

CHECKLIST FOR NON-ENGAGEMENT LETTERS

- 1) Establish policies and procedures for when to use non-engagement letters. You will need to refer to ER 1.18 Duties to Prospective Client first before establishing your policies
- 2) System for identifying prospective clients
- 3) Prepare New Client/Matter Forms on all prospective clients, then set up a tickler, say 15-20 days, to determine if an engagement letter was prepared and countersigned. If not, do a non-engagement letter
- 4) Establish Conflicts-Checking procedures prior to potential client meeting and engagement letter. If conflict determined, do a non-engagement letter.
- 5) Create a standard non-engagement letter template, with variables to be highlighted. Contents of Non-Engagement Letter should include:
 - a. Clearly state that the firm is not going to take on the client's matter
 - b. Advise client of statute of limitations, if any, and the possible consequences of missing the deadline. DO not state the length of the statute or when it expires (this could be construed as legal advice and might be inaccurate or incomplete)
 - c. You may want to include your reasoning for not taking on the matter, i.e. conflict, out of your area of practice, full plate
 - d. State that your decision has nothing to do with the merits of the case and that your decision was based only on the information provided by the potential client and not on research about the case
 - e. Advise that the client seek other counsel, but do not make a specific referral as this could lead to "bad advice"
 - i. You may want to provide the contact information of the local Lawyer Referral Service, if any
 - f. You may include "marketing" type information to encourage the client to contact your firm again in the future
- 6) Policy re should non-engagement letters be sent certified or return receipt requested
- 7) Keep a file of all non-engagement letters sent out, either Chronological File or alphabetically ordered in 3-ring binder.
- 8) Establish a consistent procedure for searching for Conflicts electronically.
 - a. Option 1: Set up Potential Client folder in Word or WordPerfect. It is much easier to search than hard copy.
 - b. Option 2: If you are using a case management software, i.e. Amicus Attorney, Time Matters, Abacus Law, etc., you should enter the potential client's name, address, phone number, date of contact(s) and any other information the client may have imparted to you.