

Avoiding Ethical Pitfalls in Your Practice

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Scenario #1

- You receive a call from Worker. Worker is looking for a lawyer to bring work compensation claim. You answer some questions, and Worker promises to call back if Worker wants to retain you.
- A few weeks later, you receive a call from Employer. Employer wants someone to defend a worker's compensation claim – Worker's claim.
 - It is possible for you to discuss representing Employer?
 - If you do not realize Worker was the injured employee, is talking with Employer unethical?

Scenario #2

- You receive a call from Worker.
- Prospect is being represented by Lawyer, but is unhappy with Lawyer's work.
 - Can you talk to Worker without Lawyer's permission?



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Scenario #3

- You receive a call from Friend, who tells you that Worker is looking for a lawyer.
- You do not know Worker at all.
 - Can you call Worker at the request of Friend?



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Scenario #5

- Worker A retains you to bring a claim against Employer
- Worker B then asks you to bring a claim against (same) Employer
- Is there any conflict that prevents you from representing Worker B?



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Scenario #6

- You previously represented Employer in a matter
- Worker now wants to you to represent Worker against Employer
 - Can you handle Worker’s claim against Employer?
 - Does it matter if Worker wants to sue Employer, or just to renegotiate a contract with Employer?



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Scenario #7

- You represent Employer in a matter.
- Company wants you to take on a matter where B may also be involved.
 - Can you take on the matter?
 - From whom do you need consent?



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Scenario #8

- You have been representing Client on a matter.
- You learn that Client
 - a) Has lied to you
 - b) Cannot pay you
- Can you stop represent Client?
- Can you ask leave of court to withdraw, and if so what do you tell the Court about Client's conduct?



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Scenario #9

- You recover \$100K for Worker. Your fee is \$40K.
- May you withdraw \$25K of your fee, and leave the rest of your fee in your trust account for later?



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Scenario #10

- You agree to represent Client, but ask for a \$2000 retainer to cover expenses
- Client wants to pay your retainer with a credit card
- Can you accept payment by credit card, and if so where does the payment go?



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Scenario #11

- You are represent Client against Opponent
- Client forwards/gives you emails of Opponent
- What do you do?



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Scenario #12

- Client owes you a lot of money
- Client offers to pay you by giving you a piece of property
- Can you receive the property as payment?
 - Does it matter if it is real or personal property?
 - What do you need to to ensure the deal is okay?



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Scenario #13

- You learn that Client has made a misstatement
 - (a) in something you included in a pleading;
 - (b) during a deposition; or (c) in something you told opposing counsel in private.
- Can you still represent Client?
 - What do you do about the misstatement?



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Scenario #14

- You need to obtain documents from a doctor for a lawsuit
- You subpoena the doctor
- The doctor's office offers to send you the records, if it can then skip the deposition
- Can you accept the records?



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Scenario #15

- A chiropractor refers a lot of work to you
- Can you refer patients to the chiropractor?
- Can you send the chiropractor a gift as thanks?



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Scenario #16

- You receive a subpoena to produce documents and testify about your work for Former Client
- What do you do?



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Thank You



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