

Information or instructions: New client letter & Notice to client regarding SBOT bar complaints

PREVIEW

1. The following letter and the client fee agreements contained in this chapter may be used to establish the attorney-client relationship. This letter may be sent on the first or subsequent legal matter that the attorney handles for a client. If it is the first legal matter, the letter covers a broad range of topics and lays the ground work for a long and continuing relationship.
2. The New Client Information Letter is designed to inform the new client what to expect from your law firm. Many new clients have never dealt with an attorney and do not know how lawyers work or charge for their services.
3. New clients often require more time and communication than existing clients. A new client may not understand when or how his or her matters may be handled. New clients may not understand the use of legal assistants and secretaries.
 - a. Many attorneys have their staff return the client's calls or obtain the information that the client requested.
 - b. The client may not understand the attorney's time limitations, consequently the client may become upset when he or she cannot always speak to the attorney.
 - c. This problem can be aggravated if the attorney has a busy trial docket.
4. The letter should inform the client of the attorney's procedure for handling communication requests when the attorney cannot speak to the client in person. The letter also informs the client of the attorney's fee structure. It explains what expenses and costs may be charged to the client.
5. Use of the letter may prevent future misunderstandings or disputes which can, if not resolved, result in grievances or malpractice litigation. If the client understands how the fee will be determined and agrees to the billing procedure, there is a better chance that the statement will be timely paid.
6. This letter includes a provision that informs the client that the attorney's fee does not include certain out-of-pocket cost items such as certified copies etc. Some clients assume that everything is included in the flat fee or hourly arrangement. In order to avoid misunderstandings, the new client letter and fee agreements should inform the client that there are certain expenses which the client must pay for if he or she desires the service.

Form: New client letter

[Date]

ATTORNEY-CLIENT COMMUNICATION- THIS DOCUMENT AND ITS CONTENTS CONSTITUTE LEGALLY PRIVILEGED INFORMATION
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[Client's name]
[Client's address]

PREVIEW

NEW CLIENT INFORMATION LETTER

Dear [Client's salutation]

We are pleased that you have chosen our Law Firm to [State the legal services to be performed.]. As a new client you may have questions concerning the factors which are involved in determining the cost of litigation. This letter is intended to provide you with some information on how Law Firms charge for their services.

Nature of Legal Services:

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First, you are purchasing a service rather than a product. A service renders benefits; however, those benefits may not be tangible at first. Although a service may be provided, the ultimate desired result may or may not occur. This is because we cannot control all of the factors involved in handling your legal matter. A product, on the other hand, is tangible. It is easy to determine the value of the product.

The purpose for purchasing legal services is to solve a problem or accomplish a desired result. Accordingly, your moneys are used to employ the attorney, staff members, paralegals, office assistants, secretaries and physical equipment in order to do their best to meet your desired goal.

If all of the factors were completely under our control, it would then be possible to guarantee a desired result. However, since this is not possible, the attorney devotes his or her time and expertise. For that, he or she, like any other businessperson, must charge a fee. The fee includes time, energy, professional judgment, experience and expertise in a particular area.

Lawyers also have business overhead that must be included in their fees. This includes but is not limited to attorneys, legal assistants or paralegals; in some cases investigators, secretaries, receptionists, bookkeepers, clerks, etc.

Most modern law offices, in order to function and provide professional services, have heavy capital expenses such law libraries, computers or word processing machines, copy machines, typewriters, office furniture and equipment, file cabinets and file storage equipment in order to keep up with the many matters handled by the firm.

THANK YOU

When you purchase legal services, you are, therefore, hiring a team of highly trained professionals and asking them to attempt to solve your problem.

Guaranteed Outcome or Results:

You understand, of course, that we cannot guarantee any expected outcome or conclusion of your legal matter due to our ethics and a myriad of factors which are beyond our control. Accordingly,

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we cannot guarantee a favorable outcome in any litigation or business matters that we are handling for you.

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We will, however, within the bounds of legal ethics provide reasonable and competent services to represent and protect your legal interests. If your matter requires negotiation or involves litigation we will negotiate with the opposing party on your behalf in order to settle or resolve your dispute. We will not conclude or settle your matter without your approval.

Please do not communicate with any of the parties, witnesses or attorneys in the case without our involvement.

If we are to collect money owed to you, either in the form of a contingency representation or hourly rate, you grant us a lien on your claim or cause of action and upon any sum of money or property to be recovered in order to secure any unpaid attorney's fees or costs incurred as discussed herein below. All moneys collected shall be disbursed through our office.

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Appointment Time:

Many of your legal matters can be handled by telephone, fax transmissions or by mail in order to avoid numerous personal trips to and from the office. We feel it is more productive to handle routine matters by telephone as opposed to personal visits since it saves each of us time.

If you need to meet personally with the attorney or staff member, feel free to do so. Simply make an appointment with the secretary, who will schedule an appropriate time on the attorney's calendar.

Most court proceedings are held in the morning. Accordingly, the most convenient time for the attorney to meet with the client is in the afternoon. Attorneys typically are unable to return phone calls except once or twice during the day. Our standard time for returning telephone calls are [time i.e. 10 a.m. and 3 p.m.]. Please do not feel offended if your phone calls are not returned immediately.

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In order to do the work requested, attorneys need substantial amounts of time where they are free from any type of interruption or distraction. This keeps your bill lower because the attorney can accomplish much more work if uninterrupted.

Accordingly, when you call and the secretary says the attorney is in conference with a client or working on a matter, please leave your name, phone number and a short statement to the secretary as to the purpose of your call. During the above described time periods, the attorneys will do their best to contact you.

THANK YOU

Your Availability:

In order to properly represent you, you agree to keep our office advised of your whereabouts during both day and evening hours by providing us with current business and home telephone numbers. If your matter involves litigation, you may be required to attend Court appearances and comply with discovery requests and deposition notices.

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What factors are involved in determining the lawyer's fees?

Most attorneys take the following factors into setting their fee:

1. the type of case involved whether it is a simple and routine matter, or whether it is a complex, highly technical matter,
2. the urgency of the matter need for overtime work etc.,
3. whether taking this matter will preclude the acceptance of other employment
4. the total amount of time involved. Can the matter be delegated to staff personnel such as paralegals or secretaries or must all of the time be spent by the attorney? With respect to the attorney's time, how much of the time will be spent by highly trained senior attorneys in the office versus junior attorneys in the office,
5. the expertise of the attorney,
6. the results obtained,
7. the customary fee charged in the area,
8. the additional costs involved, in any amount of secretarial time, insurance surcharges on this work etc.,

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Type of Fee:

The fee may be a flat fee, such as a one-time payment to cover all of the costs for the matter desired, such as an incorporation, an uncontested bankruptcy, divorce; or the fee may be based upon an hourly charge for all of the time that the attorney spends on your particular matter.

In some cases, as allowed by law, the attorney may charge a percentage of the moneys awarded. This is called a contingency fee. Contingency fees are frequently charged in the following areas:

1. collections,
2. medical malpractice,
3. personal injury,
4. worker's compensation, and

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5. plaintiff lawsuits involving an award of money damages. Attorneys do not take defense cases on a contingency basis.

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Flat Rates:

Flat rates are designed to make the fees affordable to the client and are used primarily in routine, simple or ordinary legal matters. A flat fee is always based on certain assumptions. If those assumptions are incorrect, changed, or are modified, then the attorney must revert to an hourly rate since he or she cannot provide competent professional services requested and needed under a flat fee arrangement.

The fee may include a meeting with the client, determining the client's needs, drafting and filing the divorce petition, having the spouse sign a document which waives service of citation, preparation of an agreed divorce decree, representing the client at the hearing and obtaining final agreed divorce decree.

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If the matter cannot be resolved by agreement and the opposing party refuses to sign the appropriate papers, then of course the flat fee arrangement cannot be used due to the change in circumstances. In such a situation we would apply the flat fee as a retainer or deposit against the total fee owed and once the hourly rate fee is in excess of the moneys previously collected, bill the client on a monthly basis for our hourly work.

Hourly Rate:

Our fees are set at \$[Senior attorney's rate] per hour for a senior attorney, \$ [Junior attorney's rate] per hour for junior attorneys, and \$ [Staff rate] for non-licensed staff members such as paralegals.

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Attorney's fees, unfortunately, are not pure net profit as some clients may assume. Fees are considered gross income out of which numerous expenses are deducted. As with all businesses, sometimes expenses exceed income and attorneys, like other clients, have to manage their cash flow in a professional and businesslike manner.

Initial Consultation:

Our firm charges \$ [Consultation fee] for an initial meeting or consultation with the client. The consultation includes meeting the client, ascertaining the facts that gave rise to the need for legal services, analyzing the situation and advising the client what, if any, services the attorney will be able to perform for the client.

THANK YOU

Most consultations last anywhere from 15 minutes to an hour. You should not expect the attorney to give you an answer to your problem during the consultation since many legal matters require legal research investigation or discussion and consultation with other members of the firm.

During the consultation, the attorney and client should ascertain what the attorney will do for the client. In very simple matters the attorney may be able to advise the client of his or her legal rights, remedies and responsibilities during the consultation and no further services may then be needed.

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In that instance, the consultation would be the complete sum and total of all services performed on behalf of the client.

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Time and Billing:

Attorneys and office staff keep track of their time in minutes to the nearest 10 minutes and record their time daily. Time record notations are made for any and all work performed, including but not limited to, office conferences, legal research, preparation of legal instruments, telephone and personal conferences, trips to and from the office to the courthouse or client's office, and any other billable legal services.

Our time charges do not include, and the client is responsible for, out-of-pocket expenses, including but not limited to, investigator's fees, filing fees, postage, certified copies, copying charges at \$[Copy charge] per page, messenger services, travel expenses including \$[Charge per mile] cents per mile for automobile travel, deposition/witness fees, etc.

We prepare our statements during the first week of each month. The statement will reflect the prior month's charges. All statements must be paid within ten (10) days from the date the statement is sent to you.

It is the firm's general policy to require a non-refundable deposit against which we will bill in the amount of \$[Nonrefundable deposit] before we can begin representing you in your legal matter. We have agreed that you desire my firm to handle your legal matter pursuant to the following fee arrangement:

[Select the appropriate fee arrangement: Flat or Hourly]

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[FLAT FEE of \$[Amount]]

The following work is included in the flat fee arrangement: [Work included in the flat fee].

The following work is not included in the flat fee arrangement: [Work not included in the flat fee].

Any legal work not listed above will consist of additional charges billed at the firm's hourly rate as set forth below.

\$(For hourly clients]

THANK YOU

HOURLY RATE of \$ [Firm's hourly rate] per hour for all services performed by this firm.]

The hourly rate represents the prevailing time rate charged by the individual performing your service. Time is kept in quarter-hour increments and the hourly charge is the time that the attorney allocates for the matters performed on your behalf. Depending on the type of matter and the problem at hand, the hourly charge may be a standard time allocation rather than the actual time spent.

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Hourly time charges may reflect the actual time spent on the legal matter or it may reflect a block of time that was allocated or charged for a certain project. For instance, a bill may indicate a charge for one hour for preparing an answer to a lawsuit. This may be a standard charge even though the actual time may have been only 20 minutes of the attorney's time and 25 minutes of the secretary's or other staff member's time.

Some projects are based on the allocation basis because the attorney has spent a great deal of time developing forms, procedures and computer applications used in handling your legal matters. Rather than charge you for the set up time and charges, it is easier and more fair to allocate a portion of the set up time by using the allocated amounts discussed above. This way the client benefits from the attorney's experience and efficiency without having to pay for all of his or her time.

PAYMENT OF OUT OF POCKET EXPENSES:
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In both Flat Fee and Hourly matters, the client is required to pay for any and all out of pocket expenses incurred in connection with his or her case, including but not limited to the following expenses:

filing fees, court costs, certified copies of documents , pleadings, orders etc., transcripts, depositions, duplication costs, postage, office supplies, photographs, trial exhibits, long distance phone and fax calls, appraisal fees, consultants', expert witnesses' and other fees associated with preparation and trial testimony, investigation fees, delivery charges, overnight mail/parcel services, parking, toll road and mileage expenses, out of town expenses including travel expense, air fare, hotels, meals, and any other expense incurred in connection with the matter.

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The client is normally required to pre-pay some or all of the expenses by making a "cost deposit retainer" which is placed in our trust account so that we can work on your case without the delays of sending an invoice for each anticipated cost. This would be time consuming and costly.

You will be invoiced monthly if your deposit is not sufficient to cover the charges due. We shall, at our option, either request a new deposit or we shall bill you on a monthly basis for services rendered. Each billing will set forth a summary of legal work performed, fees earned and costs, and the amount of your credit with or debit owed to our firm. Under the firm's structure the hourly rate for the attorney's time may vary by attorney and more than one attorney may be working on your matter at any given time.

THANK YOU
If you do not promptly make payments to us as requested, we reserve the right to immediately withdraw from representing you in any and all matters that the firm is handling. You agree to the withdrawal and release from liability of our Law Firm. Furthermore, unpaid legal fees and expenses not paid within thirty (30) days of the statement date shall accrue interest at the rate of [Amount] % [Interest rate] percent per annum until paid.

In order for us to pay the expenses and close out your case after you have agreed to the settlement, if any, you agree by our signature on this letter to empower us with your Power of Attorney to sign Court or other legal documents which may be required to represent you. You also agree to

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Signed on _____

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[Client's name]

[Attorney's name]

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Information or instructions: ~~Notice to client : bar complaints~~

PREVIEW

1. This notice informs the client of the State Bar grievance procedures. The bar rules require this notice be given to the clients or displayed in a prominent and visible location.

2. The Texas State Bar act requires all attorneys that practice law in Texas to notify their clients of the grievance process. Clients may file a grievance against attorneys if the client believes the attorney has committed actionable conduct. The State Bar Act requires attorneys to notify clients of the grievance process by one of the four following methods:

a. By giving clients a brochure which describes the grievance process. The brochure must be available at the attorney's office and distributed to the clients.

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Displaying prominent signs in the attorney's law offices.

c. Describing the process in the contract for legal services between the attorney and the client.

d. Informing the client of the grievance process by describing the same in the billing statements sent to clients.

Form: Notice to client : bar complaints

NOTICE TO CLIENTS

THIS DOCUMENT
The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar Office of General Counsel will provide you with information about how to file a complaint. For more information please call 1-800-932-1900. This is a toll free phone call.

The General Counsel's Office has prepared brochures describing the grievance process. You may order the brochures in limited quantities by calling the toll-free number 1-800-932-1990. The brochures must also be displayed prominently in your law office. The State Bar recommends the brochures be placed in your reception area.

Attorneys are required to comply with one of the four methods above. They are not required to comply with two or more. Therefore, you would not be required to post a sign and hand out the brochures. The bar review article did state, however, that it is acceptable and preferable to use more than one of these methods.

THANK YOU

Questions about the public notification requirements should be addressed to Public Notification Questions, Office of the General Counsel, State Bar of Texas, 400 W. 15th Street, Suite 1500, Austin Texas 78711 1-800-932-1900.

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Attorneys are also required to keep records of any client solicitation for four years. The attorney is advised to review the appropriate governmental code section to ascertain that he or she is in compliance.

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