the disengagement letter to all opposing counsel, adverse insurance adjusters, adverse parties, lienholders or other persons with whom you have had contact during the case. If your disengagement letter contains sensitive or other

information that should not be disseminated to third parties, create a paired down disengagement letter notifying the above persons of the fact that you no longer represent the client and the date that representation ceased.

Failure to effectively terminate the attorney-client relationship could lead to an implied-in-fact attorney-client relationship. Factors that bear on when an implied-in-fact attorney-client relationship is formed include:

- Whether the attorney volunteered services to a prospective client.
- Whether the attorney agreed to investigate a case and provide legal advice to a prospective client about the possible merits of the case.
- Whether the attorney previously represented the individual, particularly where the representation occurred over a lengthy period of time in several matters, or occurred without an express agreement or otherwise in circumstances similar to the matter in question.
- Whether the individual sought legal advice from the attorney in the matter in question and the attorney provided advice.
- Whether the individual paid fees or other consideration to the attorney in connection with the matter in question.
- Whether the individual consulted the attorney in confidence.
- Whether the individual reasonably believed that he or she is consulting a lawyer in a professional capacity.

If the case is pending in a court or administrative tribunal the attorney will need to file a motion to withdraw and continue the representation until receiving a final order allowing withdrawal. Rule 1.16(c). A lawyer may withdraw for any reason or for no reason, "if withdrawal can be accomplished without material adverse effect on the interests of the client." Rule 1.16(b). When contemplating withdrawal one should consider the time and manner of withdrawal. The sudden, "courthouse-steps" withdrawal violates Rule 1.16(d), which requires giving reasonable notice to the client and taking steps to mitigate prejudice. Failure to give timely notice can put the law office and the client in the unhappy situation of choosing between a last-minute withdrawal, which may prejudice the client and result in attorney discipline, and the law office unwillingly having to provide free services.

The motion to withdraw should not go into detail as to the reasons for the withdrawal unless required by the applicable rules of procedure. And even if the rules require such an explanation for your office seeking withdrawal try to be as limited as possible so that you do not compromise the (you hope) soon-to-be ex-client's case. If your office seeks recovery of attorney's fee and/or case expenses this should be addressed in the motion to withdraw and any subsequent order.

When disengaging from a case, be sure to send a disengagement letter to the client, return all file materials, and collect any money due the office pursuant to the contract for legal services/letter of engagement. You cannot withhold documents from the client to secure payment of your fee. Rule 1.16(d). Further if the client retains other

counsel, you should turn over all documents that may be helpful to the client. These materials may include original documents and correspondence, however, you need not release your personal notes and incomplete work product. You should retain your copies of client files for a minimum of six years following the date of the disengagement UNLESS you have the client's written permission to discard the copies sooner. Ethics Opinion RPC 209. It stands to reason that you should retain a copy of the disengagement letter for this same six-year period. In the interest of saving physical office space you can retain the client file in electronic or digital format so long as "the original documents with legal significance are preserved and the documents in the electronic file can be reproduced on paper." RPC 234.

THE SPECIAL CASE OF INTERNET COMMUNICATION: The Internet provides many opportunities for casual discourse with would-be clients and ample opportunities for misconstruing the intentions of lawyers and other legal professionals. Law firm websites often allow prospective clients to send e-mail messages and inquiries about legal representation. To guard against the inadvertent formation of a lawyer-client relationship while communicating electronically, lawyers should refrain from eliciting confidential information from participants and avoid providing legal recommendations tailored to a particular person's circumstances, which might be construed as legal advice.

One way to handle e-mail or Internet inquiries is to create a standard e-mail message that tells the prospective client to contact your office to arrange a consultation to discuss their legal matter. Your e-mail message, which can be automated, should contain the following information:

- Name of your office
- Date e-mail was generated
- Legal matter(s) about which the prospective client contacted you
- Clear statement that no attorney-client relationship has been created by any e-mail correspondence
- Clear statement that statutes of limitations may be associated with the prospective client's legal matter(s)

Another category of Internet communication related to potential legal representation is the posting of e-mails to message boards or online communities. Participation in a message board is permissible under Rule 7.3(a) because the attorney is not engaging in direct solicitation of the prospective client. If the message board is accessible by individuals outside of the jurisdiction(s) in which the lawyer is licensed to practice law, it is probably advisable for the attorney to state the jurisdictions where he is licensed to practice law. Such a statement would reduce the risk of misleading a user of the message board. Rule 7.1(a) and RPC 241. An attorney posting messages to the message board should also have a disclaimer, perhaps in their signature line, stating that he is not entering into an attorney-client relationship merely by virtue of the communication on the message board. And if you, the paralegal, are assigned to monitor

and respond to inquiries on any Internet message board or e-mail inquiry box you should tread very carefully with respect to the information you provide.

### **G. FINAL THOUGHTS (“You are not alone!”)**

As a paralegal or legal assistant your role is pivotal in the effective operation of a law office and you have an awesome responsibility but you are not alone. First you should note that a lawyer is required to supervise your work and provide you the support, knowledge, and resources needed for you to fulfill your role. “A paralegal may perform any task which is properly delegated and supervised by an attorney, as long as the attorney is ultimately responsible to the client, maintains a direct relationship with the client, and assumes professional responsibility for the work product.” Canon 2, of NALA Code of Ethics and Professional Responsibility, 2007.

Another means of breaking the feeling of solitude is to use each other as resources. The NCAJ Paralegal Division, which coordinated this all-day seminar, should be your first stop for resources and support. Swap contact information and share forms, pass along suggestions, utilize the listserv, and employ other means of helping each other. Such mutually beneficial relationships can make your NCAJ membership worth its weight in gold. For information on other associations and groups that support North Carolina paralegals and assistants visit <http://www.nccertifiedparalegal.org/guidelines.asp>.

Apply the lessons, forms, and other resources provided in this manuscript as a starting point for your continued command of client intakes. Periodically review and revise forms and sharpen your strategies so that you become more efficient and effective at your craft. Thank you for the work you do and the invaluable support you provide to attorneys and clients everywhere!

## **FORMS/DOCUMENTS**

Appendix A: Client Intake Form

Appendix B: Personal Injury Client Intake Form

Appendix C: Criminal/Traffic Client Intake Form

Appendix D: List of Documents for Potential Client to Provide

Appendix E: Contract for Legal Services—Contingent Fee

Appendix F: Engagement Letter—Family Law---Scheduled Payments

Appendix G: Engagement Letter---Hourly Fee

Appendix H: Non-Engagement Letter

Appendix I: Disengagement Letter

Appendix J: File Closing and Return of File Documents Form

Appendix K: Rule 5.3 of the North Carolina Rules of Professional Conduct  
(Responsibilities Regarding Nonlawyer Assistants)

Appendix L: National Association of Legal Assistants Inc. (NALA) Code of  
Ethics and Professional Responsibility

APPENDIX A --- CLIENT INTAKE FORM

Client full name	
Initial PC date and time	
Source of referral	
Address	
E-mail address	
Phone number	
SS#	
DOB	
DL # and state	
Family members (spouse, children):	
Defendant(s) name and address info, if any is known	
Date and location of incident(s)	
NOTES:	

Contract signed?

Fee \_\_\_\_\_ Paid? (Note all payments) \_\_\_\_\_

APPENDIX B --- PERSONAL INJURY CLIENT INTAKE FORM

**CLIENT INFORMATION**

Full Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Phone numbers: (cell, home, work, etc.) \_\_\_\_\_

\_\_\_\_\_

E-mail address: \_\_\_\_\_

How you found out about office? Referral....website.....other \_\_\_\_\_

Date/place of birth: \_\_\_\_\_ DL #/state: \_\_\_\_\_

SSN: \_\_\_\_\_

Marital status and spouse's name: \_\_\_\_\_

Have you ever been divorced or separated? Provide details. \_\_\_\_\_

\_\_\_\_\_

Children? Names and ages \_\_\_\_\_

**MILITARY SERVICE**

Branch and dates of service \_\_\_\_\_

Type of discharge \_\_\_\_\_

Any service-connected injuries/disabilities? Explain \_\_\_\_\_

\_\_\_\_\_

**EDUCATIONAL BACKGROUND**

H.S., college, graduate, etc \_\_\_\_\_

\_\_\_\_\_

Special employment, training, or certifications? \_\_\_\_\_

\_\_\_\_\_

### ACCIDENT INFORMATION

Date of Accident: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

Description of accident and facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Names and addresses of witnesses:

\_\_\_\_\_

Client's vehicle (Year, make, model, color): \_\_\_\_\_

Driven from scene? \_\_\_\_\_ Towed by Whom? \_\_\_\_\_

Approximate damage to vehicle: \_\_\_\_\_

Were police notified? \_\_\_\_\_ Was report made? \_\_\_\_\_ By whom? \_\_\_\_\_

Were any arrests made? Of whom and for what? \_\_\_\_\_

Tickets issued? Of whom and for what? \_\_\_\_\_

Name of Defendant \_\_\_\_\_ Address \_\_\_\_\_

Did you make a statement to anyone other than this office? \_\_\_\_\_

\_\_\_\_\_

### INJURY AND MEDICAL INFORMATION

Injuries sustained in accident \_\_\_\_\_

---

Medical providers seen due to accident injuries

---

---

---

---

**INSURANCE INFORMATION**

LIABILITY INSURANCE INFO FOR DEFENDANT(S):

Company name

---

Policy number/claim number \_\_\_\_\_

Claims adjuster name, address, phone, fax \_\_\_\_\_

---

INSURANCE INFO FOR CLIENT:

Company name

---

Policy number/claim number \_\_\_\_\_

Claims adjuster name, address, phone, fax \_\_\_\_\_

---

Med pay? \_\_\_\_\_

UM/UIM? \_\_\_\_\_

HEALTH INSURANCE FOR CLIENT:

Company name

---

Policy # : \_\_\_\_\_

Medicaid? Medicaid # \_\_\_\_\_

Medicare? Medicare # \_\_\_\_\_

Social Security disability? If so, when and for what reason(s) \_\_\_\_\_

\_\_\_\_\_

### **PREVIOUS ACCIDENT AND INJURY HISTORY**

▶ Type of accident/incident \_\_\_\_\_

Date and location of accident/incident \_\_\_\_\_

Nature of injury(ies) sustained: \_\_\_\_\_

Medical treatment received (names and location for each provider): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

▶ Type of accident/incident \_\_\_\_\_

Date and location of accident/incident \_\_\_\_\_

Nature of injury(ies) sustained: \_\_\_\_\_

Medical treatment received (names and location for each provider): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

▶ Type of accident/incident \_\_\_\_\_

Date and location of accident/incident \_\_\_\_\_

Nature of injury(ies) sustained: \_\_\_\_\_

Medical treatment received (names and location for each provider): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

► Type of accident/incident \_\_\_\_\_

Date and location of accident/incident \_\_\_\_\_

Nature of injury(ies) sustained: \_\_\_\_\_

Medical treatment received (names and location for each provider): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

► Type of accident/incident \_\_\_\_\_

Date and location of accident/incident \_\_\_\_\_

Nature of injury(ies) sustained: \_\_\_\_\_

Medical treatment received (names and location for each provider): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **EMPLOYMENT INFORMATION**

Name of current or most recent employer:

\_\_\_\_\_

Address of employer: \_\_\_\_\_

Client's job title and description: \_\_\_\_\_

Years of experience \_\_\_\_\_

Pay rate and interval (hourly, weekly, monthly):

\_\_\_\_\_

\_\_\_\_\_

Dates/hours missed due to injury \_\_\_\_\_

**PREVIOUS EMPLOYMENT:**

Name of employer: \_\_\_\_\_

Address of employer: \_\_\_\_\_

Client's job title and description: \_\_\_\_\_

Dates of employment \_\_\_\_\_

Pay rate and interval (hourly, weekly, monthly): \_\_\_\_\_

◆ Name of employer prior to one listed:

\_\_\_\_\_

Address of employer: \_\_\_\_\_

Client's job title and description: \_\_\_\_\_

Dates of employment \_\_\_\_\_

Pay rate and interval (hourly, weekly, monthly): \_\_\_\_\_

◆ Name of employer prior to one listed:

\_\_\_\_\_

Address of employer: \_\_\_\_\_

Client's job title and description: \_\_\_\_\_

Dates of employment \_\_\_\_\_

Pay rate and interval (hourly, weekly, monthly): \_\_\_\_\_

\_\_\_\_\_

Advise client:

1. Photograph damage to vehicle and property as well as scars, bruises, and other visible physical injuries
2. Give no information to anyone other than our office
3. Retain all medical records and bills, payment receipts, documentation of property damage, loss of earnings, and other relevant case documents.

APPENDIX C --- CRIMINAL/TRAFFIC CLIENT INTAKE FORM

Client full name	
Date and time of initial meeting/contact with client	
Source of referral	
Address	
E-mail address	
Phone number(s)	
SS#	
DOB	
Race and sex	
DL # and state	
County of charge(s), court file #(s), courtroom(s), court date(s), offense(s) and facts	
ADDITIONAL NOTES:	

--	--

- Contract signed?       Waiver of appearance form needed and signed?  
 Fee \$\_\_\_\_\_ Paid? (Note all payments) \_\_\_\_\_

NEED:

- NC DMV DL history     Inspection     Registration     Copy of DL  
 Proof of insurance     Insurance letter (property damage paid or no  
claims made)       Community service letter  
 Driving school certificate  
 Review of client's criminal history  
 Other: \_\_\_\_\_
-

APPENDIX D: LIST OF DOCUMENTS FOR POTENTIAL CLIENT TO  
PROVIDE

NOTE: The nature of the documents needed for you review of the case will change depending on the type of case. Feel free to add to and otherwise supplement this list for your own purposes.

- Accident or incident report
  
- Birth certificate, death certificate, marriage certificate, divorce decree, separation agreement
  
- Insurance policy, declarations page (auto, homeowner's, health)
  
- Names and contact information for healthcare providers
  
- Names and contact information for all potential witnesses
  
- Agreements, letters, memoranda, and other documents related to formation and discussion of contract matters
  
- Income tax returns
  
- Driver's license or Identification card
  
- Social Security card, Medicare card, Medicaid card
  
- Power of Attorney, Letters of Administration
  
- Receipts and evidence of payments made and/or received
  
- Employment handbook or employee manual

- Bill of Sale, retail installment sales contract/finance agreement, disclosure statements, warranty documents, Buyers Guide
- Photographs or other images
- Deeds, mortgages, promissory notes, and other real estate related documents
- All pleadings, discovery, motions, and other court documents
- Wills, trusts, letters of instruction

APPENDIX E---CONTRACT FOR LEGAL SERVICES---CONTINGENT FEE

Contract for Legal Services

I, \_\_\_\_\_, the undersigned client, hereby retain and employ THE ETHOS LAW FIRM to investigate and, if appropriate in its judgment, represent me in the following:

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I agree to pay THE ETHOS LAW FIRM \_\_\_\_% of the gross amount recovered in the above claim if recovery is made prior to the filing of a lawsuit. I agree to pay THE ETHOS LAW FIRM \_\_\_\_\_% of the gross amount recovered in the above claim if recovery is made at any time after a lawsuit has been filed. I agree that in addition to the contingency fee provided for herein THE ETHOS LAW FIRM shall be entitled to all other fees imposed upon any other party either by agreement or court order.

I further agree that in addition to the above attorney's fees, all out of pocket expenditures made by THE ETHOS LAW FIRM in investigating, preparing and/or presenting my case shall be paid by the undersigned. These expenditures include, but are not limited to, court cost, deposition and court reporter or stenographer costs, video tape deposition expenses, photographs, exhibits, long distance telephone charges, photocopying expense, mileage and travel expense, computer legal and other research, reports, expert witness fees and expense, and all other out of pocket expenses incurred by THE ETHOS LAW FIRM in investigating, preparing or litigating this claim. I acknowledge that THE ETHOS LAW FIRM is not obligated to advance any of these expenses and that at any time I may be required to deposit with THE ETHOS LAW FIRM to be applied toward meeting these costs.

I authorize and direct THE ETHOS LAW FIRM to collect all sums due me in this matter and to deduct therefrom all sums due THE ETHOS LAW FIRM as legal fees and expense reimbursement due under this contract. In providing said authorization and direction I hereby provide THE ETHOS LAW FIRM with a limited power of attorney to endorse funds for deposit into the appropriate client trust account on my behalf. If there is no recovery, no fee is due THE ETHOS LAW FIRM. However, I recognize that reimbursement of out of pocket expenses incurred by THE ETHOS LAW FIRM is my responsibility, regardless of the outcome of the case. I further authorize THE ETHOS LAW FIRM to deduct all sums due as expense reimbursement under this contract from any recovery on any matter for which I have employed THE ETHOS LAW FIRM. I authorize and direct THE ETHOS LAW FIRM to pay any outstanding medical bills,

charges, claims and liens, including claims of health plans and insurers, as required by law, and incurred as a result of the above incident, out of any recovery on my behalf.

I agree that associate counsel may be employed at the discretion of THE ETHOS LAW FIRM, and that any associate counsel so employed may be designated to appear on my behalf or undertake my representation in this matter at no additional fee. I will remain liable, however, for reimbursement to all attorneys for out of pocket expenses incurred on my behalf as set forth above.

I hereby provide THE ETHOS LAW FIRM with a limited power of attorney for the purpose of depositing any sums or funds received in connection with this case into a Client Trust Account. All disbursements of said sums and funds shall be made pursuant to my separate written authorization and instruction except in the case of liens and claims required to be paid by operation of state or federal law.

I further agree that THE ETHOS LAW FIRM shall have no responsibility to retain any of my file documents or materials upon the termination of it's representation of me in this matter. Thus I hereby authorize THE ETHOS LAW FIRM to retain and destroy my file documents and materials at it's discretion upon completion of the representation of me in this matter.

**I have read this Contract for Legal Services before signing it and a copy has been given to me. I acknowledge that no guarantee or promise of results has been given by THE ETHOS LAW FIRM.**

Client\_\_\_\_\_

Date\_\_\_\_\_

THE ETHOS LAW FIRM

By: \_\_\_\_\_

Date\_\_\_\_\_

APPENDIX F---ENGAGEMENT LETTER—FAMILY LAW--SCHEDULED  
PAYMENTS

[Date]

[Client Name]  
[Client Address]  
[Client Address]

Re: Engagement for Legal Services  
File ID:

Dear [Client's Name]:

Thank you for contacting [law firm]. This agreement, a contract for employment of legal counsel, is made and entered into by and between [Law Firm], hereinafter referred to as "the Firm," and [Client's Name], hereinafter referred to as "the Client."

By signing this Agreement, Client employs the Firm to represent Client with regard to the litigation of a domestic dispute. The representation shall be limited to the matters of Child Custody, Child Support, Post-Separation Support and Alimony, Equitable Distribution, and Absolute Divorce.

A separate agreement will be negotiated between the Client and Firm in the event that an appeal is undertaken. Client understands that the Firm will not represent the Client in any appeal until such time as the separate agreement is negotiated.

In consideration of the legal services to be furnished by the Firm, Client shall pay the Firm pursuant to the following fee arrangements:

*Legal Services*

The aforementioned services are provided to the Client, and the Firm is reserving its services for Client, in exchange for a fee paid as follows:

\$ \_\_\_\_\_ paid upon Client deciding to retain the Firm, and  
\$ \_\_\_\_\_ paid 75 days from the date of retention, and  
\$ \_\_\_\_\_ paid 45 days prior to the scheduled date of the child support hearing, and  
\$ \_\_\_\_\_ paid 45 days prior to the scheduled date of the post-separation support hearing,  
and  
\$ \_\_\_\_\_ paid 45 days prior to the scheduled date of the alimony hearing, and  
\$ \_\_\_\_\_ paid 45 days prior to the scheduled date of the child custody hearing, and  
\$ \_\_\_\_\_ paid 45 days prior to the scheduled date of the equitable distribution initial pre-trial conference, and

\$\_\_\_\_\_ paid 45 days prior to the scheduled date of the equitable distribution hearing, and

\$\_\_\_\_\_ paid upon filing for absolute divorce.

The Client will have no obligation to make any of the foregoing payments if the matter is resolved by execution of a written document prior to the payment becoming due. Each payment that has come due and been paid by Client pursuant to this schedule is a prepaid flat fee for the continued exclusive use by Client of the Firm's services. The fee is earned immediately and not subject to refund unless required by the Rules of Professional Conduct.

The aforementioned fee includes testimony of up to five (5) witnesses at the hearing, one deposition, and two preliminary hearings if necessary. Preliminary hearings are minor hearings such as motions to compel the production of discovery, motions for the appointment of experts, or motions for summary judgment (These preliminary hearings are hearings that extend for no more than a few hours). Specifically, hearings relating to domestic violence protective orders, emergency child custody, and enforcement of prior orders are not covered by the terms of this Agreement and representation in these matters will be the subject of a separate agreement in the event that this becomes necessary. Additional matters which arise during the course of the representation, which are not covered by the terms of this Agreement, will be the subject of a separate agreement if such matters arise. In the event that the Firm determines that it is necessary to take additional depositions or to call additional witnesses the fee per witness is \$\_\_\_\_\_ and the fee per deposition is \$\_\_\_\_\_. In the event that more than two preliminary hearings become necessary the fee per additional hearing is \$\_\_\_\_\_. The fees for these services are to be paid to the firm prior to the initiation of the work required.

#### *Expenses*

All expenses the Firm incurs or advances in connection with providing legal services will be billed separately. All variable expenses will be billed according to the actual amount of the expense. Examples of variable expenses are recording fees, filing fees, investigator fees etc. Prior to the time that these expenses are incurred we require a deposit of funds into our trust account. We will not incur these variable expenses until we receive this deposit. This deposit will be applied toward these expenses. These deposits you maintain with us will not bear interest. We will refund to you any balance remaining in our trust account which is not needed to satisfy the balance of your account with the firm.

#### *Opposing Party and Attorney's Fees*

Sometimes the Court will order your adversary to pay part or all of your attorney's fees and expenses, although sometimes the Court makes no order for fees and costs. If you are the more financially able adversary, the Court may assess your adversary's fees and expenses against you. Because attorney's fees awards are totally unpredictable, court orders must be considered to be merely "on account" and you are primarily liable for payment of the total attorney's fees and expenses. Amounts received pursuant to court

order will be credited to your account. The court award of attorney's fees and expenses, if any, does not set or limit our fee in any way or your liability to us for fees and expenses. The pursuit of attorney's fees and expenses against your adverse party is an additional service we perform on your behalf, and you will be expected to pay us fees on the same basis as is set forth in this Agreement for performing such services. Furthermore, if the Court does assess attorney's fees and expenses, or any part thereof, against the adverse party to apply on account of that which you owe us, the collection of such award from the adverse party by way of contempt or any other proceeding shall also be considered as further services on your behalf notwithstanding that, in accordance with the provisions of the court order, such judgment or attorney's fees and expenses shall be payable directly to us. Accordingly, you shall be expected to pay for the cost of collection. In the event you discharge us as your attorneys at any time, or we withdraw as your attorneys, it shall be understood that we shall nevertheless have the authority to continue to pursue the collection of attorney's fees and expenses against your adverse party due us from you and any part thereof that is collected will be credited to that which you owe us. Please understand, however, that you are at all times primarily liable to us for all attorney's fees and expenses and any pursuit thereof against the adverse party is on your behalf and as an additional service to you.

#### *Billing Frequency and Late Charges*

I understand that all bills are due when received by the Client. If a bill has not been paid in full prior to the expiration of a 30-day period from the date on the bill, a late charge of one-and-one-half percent per month will be imposed on the balance.

#### *Personnel*

The Client acknowledges that he or she is employing the Firm instead of any particular individual, and that the Firm will assemble the team of professionals best suited to each Client to serve the Client's specific needs and requirements at each stage of the Representation.

#### *Termination of Services*

You may terminate our representation of you at any time. Any termination of our representation of you does not relieve you of the obligation to pay any amounts owed to us for expenses incurred through the date of termination.

We may terminate our representation of you, retain your previous payments and withdraw as your counsel, if:

- a. The subject of the representation is concluded by execution of a Court order or judgment or written agreement between the parties;
- b. A period of two (2) years passes from the time of the execution of this Agreement;

- c. We discover any conflict of interest;
- d. You fail to pay immediately when due any amounts required to be paid under this agreement;
- e. We discover that you have made any misrepresentation in connection with the matter that we are handling for you, or we discover any material variance between the facts as related to us by you and the facts as they actually exist;
- f. You act in such a manner as to abuse the attorney/client relationship to such an extent that, in the discretion of the Firm, you are no longer someone whom the Firm is willing to represent;
- g. You fail to heed our advice or recommendations or otherwise do not cooperate with us in our representation of you; or,
- h. We have a disagreement over what legal matters the Firm is supposed to be handling for you.

Client grants the Firm the authority to represent Client in the above matters and to enter appearances on behalf of Client in any court.

*Miscellaneous Terms*

We dislike being technical with our clients, but we must include the following clauses. If you have questions regarding these provisions, please ask.

- a. Each provision of this agreement is severable. The invalidity or unenforceability of any provision paragraph, subparagraph, sentence, clause, phrase or term of this agreement shall not affect or impair the validity or enforceability of any other provision, paragraph, subparagraph, sentence, clause, phrase or term of this agreement.
- b. By signing below, you indicate your understanding that we have not made an agreement with you or promises to you about the outcome or result of your legal matters. Also, you agree to notify us immediately in writing if you feel or believe any matter is not receiving proper attention or is otherwise not being properly handled or you suspect any misunderstanding about what we are to do for you.
- c. By signing below, you agree that this agreement has been thoroughly explained to you and reviewed by you before you sign it, or that you had an ample opportunity to review it and have it fully explained to you.
- d. If you fail to pay the amounts due to us under this agreement, you agree to pay all reasonable attorney's fees and other expenses incurred by us in collecting the amounts due.

- e. After completing the work for you, we will dispose of everything in the file after mailing all original material back to you. We will maintain digital copies of all documents on our computer system for at least three years after the matter is finished.
- f. If any funds of yours are in our possession at any time, we may deduct from those funds and pay to ourselves any unpaid amounts we have billed you.

*Communication*

We encourage you to ask immediately any questions you have about our charges or services. We promise to provide prompt, accurate answers. We expect you to inform us of any complaints about any bill immediately after it is sent to you.

Please indicate your agreement by signing in the space provided below on the enclosed extra copy of this contract and return it to us immediately. Thank you for giving us the opportunity to do your legal work.

The firm recognizes that our clients are our most valuable resource. We care deeply about your satisfaction with our work. In an effort to ensure that you as our client receive the personalized service you deserve, we will send you surveys regarding the quality of our work and our personnel. We ask your cooperation in completing these surveys. By signing this agreement you indicate you understand and agree to complete those surveys so we can maintain our highest level of service to you, our client.

Very truly yours,

[Attorney Name]  
[Law Firm Name]  
[Date]

Accepted & Approved By:

\_\_\_\_\_  
[Client's Name]

Date: \_\_\_\_\_

APPENDIX G---ENGAGEMENT LETTER—HOURLY FEE

[Date]

[Client Name]  
[Client Address]  
[Client Address]

Re: Confirmation of Engagement  
File ID:

Dear [Client’s Name]:

We are pleased that you have asked [Law Firm] to serve as your counsel. At the outset of any engagement, we believe it is appropriate to confirm in writing the nature of the engagement and the terms of our representation, and that is the purpose of this letter. If you have any questions about this letter or any of its provisions, do not hesitate to call. Otherwise, this letter [and the attached Policy] will represent the terms of our engagement. Again, we are pleased to have the opportunity to serve you.

*Client(s)*: [Name Client(s)] will be our only client(s) in this matter.

*Scope of Representation*

We have been engaged to represent [client’s name] for the purpose of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, hereafter referred to as the “matter” or “engagement”. However, engagement does not include \_\_\_\_\_

\_\_\_\_\_.

*Nature of Relationship*

Our objective is to provide high quality legal services to our clients at a fair and reasonable cost. The attorney-client relationship is one of mutual trust and confidence. If any of you has any questions at all concerning the terms of this engagement, our ongoing handling of this legal matter, or about any issue relating to a monthly statement that is unclear or appears to be unsatisfactory, we invite your inquiries.

*Multiple Attorneys*

[Attorney’s Name] will be the primary attorney handling this matter. [Attorney’s Name] will be available to you for conferences and meetings upon your request, and you can call the office at any time for questions or concerns. In the event that [Attorney’s Name] is unavailable, [Alternate Contact] will be fully informed and prepared to discuss any issues

or respond to any inquiries. You should also be aware that other partners, attorneys, paralegals or experts from outside the firm will be called upon as necessary so that the best possible services can be provided.

Even though you have delegated certain levels of authority to act on your behalf, there will be times when we will not be able to proceed without your full and sometimes written consent, such as when negotiating settlement offers or when conflicts of interest arise. Please notify us of any plans for extended travel or if any changes are made to contact information.

We will also need to reach an agreement regarding the means of communication. Personal meetings are obviously welcome and land-line telephone conversations are appropriate in the majority of situations. Due to certain inherent confidentiality risks involved with modern technologies, including misdirected facsimiles or e-mails, unauthorized access to computer data or unsecured cell phone conversations, any medium other than face-to-face, land-line telephones or the United States Postal Service will be at your discretion. [A separate document will be provided wherein you may authorize and accept the risks of various forms of communication.]

#### *Fees and Expenses*

Our fees will be based primarily on the hourly rate for each attorney and legal assistant devoting time to this matter. Our standard hourly rates for attorneys likely to be involved currently range from \_\_\_\_\_ to \_\_\_\_\_ per hour. Time devoted by legal assistants is charged at hourly rates ranging from \_\_\_\_\_ to \_\_\_\_\_ per hour. These rates are subject to periodic change by our firm. In addition to the number of hours involved, we take into consideration other factors in determining our fees, including the urgency of the matter, the responsibility assumed, the novelty and difficulty of the legal problem involved, particular experience or knowledge provided, time limitations imposed by the client or matter, the results obtained, the benefit resulting to the client, and any unforeseen circumstances arising in the course of our representation.

We bill for out-of-pocket expenses, and also bill an administrative expense charge per billable hour in lieu of charging for long distance charges, routine copy costs, postage, and similar office expenses. [Please refer to our attached Billing and Fee Policy, which is incorporated herein and made a part of the terms of our engagement, for further details regarding our agreement regarding payment or reimbursement of fees and expenses.]

Statements normally will be rendered monthly for work performed and expenses recorded on our books during the previous month. Payment is due promptly upon receipt of our statement. If any statement remains unpaid for more than 30 days, we may suspend performing services until arrangements satisfactory to us have been made for payment of outstanding statements and the payment of future fees and expenses, and if such arrangements are not made, subject to applicable rules of professional conduct governing attorneys, we may terminate the engagement and withdraw from further representation.

As we have discussed, the fees and costs relating to this matter are not predictable. We estimate that the fees for this matter will be approximately \$\_\_\_\_\_ to \$ \_\_\_\_\_. This figure is provided simply to assist with proper budgeting and is not a determination of the minimum or maximum fees that will be incurred. It is also expressly understood that payment of the firm's fees and costs is in no way contingent on the ultimate outcome of the matter.

***Billing and Fee Policy (Option A)***

Payments will be made to the firm in the form of a retainer fund. It has been agreed that the initial deposit into the account will be in the amount of \$\_\_\_\_\_. This money will be placed in the firm's general trust account where it will be held until used to pay for discussed fees and expenses. It is important to note that representation cannot commence until the full \$\_\_\_\_\_ has been deposited. If the balance of the account falls below \$\_\_\_\_\_, [Client's Name] will immediately be notified. Any unused portions of the retainer fund will promptly be refunded at the conclusion of the engagement.

[If the retainer fund is not replenished according to this agreement, the firm will immediately attempt to contact [Client's Name], at which time efforts will be made to resolve the situation. Interest will be calculated at a compound rate of \_\_\_\_% per month for every month that the balance is outstanding, and these fees are to be paid to the firm for deposit into a general account that is independent of our representation in this matter. If the outstanding balance has not been reasonably reduced within [State Time Period] months of default, notice will be sent to [Client's Name] with a request to withdraw from representation.

***Billing and Fee Policy (Option B)***

Enclosed is a copy of our [Billing and Fee Policy.] We encourage you to review the Policy and to contact us if you have any questions. The Policy shall apply except to the extent expressly modified by this letter.

***Conclusion of Representation; Retention and Disposition of Documents***

Unless previously terminated, our representation of you will terminate upon the conclusion of this matter, our written notice to you that the engagement has concluded and the mailing of our final statement for services rendered in connection with this matter. Following such termination, any otherwise non-public information you have supplied to us which is retained by us will be kept confidential in accordance with applicable rules of professional conduct. All documents retained by the firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement.

***Termination of Legal Services***

We are confident that we can work together in a manner satisfactory to you. However, you are free to terminate our services at any time. In addition, and subject to applicable rules of professional conduct governing attorneys, in the event we disagree on any aspect of this engagement or for other appropriate reasons, we have the right to withdraw from further representation of you. If you elect to terminate this engagement prior to conclusion of the matter, or if we elect to withdraw, you are responsible for paying our attorneys fees and expenses accrued through the effective date of the termination of this engagement in accordance with the Fee and Expense provisions of this letter set out above.

#### *Post-Engagement Matters*

You are engaging the firm to provide legal services in connection with a specific matter. After completion of the engagement, there may be changes in applicable laws or regulations, or new legislation or court decisions that could have an impact upon you, your future rights and liabilities, or the matter for which we are engaged hereunder. You understand and agree that you are not engaging us to monitor new legislation or court decisions, or changes in laws or regulations, that occur after we have completed the engagement described above, and you agree that we are not responsible for advising you of any such new legislation or court decisions, or changes in laws or regulations.

#### *General Waiver of Conflicts*

As we have discussed, you are aware that the firm represents many other companies and individuals. You agree that we may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially related to our work for you, even if the interests of such clients in those other matters may be directly or indirectly adverse to you. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. You should know that, in similar engagement letters with many of our other clients, we have asked for similar agreements to preserve our ability to represent you.

#### *Acknowledgement*

If you have read, understood and are in agreement with the terms of our engagement as outlined above and in the attachment, sign and return a copy of this letter in the enclosed self-addressed envelope. We cannot begin to represent you until we have received the signed confirmation of our engagement.

Again, we are pleased to have this opportunity to work with you. Please call me if you have any questions or comments during the course of our representation.

Very truly yours,

[Attorney Name]

[Law Firm]

[Date]

Enclosure:

The foregoing letter and the attachment accurately state the terms of our engagement of [Law Firm] to represent us in connection with the matter and under the circumstances described above, and this confirms our waiver of any existing conflicts and our waiver of future conflicts as described in the preceding letter.

\_\_\_\_\_  
[Client's Name]

Date: \_\_\_\_\_

APPENDIX H --- NON-ENGAGEMENT LETTER

[Date]

[Client Name]  
[Client Address]  
[Client Address]

Re: Confirmation of Non-Representation  
File ID:

Dear [Client's Name]:

Thank you for your visit to [Law Firm] earlier today. Unfortunately, as we discussed, [Law Firm] will be unable to represent you in \_\_\_\_\_  
\_\_\_\_\_. Although no research or investigation into the merits of the matter has been performed, we believe that [General Description of Reason].

Nonetheless, please understand that [Law Firm] is making no representations in regard to the intrinsic value of your claim, nor are we commenting on the likelihood that you will prevail. We strongly urge you to seek the opinion of another attorney and remind you that you must not delay because of the legal time limits that, if lapsed, can bar you from raising your claim. If you do not have another attorney in mind, we recommend that you immediately contact the North Carolina Bar Association's Lawyer Referral Service at (800) 662-7660.

Following the standard policy of [Law Firm], you will not be receiving any form of bill for this consultation. While we do charge a fixed rate for consultations in which an evaluation of the case is provided to the potential client, no opinion has been expressed regarding your circumstances and no charges have therefore been incurred.

Thank you again for considering our firm. We wish you the best of luck and hope that you will consider us again with any future legal needs.

Sincerely,

[Attorney's Name]  
[Law Firm]

APPENDIX I --- DISENGAGEMENT LETTER

April 1, 20\_\_

John Doe  
Make 'Em Fast Inc.  
123 Anytown Street  
Anyplace, NC 20001

Re: Make 'Em Fast Inc. v. Supplies Unlimited; breach of contract;  
our file #1000

Dear Mr. John Doe:

When I undertook to represent you concerning the above-referenced breach of contract claim related to your widget business, Make 'Em Fast Inc., you signed a Contract for Legal Services agreeing to pay for the legal services provided to you and the costs and disbursements made on your behalf. At the present time, our records reflect that you have not paid our invoices in a timely manner as you agreed you would.

Our records reflect that you have paid \$200.00, leaving a balance of \$570.00, which is now due and owing. Due to the apparent breakdown in our professional relationship and pursuant to the Contract for Legal Services signed by you, I have decided to end my representation in this matter. I will be happy to consider continued representation of you if we can make acceptable financial arrangements in the very near future. Otherwise, my further representation of you has terminated as of the date of this letter.

If you wish to be represented in this matter, you should contact another attorney immediately. Keep in mind that, if your case is not filed in a timely manner, you may be barred forever from pursuing your claim. You may wish to call the North Carolina Bar Association Lawyer Referral Service at 1-800-662-7660.

Please contact our office to make arrangements for return of your file. I will be happy to give it directly to you or to forward it to your new attorney, if you wish. It is our policy to maintain a file such as yours for seven years from the date of file closing, after which time it will be destroyed. I look forward to hearing from you soon regarding these arrangements.

Very truly yours,

Michael Ethos  
Attorney

APPENDIX J --- FILE CLOSING AND RETURN OF FILE DOCUMENTS FORM

Re: Joey Doe (personal injury claim arising out of 4-1-11 motor vehicle collision in Raleigh, Wake County, North Carolina)

By my signature below, I hereby acknowledge that, as of today's date, \_\_\_\_\_, \_\_\_\_ 20\_\_, the Ethos Firm has returned to me and I have received all of my file materials in the above-referenced matter. I further understand that the Ethos Firm has decided that it shall no longer handle this matter and thus shall be under no further obligation to render legal services in this matter. I have been advised that there are statutes of limitations associated with this matter and the failure to pursue a claim within the prescribed time frame could lead to the matter being forever barred.

Finally, I understand that I have paid the Ethos Firm for all costs and fees and there is no remaining balance due.

X \_\_\_\_\_  
Joey Doe—Client

APPENDIX K --- RULE 5.3 OF THE NORTH CAROLINA RULES OF  
PROFESSIONAL CONDUCT (RESPONSIBILITIES REGARDING NONLAWYER  
ASSISTANTS)

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm or organization shall make reasonable efforts to ensure that the firm or organization has in effect measures giving reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm or organization in which the person is employed, or has direct supervisory authority over the nonlawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action to avoid the consequences.

Comment

[1] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

APPENDIX L ---National Association of Legal Assistants Inc. (NALA) Code of  
Ethics and Professional Responsibility

Copyright 2007; Adopted 1975; Revised 1979, 1988; 1995; 2007.  
National Association of Legal Assistants, Inc.

<http://www.nala.org/code.aspx>

Each NALA member agrees to follow the canons of the NALA Code of Ethics and Professional Responsibility. Violations of the Code may result in cancellation of membership. First adopted by the NALA membership in May of 1975, the Code of Ethics and Professional Responsibility is the foundation of ethical practices of paralegals in the legal community.

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A paralegal must adhere strictly to the accepted standards of legal ethics and to the general principles of proper conduct. The performance of the duties of the paralegal shall be governed by specific canons as defined herein so that justice will be served and goals of the profession attained. (See Model Standards and Guidelines for Utilization of Legal Assistants, Section II.)

The canons of ethics set forth hereafter are adopted by the National Association of Legal Assistants, Inc., as a general guide intended to aid paralegals and attorneys. The enumeration of these rules does not mean there are not others of equal importance although not specifically mentioned. Court rules, agency rules and statutes must be taken into consideration when interpreting the canons.

**Definition:** Legal assistants, also known as paralegals, are a distinguishable group of persons who assist attorneys in the delivery of legal services. Through formal education, training and experience, legal assistants have knowledge and expertise regarding the legal system and substantive and procedural law which qualify them to do work of a legal nature under the supervision of an attorney.

In 2001, NALA members also adopted the ABA definition of a legal assistant/paralegal, as follows:

A legal assistant or paralegal is a person qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible. (Adopted by the ABA in 1997)

**Canon 1.**

A paralegal must not perform any of the duties that attorneys only may perform nor take any actions that attorneys may not take.

**Canon 2.**

A paralegal may perform any task which is properly delegated and supervised by an attorney, as long as the attorney is ultimately responsible to the client, maintains a direct relationship with the client, and assumes professional responsibility for the work product.

**Canon 3.**

A paralegal must not: (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; and (b) establish attorney-client relationships, set fees, give legal opinions or advice or represent a client before a court or agency unless so authorized by that court or agency; and (c) engage in conduct or take any action which would assist or involve the attorney in a violation of professional ethics or give the appearance of professional impropriety.

**Canon 4.**

A paralegal must use discretion and professional judgment commensurate with knowledge and experience but must not render independent legal judgment in place of an attorney. The services of an attorney are essential in the public interest whenever such legal judgment is required.

**Canon 5.**

A paralegal must disclose his or her status as a paralegal at the outset of any professional relationship with a client, attorney, a court or administrative agency or personnel thereof, or a member of the general public. A paralegal must act prudently in determining the extent to which a client may be assisted without the presence of an attorney.

**Canon 6.**

A paralegal must strive to maintain integrity and a high degree of competency through education and training with respect to professional responsibility, local rules

and practice, and through continuing education in substantive areas of law to better assist the legal profession in fulfilling its duty to provide legal service.

**Canon 7.**

A paralegal must protect the confidences of a client and must not violate any rule or statute now in effect or hereafter enacted controlling the doctrine of privileged communications between a client and an attorney.

**Canon 8.**

A paralegal must disclose to his or her employer or prospective employer any pre-existing client or personal relationship that may conflict with the interests of the employer or prospective employer and/or their clients.

**Canon 9.**

A paralegal must do all other things incidental, necessary, or expedient for the attainment of the ethics and responsibilities as defined by statute or rule of court.

**Canon 10.**

A paralegal's conduct is guided by bar associations' codes of professional responsibility and rules of professional conduct.