

Client Intake

RISK MANAGEMENT HANDOUTS OF LAWYERS MUTUAL

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DISCLAIMER: This document is written for general information only. It presents some considerations that might be helpful in your practice. It is not intended as legal advice or opinion. It is not intended to establish a standard of care for the practice of law. There is no guarantee that following these guidelines will eliminate mistakes. Law offices have different needs and requirements. Individual cases demand individual treatment. Due diligence, reasonableness and discretion are always necessary. Sound risk management is encouraged in all aspects of practice.

INTRODUCTION

Many malpractice claims result from attorney-client relationships that began sour and grew steadily worse. That's why it is important to start off on the right foot with new clients.

One risk management solution: make sure the client's first impression of you and your firm is positive. The ensuing relationship will blossom.

FIRST IMPRESSIONS

THANKS FOR COMING

New clients should be warmly welcomed. Thank them for choosing you, and tell them you appreciate their business. Give them a professional introduction to your firm. Escort them through the office. Introduce your staff, especially those who will be assisting on the case. Explain your procedures for handling appointments and telephone calls.

In the initial interview, open your ears before your mouth. A good technique is to ask clients to tell their story in their own words. Listen closely without taking notes. Parrot key phrases back to the client to show you're paying attention.

Clients may be tense, anxious and rambling. Be patient. Don't belittle their concerns, even if unfounded. "Listening is not the simple ability to decode information," says Kevin J. Murphy in *Effective Listening*. "It is a two-way exchange. One must compel others to do the same. Be sensitive to subtle signs of dissatisfaction. Early detection and prevention of client disenchantment might prevent a serious blowup down the road."

INTERVIEW FORM

After the client has finished with the story, you can take it once more from the top, this time taking notes and probing with questions. Here, a client interview form is critical.

Develop an interview form that suits your practice needs. Be sure it covers all necessary information, including pending deadlines and conflicts of interest data. However, as you fill in the blanks on the form, don't lose sight of the person sitting on the other side of the desk.

"Lawyers collect facts about their clients instead of information about people," writes Milton Zwicker in the September 1994 *Law Practice Management*. Firms focus their systems on files and not people. It is more important to know what kind of client has a legal problem than what kind of legal problem the client has.

NEW CLIENT QUESTIONNAIRE

It's a good idea to develop a simple questionnaire that prospective clients can complete while they are waiting to see you.

Have your secretary bring you the form after it is completed. At a glance, you will know who the prospective client is and what the case is about. When the client comes into your office, you can greet him or her by name and jump right into the interview.

The questionnaire also protects you. It provides documentation in the client's own hand of what the client thinks the problem is and what relief the client seeks.

EFFECTIVE INTERVIEWING

Think about the best experience you have ever had being interviewed. Try to recall what made the experience positive. Most likely there were comfortable surroundings and an interviewer that seemed interested in you and what you had to say. It is unlikely you were made to feel intimidated or uncomfortable.

When you are interviewing a prospective client, remember that most people are unfamiliar with the legal system and will be uneasy at best, frightened at worst. It is important to establish a good rapport early in the process. When making the initial contact, be sure to advise the client of who you are and your purpose.

Begin the interview with small talk if it makes the situation more comfortable, but do not make the client feel you are wasting their time.

There should be no distractions like office phones ringing. Sit side by side or across from each other without invading each other's body space and without establishing barriers like desks.

Don't let note-taking become a distraction. Maintain good eye contact. Do not attempt to take down every word said. Instead, look for pertinent and relevant information. This is where your knowledge of the case is helpful.

TYPES OF QUESTIONS

- *Open* -- Allows interviewer to talk, more information is given; more time-consuming; interviewer has minimum control. Example: "Why don't you tell me everything you remember about the accident?"
- Closed -- Requires a yes/no answer; interviewer
 is in control; answers are not as reliable; shows
 inconsistencies. Example: "Did you see the car run
 the red light?"
- Double-barreled -- Requires more than one response; causes interviewee to lose train of thought. Avoid, because it tends to leave both of you confused. Example: Did you see the other car run the red light and how fast was it going?

- Bi-polar -- Effect is similar to closed; gives interviewee two options; usually at end of interview after problem has been identified. Example: Do you agree or disagree that you were speeding?
- Leading -- Invites interviewee to answer one way or another; requires careful use; might use with children; best used for cross-examination of adverse party.
 Example: You did not see the car in the intersection as you approached, did you?

Use techniques such as nonverbal and verbally supportive communication, active and passive listening, and body language. They influence the gathering of information. The interviewer should not adopt a hostile or confrontational stance. Nodding during the interview indicates your acceptance of the client's story. Verbal expressions of empathy can assist in bonding between you and the client.

BARRIERS TO EFFECTIVE LISTENING

- Talking -- You cannot effectively listen if you are mentally preparing what you are going to say.
- Mentally arguing -- You cannot effectively listen if you are mentally forming your argument. Also, you need to be objective in listening.
- Preoccupation -- Keep your mind on the subject at hand.
- *Impatience* -- Do not become frustrated by the speaker's slow speech or inability to make a point.
- Poor environment -- Do not become distracted by noise, people, or temperature. Take care of these distractions before the interview begins.
- Inattentiveness -- Effective listening requires all your attention. You must try to absorb what the speaker says.
- Mental or physical fatigue -- Be "up" for the interview.
- Failure to understand body language -- Is the client sending a message with facial expressions or body language that is different from what is being said with words?

TIPS FOR INTERVIEWING CLIENTS

Establishing a good rapport with the client early in the relationship can help you avoid problems later on. Additionally, a close working relationship and open lines of communication make case preparation go more smoothly and efficiently. Clients who feel comfortable with you are more likely to provide you with the information you need to better represent them. The appendix to this manuscript includes forms, checklists, and other materials related to attorney-client interaction. Following are some key considerations for the initial interview:

- Be on time for appointments.
- Personally greet clients in the reception area.
- Strive to put your clients at ease. Many people are
 unfamiliar with and intimidated by the legal system.
 Clients are most likely coming to see you because of
 some stressful event in their lives, so go out of your
 way to make their experience as pleasant as possible
 (offer them a beverage, consider interviewing them in
 a sitting area rather than from behind your desk, etc.).
- Avoid interruptions while meeting with a client (hold all calls, restrict others from coming in and out of

- your office, etc.). Regardless of how large or small the case, each client's problem is important to them. They deserve your undivided attention.
- Hear the client's full story before jumping in with questions.
- Be direct. Do not overcomplicate things. Avoid the use of legal jargon. Instead, discuss the problem in layman's terms. Think practical advice and real solutions.
- Do not overwhelm clients with information. Give them a manageable range of options.
- Understand the client's objectives and clearly define the scope of your representation. This gives the client realistic expectations and focuses your advice.
- Be realistic about what you can accomplish.
- Make sure the client understands the billing system.
- Explain the time and cost legal matters can entail.
 Urge clients to carefully consider how this might impact their lives.
- Follow up the initial interview with a letter of engagement, nonengagement, or disengagement.

KEEP IN TOUCH WITH CLIENTS

- Return phone calls promptly (preferably within half a day).
- Communicate regularly and provide periodic status reports. Sending "case update" letters is a good way to do this. Point out new cases, developments, and trends. Provide mission statements and, if applicable, send the client newsletters and brochures. Use illustrations and graphics to make the issues easier to understand.
- Keep the client informed. Send the client a copy of all correspondence, memoranda, pleadings, briefs, and other meaningful documents.
- Schedule individual meetings as needed.
- Do not delay the delivery of bad news. Breaking the news sooner rather than later can help defuse the situation before it gets out of control.

- Treat the client as a partner. Bring clients into strategy development and include them in decision-making. Keep in mind that ultimately it is the client's case.
- Treat the client as an important customer. Get feedback.
- Document everything. This protects both you and your client.
- Do the work within the time promised.
- Give clients value for their money.
- Conduct exit interviews and/or have clients fill out questionnaires about their experience with your firm.

BEWARE THE BAD NEWS CLIENT

Client screening is an important part of risk management. Sometimes the best way to prevent a claim is to decline to represent a potentially troublesome client in the first place. All seasoned practitioners know there are some prospective clients who are best shown the door.

Following are some characteristics of high-risk clients:

- Clients who have had multiple lawyers or who have been rejected by every other lawyer on the block.
- Clients looking for a free lawyer or the cheapest lawyer available.
- Clients who quibble about your fee or who do not pay the retainer when requested.
- Clients who are high rollers and want to cut you in on the action.
- Clients who have unreasonable expectations or who seek relief no court can grant. Example: "I know this is a multi-million dollar case. I saw someone on Jenny Jones who had a claim like mine, and they recovered \$1 million. My case is even better."
- Cases with extreme time pressure.
- Clients who make unreasonable demands of you or who ask you to engage in unethical or illegal behavior.
- Clients looking for a shoulder to cry on or who need psychological counseling more than legal counseling. Remember you are not a shrink.
- · Perpetual victims.
- Clients suing on principle.
- Overzealous clients driven by a need for vengeance or vindication. Example: "I don't care how much it costs as long as you make that jerk's life a living Hell!"
- · Clients who have done research on their own.
- Clients who know enough about the law to make your life miserable. They may refuse to follow your advice because they think they know more about the law than you do.

- Clients who want to tell you how to run the case.
- · Clients who habitually lie.
- Clients who are abusive, rude, mean, overly argumentative, or who threaten you or your staff.
- Clients with rotten attitudes about lawyers, courts, and the legal system in general.
- Two or more clients seeking joint representation.
- Social contacts such as friends, relatives, drinking buddies, etc. The emotional entanglements will only make your job harder. Besides, these clients might simply be looking for free legal advice.

When interviewing a potential client, listen to your gut. What is your first impression of the person? Is this someone you feel like you can work with? You may want to enlist your support staff to help interview and evaluate new clients.

Consider another bit of advice from Elihu Root, "About half of the practice of a decent lawyer is telling would-be clients that they are damned fools and should stop." Regardless of how badly you need the business, no client is worth the headaches of a malpractice suit.

Characteristics of a Troublesome Client



Interview Form Personal Injury

Statute of Limitations

Out of State case: Yes or No
State accident occurred in:
SOL Date:
SOL Date has been confirmed by:
(attorney's name)
SOL date has been docketed by:
(staff name)

Personal and Family History (staff nan	ne)
Full Name:	_
Home address:	_
Business address:	
Home phone: Business phone:	
E-Mail:	_
Details of Injury or Accident	
Date of Incident:	_
Location of Accident:	
Out of State: Yes or No	
Names and addresses (if known) of potential defendants:	
Out of State: Yes or No	
Names and addresses (if known) of potential witnesses:	
Out of State: Yes or No	
Will suit need to be filed out of State? Yes or No If yes, which state:	
Attorney signature acknowledging out of state status:	
List all other names by which you have ever been known. Include marital and main nicknames, and aliases:	den names,
List the addresses where you have resided during the past 10 years. Indicate the per residence, including dates:	riod of time at eacl

Place and Date of Birth:				_
Are you presently married?	Yes No	(Circle One)		
Date of Marriage: Full name of spouse:		of Marriage:		_
Have you ever been divorced o	r legally separated	Provide details:		
List the names, ages, and ad support, and your relationsh	•	one, including children, who	are depe	ndent upon yo
Name Address	T		Age	Relationship
Employment History Social Security Number: Most Recent Employer: Employer Address:				_
		Ending Date:		_
Job Description:				
Beginning Pay Rate: Have you ever missed work du If yes, list the dates you were u	e to your injuries?	Current Pay Rate: Yes No (Circle One)		_
From: Reason for leaving job:		То:		_
Employer Prior to last one liste				
Prior Employer's Address:				-
Beginning Date:		Ending Date:		_
Job Description:				
Beginning Pay Rate:		Ending Pay Rate:		_
Have you ever missed work du If yes, list the dates you were u	• /	Yes No (Circle One)		
From:		To:		
Reason for leaving job:				_

Beginning Date:	Ending Date:
Job Description:	
Beginning Pay Rate:	
Have you ever missed work due to	your injuries? Yes No (Circle One)
If yes, list the dates you were unable	le to work:
From:	To:
Reason for leaving job: [Have client bring in Tax Returns for pro	ior years.]
Education	
	h school, college, graduate school, professional training) with the name/addre
Do you have any special job trainin	
Do you have any special job training Military Background	g? Describe:
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11. Prior Claims and Lawsuits

(Our adversaries will inquire about your history of legal claims and lawsuits. It is important that you disclose your complete history to us. It is not fatal if you have been involved in prior legal actions. You won't be penalized by a court or jury if the claims were reasonable and genuine.)

List every claim you have ever made for personal injury or property damage. Give details. (Attach additional page if necessary.)

		Nature of C					
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	Result:						
	Date:						
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Purpose:	Result:
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Duration:		
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Name/address of h	ospital:	
	vith your eyes?	Ears?
Please check all that apply:		
Glasses/contacts:	Artificial eye:	Hearing aid:
Have you ever worn a brace Have you ever worked with a such as cancer?	radioactive substances, asb	estos, or any other substance alleged to cause disea
Have you ever been denied h	nealth or life insurance?	If so, by which company? Give detail
Have you ever been treated f		tion or venereal disease?
•	9	
The Injury		
1110 111)d1 y		
State all injuries known to be	e a result of the accident: _	
Length of time confined to l	bed:	
Length of time confined to l	house:	
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Nurses, Therapists and Health Care Professionals	
List all nurses, therapists, and health care professionals other than doctors and surgeons that you have see page if necessary):	en (attach additional
Name:	
Address:	
Nature of treatment:	
Still under care? Explain:	
Y T	
Name:	
Address:	
Nature of treatment:	
Still under care? Explain:	
Name:	
Address:	
Nature of treatment:	
Still under care? Explain:	
Calendar Information	
Has client been served with pleadings? Yes No (Circle One)	
When is response due?	
Statute of limitations expires:	
Enter case and upcoming activity in office calendar system:	

ATTACH TO THIS INTERVIEW FORM:

Medical Authorization Fee Agreement

19.

20.

Interview Form Domestic Relations

Name:	
	Work phone:
Place of work:	Occupation:
Date of Birth:	Date Married:
Where (city, county, state): Date of Separation:	Referral to our office:
Spouse's Information	
	Work phone:
Place of work: Date of Birth:	Occupation:
Prior Divorces	
Dates of prior divorces:	
Please check all that apply:	
Separation agreement:	Divorce decree: Custody/Support order:
Children of the Marriage	
Name:	Date of Birth:
Do you or your spouse have a Name:	any children outside the marriage? Date of Birth:
Your income:	net/monthgross/month
	net/monthgross/month

	spouse a veteran or in active service? Give details:
Medica	.1
Your ge	neral health:
Any spe	cific medical problems:
Disabili	ties:
Your sp	ouse's general health:
	cific medical problems:ties:
Financi [Use Fina	ial uncial Affidavit or detailed form for collecting property information. Following are some topics to cover.]
Vehicle	(year/make/model): Monthly payment: In whose name?
Name o	f bank(s) where you have accounts:
	f bank(s) where your spouse has accounts:
Residei	
Resider Location	nce
Resider Location	nce
Resider Location Rent or Whose	own? Time lived there:
Resider Location Rent or Whose n	own? Time lived there: name residence in: gee/lender:
Resident Location Rent or Whose in Mortgage Monthly	own? Time lived there: gee/lender: payment:
Resident Location Rent or Whose Mortgag Monthly	own? Time lived there: name residence in: gee/lender: payment: ge balance:
Resident Location Rent or Whose Mortgag Monthly Mortgag Estimate	nce n: Time lived there: name residence in: gee/lender: y payment: ge balance: ed net market value:
Resider Location Rent or Whose is Mortgag Monthly Mortgag Estimate	nce n: Time lived there: name residence in: gee/lender: payment: ge balance: ed net market value: eal property:
Resident Location Rent or Whose is Mortgag Monthly Mortgag Estimate Other re	own? Time lived there: name residence in: gee/lender: y payment: get balance: eal property: name under:
Resider Location Rent or Whose re Mortgag Monthly Mortgag Estimate Other re Whose re	own? Time lived there:
Resider Location Rent or Whose re Mortgage Monthly Mortgage Estimate Other re Whose re Mortgage Monthly	nce n:
Resider Location Rent or Whose of Mortgag Monthly Mortgag Estimate Other re Whose of Mortgag Monthly Mortgag	own? Time lived there:
Resider Location Rent or Whose is Mortgag Monthly Mortgag Estimate Mortgag Monthly Mortgag Estimate	nce n: Time lived there:

List all bankcards	s, charge cards, and revolving cre	dit cards.	
Account:	Whose Name:	Balance:	
List all pensions,	military benefits, retirement acco	ounts for you and your spouse.	
List other debts a	and liabilities.		

[Bring in Income Tax Returns for the past 5 years.]

Prospective Client Questionnaire

Name (include maiden or oth	ier marital name):		
Home Address:			
Date of Birth:	Home phone	D*	
Name of Employer:		Position:	
Employer address:			
Employer phone:			
Where you prefer to be conta	ncted:		
Spouse's name:			
Opposing party name and ad	dress:		
Name of associated and/or n	elated parties:		
Name of current opposing c Address:			
Please state briefly the nature	of the problem you wish t	to discuss with this office.	
Please check type of legal car	tegory that applies:		
Domestic/Family La	0 , 11	Accident:	
Other personal injur		ninal:	
Employment proble		nile case:	
Estates or wills:	Traff	fic ticket:	
Have you or any member of			No (Circle One)
If yes, state person's name ar	nd nature of the legal matte	er with which he/she assiste	ed.
How you were referred:			
Phone:	Advertising:	Former client:	
Bar referral:	Court assignment:		

© .	at no legal relationship was created by my visit because my case was no
oted by this office."	
Signature:	Date:
Initial Interview Date: Initial Interview By:	**
	**
Client referred by:	Nonengagement:
Office File no.:	
Deadlines:	Conflicts check:

OFFICE INTAKE: FORM A NEW CLIENT

Today's Date:				
Client's full name:				
Date of Birth:		Security No		
Spouse's full name:				
Date of Birth:		Security No		
~				
	Ctoto			
City:	State: _	Zi	p Code:	
Home phone:	Client work:		Spouse work	«:
Client's employer:				
Spouse's employer:				
Emergency Contacts: Name:	Relationship:			
Referred by:	Confere	ence with attorney re	garding:	
OFFICE USE ONLY:				
	ney:	Но	our:	
Attorney 2:		Но	our:	
Attorney 3:		Но	our:	
Paralegal:		Но	our:	
Fee Type: C – contingency	F – fixed	R- retainer	•	T- time/expense
Billing Frequency: M – monthly	Q – quarterly	S – semi-annually		O – other
Checklist:				
	Fee Contract: _	First Appe	arance due:	
Statute of Limitations 1	Deadline:	Other dead	llines:	
File Review Frequency	/ :	Instruction	ıs:	
Intake sheet prepared by: Conflicts checked by: Deadlines docketed by		Initials:	Date:	

Office Intake: Form B New Client

File No Date Opened:		Client Information	
Client: Address: City: State: Vork Phone: Home Phone: Previous Client: Case Information Matter: Claim No.: Insured: Misc.: Contact Name: Originating Attorney: Billing Attorney: Supervising Attorney: Supervising Attorney: Fee Arrangements Hourly Rate: Flat fee of \$ Hourly rate of \$ plus contingent (Check Below): Contingent Fee of% of amount Recovered: Fee to be determined on basis of all relevant factors: Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour	File No.	Date Open	ed:
Address: City: State: Zip Code: Work Phone: Home Phone: Previous Client: Case Information Matter: Insured: Contact Name: Referred by: Originating Attorney: Billing Attorney: Supervising Attorney: Supervising Attorney: Fee Arrangements Hourly Rate: Standard: Other: Flat fee of \$ Hourly rate of \$ plus contingent (Check Below): Contingent Fee of% of amount Recovered: Saved: Other: Fee to be determined on basis of all relevant factors: Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour			
City: State: Zip Code: Work Phone: Home Phone: New Client: Previous Client: Previous Client: Previous Client:			
Work Phone: Home Phone:			
Case Information Matter:			
Matter: Claim No: Insured:			
Matter: Claim No: Insured:	_		
Claim No.: Insured: Misc.: Referred by: Originating Attorney: Billing Attorney: Supervising Attorney: Standard: Other: Flat fee of \$ Other:		Case Information	
Claim No.: Insured: Misc.: Referred by: Originating Attorney: Billing Attorney: Billing Attorney: Supervising Attorney: Other: Flat fee of \$ Other: Flat fee of \$ Other: Flat fee of \$ % of amount	Matter:		
Contact Name:	Claim No.:	Insured:	
Originating Attorney: Billing Attorney: Supervising Attorney: Fee Arrangements Hourly Rate: Standard: Other: Flat fee of \$	Misc.:		
Billing Attorney:			·
Billing Attorney:	Originating Attorney:		
Fee Arrangements Hourly Rate: Standard: Other: Flat fee of \$ Month Year Number of hours of service covered by retainer: per hour Fee Arrangements Other: Other: Other: Per hour	Billing Attorney		
Fee Arrangements Hourly Rate: Standard: Other: Flat fee of \$ Hourly rate of \$ plus contingent (Check Below): Contingent Fee of % of amount Recovered: Saved: Other: Fee to be determined on basis of all relevant factors: Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour	Diming Attorney.		
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Hourly Rate: Standard: Other: Flat fee of \$ Hourly rate of \$ plus contingent (Check Below): Contingent Fee of % of amount Recovered: Saved: Other: Fee to be determined on basis of all relevant factors: Retainer of \$ per	Supervising Attorney:		
Flat fee of \$	Supervising Attorney:		
Hourly rate of \$ plus contingent (Check Below): Contingent Fee of	Supervising Attorney:		
Hourly rate of \$ plus contingent (Check Below): Contingent Fee of	Supervising Attorney:	Fee Arrangements	
Contingent Fee of	Supervising Attorney:	Fee Arrangements Standard:	
Recovered: Saved: Other: Fee to be determined on basis of all relevant factors: Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour	Supervising Attorney: Hourly Rate: Flat fee of \$	Fee Arrangements Standard:	
Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour	Hourly Rate: Flat fee of \$ Hourly rate of \$ plus conti	Fee Arrangements Standard: ingent (Check Below):	
Retainer of \$ per Month Year Number of hours of service covered by retainer: Excess hours to be billed at rate of \$ per hour	Hourly Rate: Flat fee of \$ Hourly rate of \$ plus contingent Fee of	Fee Arrangements Standard: ingent (Check Below):% of amount	_ Other:
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Excess hours to be billed at rate of \$ per hour	Hourly Rate: Flat fee of \$ Hourly rate of \$ plus contingent Fee of Recovered: Fee to be determined	Fee Arrangements Standard: ingent (Check Below):% of amount Saved: d on basis of all relevant facto	Other: Other: rs:
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	Hourly Rate: Flat fee of \$ Hourly rate of \$ plus contingent Fee of Recovered: Fee to be determined Retainer of \$ Number of hours of	Fee Arrangements Standard: ingent (Check Below):% of amount Saved: d on basis of all relevant facto per	Other: Other: rs: Year
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Frequency: Monthly Quarterly Completion Other:		DII	lling Arrangements	
Apply to final statement (to trust account):	Frequency: Monthly Q)uarterly	Completion	Other:
Apply as earned (trust account): Special: Invoice Formats Print past due message: Print initials: Service charge: Cover statement: Conflict Information Client and other parties associated with client: Adverse parties: Names associated with other files for this client: Case Type Case Type 10 Estate Planning 11 Estate administrations 12 Wills 40 Worker's compensation 13 Guardianship 41 Employment law 51 Guardianship 41 Employment law 61 Juvenile 20 Residential real estate 42 Employee plans 80 Criminal 21 Commercial real estate 42 Employee plans 80 Criminal 21 Commercial real estate 50 Incorporation 81 Government law 23 Environment law 52 Non-profits 82 Education 24 Foreclosures 53 Limited liability company 83 Insurance law 30 Personal injury – pl. 54 General corporate matters 84 Bankruptcy 31 Personal injury – pl. 55 Tax – individual 85 Trademarks 36 Patents	Retainer of \$	M	Iinimum fee (to firm accou	nt):
Invoice Formats	Apply to final statement (to tru	ıst accou	unt):	
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