



AVOID A CLAIM WITH AN ENGAGEMENT LETTER

One of the best instruments for an attorney to protect them self from a malpractice lawsuit is a well-drafted engagement letter. Often, an attorney may opt to engage only in a verbal agreement, which may initially be perceived as the easier option. However, a written engagement letter not only provides clarity and peace of mind, but can be critical to both preventing and defending a professional liability claim.

An engagement letter ensures the attorney and the client are in agreement regarding items such as:

- Who is the client
- Where the legal engagement will take place
- Attorney(s) involved in the matter
- Length of the engagement
- Fee structure and firm policies
- Scope of services

When the attorney and client communicate clearly and reach an understanding on these subjects at the beginning of the association, disputes are minimized. Additionally, engagement letters can correspondingly assist the attorney in withdrawing from representation when the client is not complying with payments or other terms of the engagement letter.

The attorney's scope of services is an issue often litigated in a professional liability

action. A clear description of the scope of services at the start of the legal engagement may avert several controversies. It will not avoid every dispute, but can bolster an attorney's stance later if a claim should arise. If the scope of services changes during the legal engagement, the engagement letter should be amended or a new engagement letter entered into to reflect the changes. If the services end before expected, a letter should be sent to verify that the legal engagement has been terminated.

To be effective, engagement letters should be specific to the client and the services provided. It is important to carefully review every engagement letter, especially if a form letter is used, to ensure each letter fits its client and the services agreed upon in the legal engagement.

