

Protect Your Practice with Engagement Agreements



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Reducing legal malpractice claims starts with one essential step: incorporating engagement agreements into your firm's standard operating procedures.

Engagement agreements clearly outline expectations at the start of the attorney-client relationship – whether you are working with a new client or accepting a new matter for an existing one.

By defining the scope and timing before work begins, engagement agreements help prevent misunderstandings that could lead to client dissatisfaction or, in some cases, a malpractice claim.



Access Templates That Help Reduce Risk

As the nation's leading provider of Lawyers Professional Liability coverage, and with more than 60 years of experience insuring law firms, CNA is committed to helping lawyers mitigate risk in their practice.

That's why we developed a series of engagement agreement templates and supporting materials to strengthen the attorney-client relationship. Visit cna.com/industries/affinity/lawyers to access our **Lawyers' Toolkit 5.0: A Guide to Managing the Attorney-Client Relationship**, which includes sample engagement agreements, additional engagement letter clauses, and other templated letters and waivers.

The CNA Risk Control team utilized the American Bar Association Model Rules of Professional Conduct as a guide in creating these sample documents.

However, attorneys must consult their applicable state rules of professional conduct, as well as the case law and ethics opinions of the relevant jurisdiction, when drafting their own agreements, letters and waivers.





How Engagement Agreements Protect Your Firm

An engagement agreement may conserve attorneys' fees.

In an Ohio case, a law firm sued its former client for fees it was owed.* The client attempted to evade payment by contending that the law firm had told him that it would seek its attorneys' fees from the opposing party.

The court reviewed the engagement agreement between the attorney and client, which stated that it was the client's responsibility to pay the law firm's legal fees. It then ruled against the former client, citing the parol evidence rule.

An engagement agreement may outline what falls outside the scope of work.

In a New York case, a law firm represented a client in his administrative proceeding before the Internal Revenue Service (IRS).** The client contended that the law firm committed legal malpractice by failing to pursue third parties for liability concerning the outstanding taxes.

After reviewing the engagement agreement, which stated that the law firm was only representing the client in the administrative proceeding with the IRS, the court ruled in favor of the law firm.

No engagement agreement leaves verbal agreements open to interpretation.

In Nevada, a family law attorney represented a client in her divorce proceeding.*** The client later sued the attorney for legal malpractice, asserting that the attorney failed to bring a personal injury lawsuit against the client's ex-spouse.

The attorney conceded that she and her client discussed the possibility of bringing a personal injury lawsuit but ultimately made a joint decision not to do so.

Unfortunately, the attorney neither drafted an engagement agreement nor memorialized the decision. Accordingly, the court denied the attorney's motion for summary judgment in the legal malpractice action.

*Katz, Teller, Brant & Hild LPA v. Farra, 2011 WL 1591286 (Ohio App. 2nd Dist. 2011)

**Ambase Corp. v. Davis Polk & Wardell et al., 866 N.E.2d 1033 (2007)

***Allyn v. McDonald, 910 P.2d 263 (Nev. 1996)



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