Ten Tips for New Lawyers

1. Documenting Your Relationship with Clients and Prospective Clients

Documenting your relationship with a client is one of the most effective ways to avoid malpractice claims and ethics complaints. A good engagement letter can be the difference between a long, drawn-out legal malpractice case versus a simple one-page denial letter. When an arrangement or relationship between the lawyer and client is not reduced to writing, the lawyer and client may have very different recollections or understandings of what the lawyer was hired to do.

Engagement Letters:

A written agreement defining the terms of a lawyer's representation is perhaps the most important risk management tool a lawyer has at her disposal. The lack of an engagement agreement can lead to misunderstandings and, in many cases, malpractice claims or grievances. The lawyer and the client might have very different understandings about what it is that the lawyer is being hired to do for the client. By reducing the arrangement to a written instrument, the parties will be clear about the lawyer's role and obligations.

A good engagement agreement will first define who the client is and isn't. For example, in business matters, are you representing the corporation, the shareholders or the officers? In an estate matter, are you representing only one spouse or representing both? Have you made clear in that estate matter that you do not represent any of the beneficiaries under the will or trust? In a real estate matter, do you represent the buyer or seller or both? If representation of multiple parties presents a potential conflict of interest, the engagement agreement is a good place to disclose the conflict and obtain the clients' informed consent.

In addition to identifying the party or parties being represented, the engagement agreement should define the duration and scope of the representation. When will the representation begin and end? In a litigation matter, for example, are you agreeing to handle the matter through trial or will you also be undertaking to handle any appeals. After defining the duration of your representation, you should state specifically what you are being hired to do for the client and what you are not being retained to do and what is the responsibility of the client. This is known as limiting the scope of representation and is very important in establishing client expectations. For example, if you are being asked to prepare a quitclaim deed for a client but do not plan to do a title search for the property, you should make clear in the engagement agreement the limited nature of your representation. Limiting the scope of representation in your agreement with the client can often serve to avoid a malpractice claim or ethics complaint.

You should also set forth in the engagement agreement the fee arrangement. Is it an hourly fee structure or a contingency fee? If hourly, what are the hourly rates for partners, associates and paralegals? Will those rates change during the representation? Are you collecting a retainer?

How frequently will you bill the client? Who is responsible for various fees and expenses? All of these items should be addressed in the agreement.

Finally, you should consider including in the agreement a statement that you are not guaranteeing any particular result. This might include an acknowledgment from the client that the client understands the risks and the uncertainty of the costs associated with the matter and has elected to move forward with the representation, despite those risks and expenses. In malpractice claims, it is not uncommon for a former client to claim that the lawyer assured them of a certain cost or result.

Non-engagement Letters:

Generally, a person must be able to establish an attorney-client relationship in order to bring a legal malpractice claim against a lawyer.[1] In most cases, it is clear when an attorney-client relationship has been formed. However, there are cases where attorney-client relationships are formed inadvertently. In North Carolina, an attorney-client relationship may be implied from the conduct of the parties without any fee being paid or any oral or written agreement between the lawyer and prospective client.[2] In the absence of any written understanding after a meeting with a prospective client, a client may think she has retained the lawyer to protect her interests. The lawyer, on the other hand, may have walked away assuming that he had no further obligations. This is a recipe for a malpractice claim and ethics complaint and could have easily been avoided with a non-engagement letter.

A non-engagement letter is a written statement to a person that you will not be representing them in connection with a certain matter. The letter can be used where a lawyer has met with a prospective client but decided not to take the representation. It can also be used in the context where there are multiple parties in a matter and the lawyer is choosing to represent one party or a limited number of parties. The lawyer would send the non-engagement to the parties she will not be representing.

There are no formal requirements for a non-engagement letter. It can be as simple as a one-line text or e-mail or as formal as a certified letter. It is important, though, to confirm that the prospective client received and understood the communication. When sending a non-engagement letter, the lawyer should be sure not to offer any legal advice. For example, the lawyer should not advise the client as to any specific statute of limitations deadlines. It is enough to say to the client that there may be deadlines associated with their matter, and they should seek other counsel immediately. If the lawyer received any documents from the client, those documents should be returned with the letter. Finally, the lawyer should retain a copy of

[1] North Carolina recognizes a limited number of contexts where claims can be made by non-clients against lawyers. The non-client must be able to show that the lawyer's service to the client was for the direct benefit of the non-client. See United Leasing Corp. v. Miller, 45 N.C. App 400, 263 S.E.2d 313 (1980).

[2] See N.C. State Bar v. Sheffield, 73 N.C.App. 349, 358, 326 S.E.2d 320, 325, cert. denied, 314 N.C. 117, 332 S.E.2d 482, cert. denied, 474 U.S. 981, 106 S.Ct. 385, 88 L.Ed.2d 338 (1985).

the non-engagement letter in a place where it can be retrieved in the event of a later malpractice claim or ethics complaint.

Disengagement Letters:

Disengagement letters are used to terminate an attorney-client relationship that has already been established. A disengagement letter may be sent prior to the conclusion of a matter or at the end of a representation. When sending a disengagement letter at the end of a representation, the lawyer is ensuring that the client is aware that the representation has ended, and the lawyer will not be taking any further action on behalf of the client with respect to that matter. By formally terminating the relationship, the lawyer avoids the risk that the statute of limitations is tolled. Under NCGS § 1-15(c), an attorney may be sued for legal malpractice up to four years after the date of the alleged act or omission that gives rise to the cause of action.[3] Upon expiration of the three-year statute of limitations or four-year statue of repose, any claims against the attorney are barred. By sending a disengagement letter, the attorney insures that the client cannot argue for a tolling of the statute based on a continuing duty theory.

Issuing a disengagement letter also provides the attorney with an opportunity to settle the account with the client and refund any unearned fees. The disengagement letter should also advise the client as to the firm's document retention policies. Original documents should be returned to the client. If applicable, the lawyer should advise the client of any future issues that may need to be addressed either by the lawyer in a new representation or by another lawyer. Make clear that the client will need to retain the lawyer in a separate representation or hire another lawyer to complete those tasks. For example, if a lawyer agrees to file a UCC financing statement for a client but does not assume responsibility for filing the continuation statement within the five-year period provided under N.C. Gen. Stat. . § 25-9-515, the client should be advised that it will be the client's responsibility to either file the continuation statement or hire another lawyer to complete the task.

If the attorney chooses to withdraw from the representation prior to the conclusion of the matter, the client should be apprised of the reason for the termination clearly and in writing. The lawyer should make the client aware of any time limitations and stress the need to obtain another lawyer promptly. If court permission is required to withdraw, the lawyer should seek the client's consent before filing a motion to withdraw. As with terminating the representation at the conclusion of a matter, file documents should be returned to the client.

As with non-engagement letters, the disengagement letter can be sent by e-mail, regular mail or certified mail. The important thing is to be able to confirm the client's receipt of the letter. A copy of the letter and the client's acknowledgement of receipt should be retained in the client file.

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[3] N.C. Gen. Stat. § 1-15(c) (2006)(providing a three-year statute of limitations and four-year statute of repose).

2. Avoid Red Flag Clients

Another important risk management tool you have at your disposal is client selection. Good client selection will lead to interesting work, job satisfaction and revenue for your firm. Bad client selection can lead to malpractice claims, ethics complaints and billing nightmares. Red flag clients are far more likely to make claims and file grievances against their lawyers. Often, when insured lawyers report malpractice claims to their carrier, the first thing they say is "I knew I shouldn't have taken this client." The signs were there when they first met with the client. Maybe they thought they could deal with the person. Maybe they felt like they needed the revenue for their practice. Whatever the reason, every one of those lawyers would tell you that, if they had it to do over, they would have turned down the representation So, what are the warning signs of problem clients?

- The Serial Client: One of the biggest red flags to watch for is a client who has already been represented by one or more lawyers on the matter about which they are seeking to retain you. This is usually a good indication that this client is going to be hard to please. If they complain about the other lawyers' fees or second-guess their strategy or competence, you could be next in line.
- Clients with Unrealistic Expectations: Another common red flag is a prospective client who has unrealistic expectations about the value of their case, the result or outcome they hope to achieve, the cost of the representation or the time frame for resolving the matter. Maybe they have heard stories of people collecting multi-million-dollar settlements or judgments and they want that. Or they might think that getting a settlement should be as simple as writing a demand letter and getting a check back in the mail. If you sense that the prospective client won't be able to come to terms with the realities of their matter, you should decline that representation.
- Budget-conscious Clients: Clients who come to you looking for a "cheap" attorney or clients who tell you they can do most of the work to be able to save money on fees will likely never be happy with your fees. This could later turn into a fee dispute or allegations of malpractice in an effort to get you to reduce your fee.
- Clients Out for Revenge or Suing on Principle: If a prospective client comes to you and tells you that they want to inflict pain and suffering on someone else by suing them or tells you that money is no object, be wary of those clients. Their anger might eventually shift to you if you aren't as aggressive as they would like you to be. And, if they tell you that it's the principle of the matter and money isn't an issue, understand that they are saying this before they have received your first bill. After months or years of litigation or negotiation, they will likely start to complain about how much it's costing them.
- Clients Who Procrastinate: It's not uncommon for lawyers to be approached by clients who have waited until the last minute to file a lawsuit. The statute of limitations is getting ready to run and they want you to drop everything and file a lawsuit. You are not obligated to take the case. If you take the case at the last minute, you may not have time to investigate to determine whether the claim has merit or who the proper parties

are. If the case turns out to be frivolous, you could open yourself up to sanctions. If you name the wrong party and the statute of limitations expires, the client will likely blame you for the mistake.

- Clients Who Just Don't Seem Right: Sometimes, you can just feel it in your gut that there is something wrong with a prospective client. You can't put your finger on it but have a sense that the person is going to be a problem. Lawyers facing malpractice claims and ethics complaints often report that, when the client first came to them, they knew something wasn't right about the client but took the case anyway. Trust your gut.

If you decide to take on representation of one of these clients, it is essential that you have the client sign a detailed engagement letter that clearly defines the scope of your representation. You will also want to document everything that you do in the matter. This should include written confirmations to the client of important telephone conversations and client meetings. You may need that paper trail down the road.

If you inadvertently end up with one of these red flag clients and decide that you don't want to continue in the representation, look at Rule 1.16(b) of the North Carolina Rules of Professional Conduct, which sets out nine situations in which a lawyer may withdraw from representation. Note that the first condition of withdrawal is that the "withdrawal can be accomplished without material adverse effect on the interests of the client." So, be sure not to wait until it's too late to get out. If you have appeared as counsel for the client in a court proceeding, you must get the court's permission to withdraw. (See Rule 16 of the General Rules of Practice for the Superior and District Courts).

3. Dockets, Deadlines and Procrastination

The most frequent cause of legal malpractice claims is missed deadlines. These claims can arise from missed statutes of limitation, late tax filings, missed regulatory deadlines, late responses to discovery requests, or any other missed deadline that is either fatal to a client's claim or causes some damage to the client. The reasons why lawyers miss deadlines are varied. Sometimes, the lawyer just doesn't know the statute of limitations for the claim. This often happens where a lawyer attempts to handle an out-of-state matter and doesn't realize the other state has a different statute of limitations than North Carolina for a particular matter. Other times, the lawyer fails to calendar the deadline or enters the wrong date. Most of these claims can be avoided with a good docket control and calendaring system.

Elements of a Good Calendaring System:

- Universal Participation: To be effective, everyone in the office must be trained and participate in the calendaring system.
- Identify a Calendar Clerk: Designate one employee as a calendar clerk to maintain the calendar system. The calendar clerk will be responsible for inputting data from intake forms and calendar notices and distributing weekly reports to attorneys and staff for

review. The calendar clerk should be given authority to take appropriate steps to ensure pending deadlines are met.

- Centralization: A centralized system (preferably computerized and backed up) keeps everyone's deadlines on one calendar. In the case of death or incapacity of one of the lawyers in the office, other lawyers will be able to step in and cover the deadline.
- Redundancy: In addition to the centralized calendar, deadlines should also be entered on lawyers' individual calendars and the administrative assistant's calendar. A redundant system reduces the likelihood that a deadline will be missed.
- Tickler System: Every calendaring system should include a system to tickle deadlines and file reviews. These tickle dates should include a reminder notice before the actual event so that enough time is allotted to complete the work before it's due.
- Verification of Dates: To ensure that the correct information is used, review documents that corroborate dates given by the client. If the wrong date is entered, the calendar is useless.

Procrastination and The Last-Minute Client:

Lawyers often calendar pleadings or documents to be filed the day before a deadline. Generally speaking, this is a bad idea. If something comes up or there is difficulty getting a signature on the pleading or document, the lawyer is setting himself up for missing the deadline. When possible, a lawyer should give adequate time before the deadline to deal with any unforeseen complications or difficulties.

A frequent malpractice scenario is the case where a lawyer waits until the last minute to file a complaint. After the complaint is filed, the defendant files an answer that alleges that the complaint named the wrong party. The statute of limitations has now expired, so it's too late to amend the complaint to name the proper party. If the lawyer would have filed the complaint early enough to allow the defendant to answer to see whether there is a proper party defense, the lawyer could have amended the complaint to name the proper party. If the complaint is filed early enough to get an answer before the expiration of the statute of limitations and the defendant asserts as a defense that the proper party was not named, that lawyer should immediately serve discovery on the defendant to determine the proper party. This process could take months, so, when possible, you should file the complaint several months before the expiration of the statute of limitations.

Sometimes, it's not the lawyer who waits until the last minute, but rather it's the client who procrastinates. Recall that one of the red flag clients is the person who comes to you just before the statute of limitations is going to expire. It is generally not a good idea to take these cases. If you decline representation, you should confirm that with a non-engagement letter. Because you have not been retained by the client, you should not give the person any advice about the merits of their case. You should advise them that there are deadlines associated with their claim and they should immediately seek advice from other counsel about those deadlines and the merits of their claim.

4. Own Your Mistakes But Don't Fall on Your Sword

If you practice law long enough, you are bound to make a mistake while representing a client. Some mistakes are harmless and immaterial. Other mistakes may be fatal to your client's case. In between those two extremes are mistakes that cause your client to suffer some negative consequences or create the possibility of negative consequences in the future. What is required of you when you make a mistake depends on the nature and severity of the error. Failure to make appropriate and timely disclosure of errors can result in adverse disciplinary, malpractice and coverage consequences.

Disciplinary Consequences (2015 FEO 4):

In 2015 FEO 4, the State Bar ruled that, when a lawyer makes a material mistake on a client matter, and that mistake could result in financial loss to the client or a disadvantage in the client's position, the lawyer has a duty to disclose the mistake and its effect on the lawyer's continued representation. That obligation is not relieved simply because the lawyer "thinks" she can fix the error. If there is some chance that the attempted fix could fail and harm would result, the lawyer must disclose the error. Failure to make the necessary disclosure may result in an ethics complaint for violation of Rule 1.4(a)(3) (duty to keep client reasonably informed about the status of their matter).

Materiality can be a tricky issue. On one end of the spectrum are simple typographical errors that have no impact on the document or pleading. Those are clearly not material. On the other end of the spectrum are errors that are or might be fatal to a client's matter (e.g., missed statute of limitations). Those are clearly material and must be disclosed. Other kinds of errors require a closer analysis. The opinion suggests that you err on the side of disclosure. If you are uncertain, you should seek guidance from the State Bar or discuss the issue with one of the claims attorneys at Lawyers Mutual.

Once it is determined that the mistake is material, disclosure must be made as soon as possible. Often, when a lawyer discloses a mistake, the client will ask whether she has a malpractice claim against the lawyer. The opinion makes clear that the lawyer is ethically prohibited from giving any advice about whether the client has a malpractice claim against the lawyer. The lawyer in this situation should refuse to answer that question and should advise the client to seek independent counsel.

Material mistakes by a lawyer can also raise conflict of interest concerns. Under Rule 1.7(a)(2), a lawyer may not represent a client if the representation may be materially limited by the lawyer's personal interests. When a lawyer makes a mistake, the lawyer's personal interest is to avoid liability. This interest might interfere with the lawyer's independent judgment and, therefore, necessitate the lawyer's withdrawal. However, in certain cases, it may be possible to cure an error. In those cases, it might be permissible for the lawyer to continue to represent the client and fix his own mistake. To do that, the lawyer would be required to get a waiver of the

conflict and informed consent from the client before proceeding. To get informed consent, the lawyer must explain specifically how the mistake could affect her independent judgment.

Malpractice Consequences:

When an error is discovered, time is of the essence. Often, there is a window of opportunity to repair a mistake. If the lawyer procrastinates in disclosing the error and addressing the situation, the lawyer may miss that window of opportunity. For example, if a lawyer fails to file a timely answer and default is entered against the client as defendant, the court may be less likely to grant relief if the lawyer has delayed filing a motion to set aside the default. In other situations, a lawyer's delay in disclosing and addressing an error can cause additional damages. For example, if a lawyer fails to file a timely tax return and exposes the client to penalties and interest, the penalties and interest may continue to accrue until a return is filed. In most cases where a repair is possible, it is advantageous to respond sooner rather than later.

Another downside to a delay in disclosure is the possibility that the client will accuse the lawyer of concealing the mistake. When a mistake is not disclosed to a client, and the client discovers the error after the damage has been done, that client may sue the lawyer not only for negligence, but also for fraud and/or constructive fraud. These claims may not be covered under your professional liability policy. These claims will also expose the lawyer to a claim for double damages under Chapter 84 of the North Carolina General Statutes. Such damages would not be covered under your malpractice insurance policy.

Coverage Consequences:

Legal malpractice insurance policies are "claims-made" in nature. These policies provide coverage for claims first made and reported during the policy period. Insured lawyers are required to give notice not only of actual claims against the insured lawyer, but also potential claims. If an act or omission of a lawyer could reasonably be expected to be the basis of a claim or suit, the lawyer has a duty to report the matter as soon as practicable. Failure to report such matters could jeopardize the lawyer's coverage under the policy. For example, if a lawyer makes a mistake and delays reporting and that delay prejudices the ability to cure the error, the insurer may deny coverage. Note that a lawyer's belief that he can fix an error does not relieve that lawyer of the duty to report the matter to the insurer.

Lawyers Mutual has an active claims repair program where we intervene in a matter or case on behalf of the client in an attempt to fix the error. Often, our in-house claims attorneys are able to provide the necessary assistance. We also have outside counsel who have substantial experience in repairing errors in virtually every practice area. Our ability to offer effective assistance depends on timely reporting by our insured lawyers.

5. Take Care of Yourself

As lawyers, we don't like to talk about our problems. We like to talk about other people's problems. We're really good at the latter and really bad at the former. We want people to think

that we have it all together, that we don't have any problems. If we are struggling with something emotionally or mentally, we certainly don't need help from anyone else. What would people think? Would my adversaries think I'm weak and take advantage of that weakness? Would my clients lose confidence in my ability to handle their matter? This mentality, combined with the daily stress and pressure of practicing law, has resulted in high levels of anxiety, depression and alcohol abuse in our profession.

Study after study suggests that lawyers suffer from mental health issues and substance abuse disorders at higher rates than the general population. In 2016, a mental health and substance abuse study of lawyers was published in the *Journal of Addictive Medicine*.[4] The study was commissioned by the American Bar Association and the Hazelton Betty Ford Foundation. The study found that lawyers suffered from far higher alcohol use disorders than the general population. The study also found that lawyers suffer from higher levels of anxiety and depression than non-lawyers.

These problems have real consequences in the personal and professional lives of these lawyers. But there is reason for hope. Mental health issues and struggles do not have to be a life sentence. Regardless of past trauma or genetic predisposition, we have the power to change. Neuroscientists once believed that, as we aged, our brains and our neural networks stopped changing. However, an enormous amount of research has shown that our brains never stop changing. This is known as neuroplasticity. Neuroscientists and the psychology community now believe that we can rewire our brains to address a whole host of behavioral and health problems.

So, what can you do to change your brain to create better well-being and happiness? Before addressing that question, it's important first to discuss what doesn't work. It is deeply engrained in our Western culture that, if we get a good job and make a lot of money, we'll be happy. Happiness has been viewed as something that is out there that we can get if we just strive hard enough. We are reminded of this hundreds, if not thousands, of times a day by print, digital and television advertising. If we accumulate enough stuff, make enough money, have a big enough house, get a high-paying job, we will be happy. But the data don't support this. So, what is wrong? The field of positive psychology might have the answer.

Noted author and positive psychologist, Sean Achor, suggests in his book The Happiness Advantage that we need to flip the script. He cites numerous studies to support his argument that money and success don't bring happiness. It's the other way around. Happiness brings money and success. Happy employees are far more likely to excel in their work than unhappy employees. Achor cites a study that shows that 75% of job successes are predicted by a person's optimism levels, their support, and their ability to see stress as a challenge rather than a threat. He cites another study that concludes that a person in a positive state of mind is 31% more productive than a person at neutral or negative state.

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[4] Patrick R. Krill et al., *The Prevalence of Substance Abuse and Other Mental Health Concerns Among American Attorneys,* 10 J. Addiction Med. 46 (2016).

The following suggestions are scientifically validated ways to improve your overall well-being and happiness. This is by no means meant to be an exhaustive list.

Change Your Mindset—Change Your Life:

Mindsets are those beliefs we have about ourselves and the world around us. Mindsets determine how we interpret and respond to situations and circumstances. Our mindsets affect our physical, mental and emotional responses to situations. The same set of circumstances can cause one person to experience extremely negative emotions, while another person may have a neutral emotional response. The same is true for physical responses. Scientific research into mindsets is relatively new but may hold great promise for improving our overall well-being.

To better understand this concept, consider a study that tracked 30,000 people for eight years. The participants were asked how much stress they experienced in the past year. They were then asked whether they thought the stress was harmful to their health. The researchers then looked at death records for the participants. They found that people who had experienced a lot of stress in the previous year and believed that stress is harmful for their health had a 43% increased risk of dying. People in the study who experienced a lot of stress but didn't believe that stress was harmful were no more likely to die than people who had little stress in their lives.

There are numerous other examples of studies showing how a change in mindset can produce positive health outcomes. Stanford University professor Alia Crum conducted a study of two groups of hotel maids. The maids were given a physical exam (weight, body mass index, blood pressure, etc.) and asked how much exercise they got each day. Most of the maids said they didn't get any exercise. One group of maids was shown how their daily work was in fact exercise and how it was good for their health. The other group was told nothing. They then brought the maids back four weeks later and gave them another physical exam. The group that was taught that their work was exercise and that it was good for their health lost weight and dropped their systolic blood pressure by 10 points. Nothing had changed about their daily routines except the way they perceived their work. They changed their mindset.

Professor Crum was also part of study that examined the effect that mindset had on people's mental health and well-being in response to the COVID pandemic. The study recruited 5,365 participants at the beginning of the pandemic and asked them to pick one of three mindsets they had about the pandemic: 1) the pandemic is a catastrophe; 2) the pandemic is manageable; or 3) the pandemic can be an opportunity. They then followed up with the participants 6 months later to examine the emotional, mental and physical health of each of the three categories. Not surprisingly, the group that had the mindset that the pandemic was a catastrophe experienced higher levels of negative emotions and unhealthy behaviors than the other two groups.

So, we know that our mindset can influence our health and how we feel. A negative mindset that expects the worst and sees everything as a threat rather than a challenge is likely to

experience more negative emotion and worse health outcomes. Whereas a positive mindset can influence outcomes in a positive way and improve overall well-being.

Relationships, Relationships, Relationships:

Read any article, book or study on happiness, and you will find that relational connection is a predictor of and contributor to happiness and well-being. In 1938, a group of researchers initiated a study in which they tracked the lives of two very different groups of young men. The first group was made up of a group of 268 Harvard sophomores (one of them being future President John F. Kennedy). The second group consisted of 456 young men living in the poorest neighborhoods of Boston. The researchers conducted in-depth interviews of each participant and reviewed their medical records and did brain scans and took blood samples. They then tracked the participants into adulthood and beyond to old age. After 80 years of collecting and analyzing data from the study, the clearest message they found was that quality relationships and deep connection are the biggest predictors of happiness and longevity. Dr. Robert Waldinger, the current director of the study, stresses that it is the "quality" of relationships and not the "quantity" of relationships that matters. The relationships that have a positive effect on our physical and mental health are relationships that are stable and supportive. Relationships that involve high levels of conflict or even abuse, can have the opposite effect.

Often, when we are feeling depressed, anxious or stressed out, we isolate from our friends, family and colleagues. This is especially true for lawyers. Shawn Achor emphasizes that relationship is even more important when we are in times of crisis, stress or difficulty. When we think about what happens in our body when we are surrounded by people close to us, Achor's advice makes sense. Studies have shown that being with those close to us during difficult times can reduce levels of the stress hormone cortisol and increase levels of the happiness hormone oxytocin.

Quality relationships are not only important for sharing our struggles, but are also important for celebrating our successes, joys, and common passions and purposes. If you are an avid runner, find a running group. If you belong to a faith community, plug into a small group there. If you love reading, join a book club. If you have a passion for cooking, host a dinner club. Remember, though, that it's not about the quantity of your relationships. Find quality relationships that are based on trust, support and encouragement. And if you're an introvert, don't use this as an excuse not to connect. Introverts are just as good at quality relationships as extraverts.

Exercise:

We all know the positive effects of exercise on our physical body. But did you know that exercise contributes to mental health as well? Anders Hovland, a clinical psychologist in Norway, reviewed 23 clinical trials that tested the effectiveness of exercise in treating depression. He found that these studies showed exercise was clearly effective in easing the symptoms of depression. What is not clear yet is why this is the case. We just know that it helps. There is also evidence from scientific studies that shows that exercise can aid in the

treatment of PTSD and anxiety disorders. Additionally, exercise helps to moderate the body's response to stress and reduces inflammation.

Simply knowing that exercise improves our physical health can change our mood and our outlook. We get a sense of accomplishment and progress as our physical condition improves. We worry less about our health and longevity. We deal with fewer physical ailments that can contribute to our overall mood and stress levels.

But how much exercise do we need to get these benefits, and what kind of exercise is best? Studies have found that exercising 30 to 60 minutes a day for three to five times a week was optimal. Experts warn, though, that you can exercise too much. One study found that people who worked out more than five times a week experienced worse mental health. So, take those rest days to allow your body to recover. As far as the type of exercise, any exercise helps. However, most studies have shown aerobic exercise to have the greatest benefit—think cycling, swimming, running, cross-fit, zoomba classes.

Meditation, Mindfulness and Yoga:

Not that long ago, meditation and yoga were thought of as something reserved for people who walked around in robes and handed out flowers at airports. Today, yoga and meditation have become mainstream. People are beginning to understand the physical, emotional and mental benefits of these practices.

Several studies suggest that yoga may improve symptoms associated with anxiety, depression and PTSD. Yoga combines the benefits of physical movement with meditation and mindfulness all in one. Yoga has been shown to lower the stress hormones, while simultaneously increasing the feel-good hormones. Yoga is easily accessible as a home practice or at a local yoga studio. There are a wide variety of classes. The most common form of yoga offered in yoga studios in the United States is hatha yoga. Hatha yoga is simply yoga that pairs poses (asanas) with breathing techniques (pranayama). Then there is yin yoga which is a slower practice that involves poses with deep stretches that are held for longer periods. There is hot yoga, where you practice hatha or flow yoga in a room heated to a temperature somewhere between 100 and 106 degrees Fahrenheit. There is even a practice called yoga nidra, which literally means yogic sleep. This is a deeply relaxing practice that takes you to a deep state of conscious relaxation. On the other end of the spectrum is flow yoga, which involves flowing in continuous movements from one pose to another. For elderly people or people with disabilities, there is chair yoga, which is a gentle form of yoga done while sitting in a chair or standing on the ground and using the chair as support. The point is that there is a style of yoga to suit almost anyone. The goal is to relax and have fun.

There is less scientific evidence on the mental health benefits of meditation as compared to yoga. What we do know about meditation, though, is that it can help to reduce stress and inflammation in the body, reduce blood pressure and improve self-awareness. Certain forms of meditation (loving-kindness meditation) can also make us more compassionate human beings. There are as many forms of meditation as there are yoga practices. There is mindfulness

meditation where you sit and observe your thoughts and let them pass without judgment. You are fully present with your awareness. There is guided meditation where a teacher leads you through a meditation practice. This is a good form of meditation for beginners. As mentioned above, there is loving-kindness meditation where you bring your attention to people in your life and direct positive thoughts and energy toward them. There is object centered meditation, where you focus your gaze on an object like a candle flame. Meditation can be practiced from almost anywhere. You don't have to design the perfect meditation room in your home with candles and a meditation cushion. You can do it while you're standing in line at a store or sitting at your desk or sitting on your couch at home. And there is no specific amount of time that you meditate. You can do it for 2 minutes or 2 hours. If you haven't meditated before, you may want to start out with no more than a 5-minute sitting. When it comes to body position, it is generally recommended that you sit up straight to meditate. However, it is perfectly acceptable to practice lying down. Don't worry if your mind is flooded with thoughts. That is natural. Just let them come and go without judgment. While you ideally want to meditate at a time and place where you won't be interrupted by people or sounds, don't worry if you are. Just bring your attention back inward. A good way to slow the monkey mind is simply to pay attention to your breath.

Mindfulness is the practice of paying attention to the present moment and observing whatever is happening without judgment. Because each moment is constantly passing, mindfulness involves the observation of a never-ending stream of external stimuli and circumstances. The practice of mindfulness in Western society dates back to the 1970's. Since then, it has grown in popularity as a treatment for depression, anxiety, chronic pain and stress. Mindfulness is a useful tool to enrich our lives at a time when we are bombarded with external messages from the news, social media, the internet, television and all forms of advertising and print media. It can seem impossible to stop and really observe what is going on in our minds when we have so much interference. If we do stop, though, and consider the present moment, it can make room for gratitude for what is. It can also bring our attention to negative thoughts and self-talk of which we might not have even been aware. By consciously choosing to be aware of the present moment, we are taking back control of our brain. We are shifting from our limbic system (think fear, anger, survival) to the prefrontal cortex (think complex cognitive behavior and decision making).

Get Outside:

Most of us have experienced the feeling of awe when we look at a beautiful sunset or stand at the top of a mountain and look over the vastness of the earth or when we look up at the stars in wonder. This emotion of awe that is triggered by observation of nature has been shown to have positive physiological, psychological and social benefits. Studies have shown that awe increases positive mood and feelings of connectedness. But the benefits of nature are not limited to those experiences that evoke awe. Just being outside in nature has been shown to have positive effects. In a study conducted in Japan, one group of participants walked through a remote forest area. Another group walked through an urban center. The researchers took tests

before and after the walk to measure the participants' heart rates, stress levels and anxiety levels. The participants who had walked through the forest had lower heart rates and less anxiety and stress than those who walked through the urban center. In a similar study where one group of participants walked in an urban area and another group walked in a natural setting, those who walked in the natural setting reported decreased rumination after the walk. Rumination has been associated with the onset of depression and anxiety. Other studies have shown that nature can relieve attention fatigue and increase creativity. But do we really need science to tell us this. Don't we know this from our experience. For example, if I am out on my kayak in the early morning when the sun is coming up and everything in the water is coming to life, I have an overwhelming sense of peace. When I hike through a wooded forest, I forget about all the things that are stressors in my life. So, the next time you are feeling overwhelmed by work, relationship conflict or financial pressures, get outside and get a dose of nature.

Practice Gratitude:

Several years ago, I attended a seminar where the keynote speaker was a lawyer who had written a book in which he shared how a simple gratitude practice brought him out of depression and hopelessness. This lawyer explained how his law practice had declined and how he had isolated and lost relationships with family members. He was desperate to find a solution and was inspired by a thank you note he had received from an ex-girlfriend. He decided to try an experiment. He committed to handwrite one thank you note a day for the next year. He sent thank you notes to family members, friends, colleagues and even strangers. He told one story where wrote a note to a restaurant employee who worked at a place where the lawyer stopped almost every day. The lawyer had never had any meaningful conversation with the employee, but the employee was always kind to him. The lawyer shared how moved the employee was to get this unexpected note. The lawyer explained that he probably got more of a positive boost than the employee did. Long story short, by the end of the year, the lawyer had renewed and improved relationships with many people in his life and put his law practice back on track. This is a great example of a way to combine gratitude with relationship to improve well-being.

Thank you notes are a great way to practice gratitude because it includes social connection. However, other gratitude practice that don't involve other people can be helpful. Sean Achor recommends starting or ending your day by writing down three things for which you are grateful. Another practice that some find helpful is gratitude journaling. Journaling can cause a person to really think deeply about a thing or person for which they are grateful. Gratitude practice can also be as simple as sending a text or email to someone to let them know you appreciate them. You can also combine a gratitude practice with a mindfulness practice. Take moments throughout your day to stop and notice what you are grateful for. You could even set alarms on your phone to remind you to stop and notice. There are also gratitude apps that you can download to help with your gratitude practice. The important thing is to do something that works for you and feels genuine.

The study of gratitude and its benefits is relatively new. Several studies have shown a correlation between gratitude and feelings of happiness or satisfaction. In one study,

neuroscientists took brain-imaging scans to determine which circuits in the brain become active when we feel grateful. The study showed that gratitude correlated with relief from stress. In another study, participants who wrote thank you notes for three months showed better mental health than participants who did not write the letters. Other researchers have questioned the effect that gratitude has on happiness. One thing that is certain, though, is that when we express genuine gratitude to another person, we improve the quality of that relationship. And we know that there is a substantial body of evidence to show that quality relationships lead to happier and healthier lives.

Stop Throwing Darts:

In his book Buddha's Brain, best-selling author and neuroscientist Rick Hanson suggests that physical and mental pain and suffering is inevitable in life. People die. They lose their jobs and suffer illnesses and injuries. Marriages dissolve. Hanson calls these things first darts. They are events or circumstances that we often have little or no control over. However, Hanson goes on to explain that we often exaggerate or prolong our suffering by throwing second darts. Second darts can come in the form of negative self-talk or ruminating over our pain. Hanson uses the simple example of stubbing your toe on a chair. The physical pain is the first dart. But then you throw second darts by becoming angry that someone moved the chair or you feel resentment toward your partner because he or she isn't sympathetic enough to your pain. Or maybe you ruminate about whether your toe is broken and how much the medical bills will cost. We all do this. We take a first dart and make it bigger than it is.

If we want true happiness and well-being, we must learn to move through and process the pain of the first dart without making it worse than it needs to be. This allows us to release the negative emotion or pain and move toward a positive emotion. We can also reduce suffering by changing our mindset (perception) of what is a dart in the first place. In other words, we can stop seeing so much of what happens as negative and simply perceive circumstances as nothing more than than-circumstances. This concept can best be understood by considering an old Taoist story of a farmer. In the story, one of the farmer's horses ran away. A neighbor dropped by to apologize for the farmer's bad luck. "Maybe," the farmer replied. The next day, the horse returned and had three wild horses with him. The neighbor exclaimed, "How wonderful!" "Maybe," replied the farmer. The following day, the farmer's son was thrown from one of the horses and broke his leg. The neighbor again offered his sympathies for his son's misfortune. "Maybe," answered the farmer. The day after, military officers came by to draft the farmer's son for war. Because the son had a broken leg, the officers passed him by. The neighbor expressed to the farmer how well things had turned out. "Maybe," said the farmer.

Avoiding second darts and limiting what we see as first darts requires mindfulness. When something "bad" happens, we can choose to stop and simply observe the circumstance without judgment. If it causes physical or emotional pain, let that pain come without fighting it. Then let it pass without magnifying or exaggerating it with fear and rumination. If you catch yourself throwing second darts, just stop and observe the second darts that you're throwing. Then stop throwing logs on the fire.

This practice can be very difficult. Our negative responses to situations typical are triggered by an automatic response in the limbic system of our brain (think fight or flight). In her best-selling book My Stroke of Insight, neuroanatomist Jill Bolte Taylor explains the physiology of what happens. When a negative emotion is triggered by a threat in our physical or mental environment, our limbic system sends chemicals into the body which put it on full alert. Taylor explains that it typically takes about 90 seconds for these chemicals to be flushed from the body. While those chemicals are present in your system, your reactions are based on the emotions of fear, anger or panic. If you can wait for the chemicals to flush without reacting or forming any opinion about the triggering event, you are less likely to throw a second dart. You can simply be present with what has happened.

Final Thoughts on Well-Being:

Well-being and happiness are not prizes at the end of a road. They are not something that we strive for and get and then sit back and enjoy. Well-being is a journey—a lifestyle. It's about designing a life that creates opportunities for joy and purpose and meaning. It's about creating a state of mind that, when bad things happen, we can be present with that experience and then move forward. Mental health is much like physical health. To have either, we must be active participants. Sure, there is a genetic component to both physical and mental health. But neuroscience has shown us that we can rewire our brains for improved well-being. We have a choice. We can structure our lives to include some of the practices discussed above or we can let our genetics and circumstances limit what is possible.

6. Communications and Client Relationships

What do you think is the number one complaint clients have about their lawyers? It is not lack of knowledge or competence. It is not even dissatisfaction with the outcome of a matter or the cost to the client. A BTI Consulting Group Survey indicates that failure to keep a client adequately informed is far and above the number one complaint clients have.

Poor communication not only results in loss of business, but also increases the likelihood of malpractice claims, ethics complaints and poor reviews. Clients who feel seen and heard by their lawyers are far less likely to make such complaints. We have seen numerous situations where a lawyer made a mistake that resulted in damage to the client, but the client chose not to pursue the malpractice claim because the lawyer had a good relationship with the client. In contrast, where a client has been ignored and a mistake is made, it is far more difficult to reach a reasonable resolution of the claim.

So, what can you do to avoid this? First, set expectations with the client from the outset. If you would prefer for the client to speak with your receptionist or administrative assistant to get administrative details and updates, let the client know that. If you prefer to communicate by e-mail with the client, tell them that up front. Also, give them a realistic timeframe for the matter you are handling. Don't assume that they will know how long various stages of the representation will take.

Second, don't ignore client requests. There is nothing worse than being kept in the dark. If the news is no news, tell the client that. It doesn't need to be a 15-minute phone call. It can be a simple one-line e-mail or text. It can also be a quick call or e-mail telling the client that you can't get to their question right away but will call or e-mail the next day. We have all been in that situation where we're at the counter of a retail establishment or restaurant and an employee ignores our presence. They might or might not have been busy doing something. In either case, they don't say anything, and you are left to wait without any idea when you will be served. All they would have to do is acknowledge your presence and tell you that they will be right with you. The way that you feel in this situation is the way your clients feel when you don't acknowledge their requests.

Third, make sure that your staff is trained to respond to client inquiries in a timely manner. Good client communication is a team effort. Everyone needs to be on board. Establish a policy in your office to respond to all client inquiries within 24 hours of receipt of the inquiry. The response can be a simple request for additional time to respond. It goes without saying that emergency and time sensitive requests should be addressed immediately.

In addition to good external communications with clients, it is equally important to maintain strong internal communication through file documentation. Your file should contain a complete record of all your communications regarding the client matter. If you have a phone call regarding the file, put the notes of that phone call in the file. If you have a meeting with the client, another attorney in the office, or a third party to discuss the file, document that meeting. Documenting a file, especially where you have a difficult client, often makes all the difference when defending a malpractice claim or bar grievance. Remember the Chinese proverb: "The faintest ink is more powerful than the strongest memory."

When you have a difficult client, you should routinely confirm your telephone conversations and meetings in a written follow-up. For example, if you give a client what you consider to be good advice about how to proceed and the client refuses to take your advice, you should confirm in writing the advice you gave and the fact that the client refused to take your advice. Often, in malpractice claims, former clients have selective memories. They may claim that you did not offer the advice. A follow-up letter or email will eliminate that risk. Also, remember that, under Rule 1.4(a)(3) of the Rules of Professional Conduct, you have a duty to "keep the client reasonably informed about the status of the matter."

Just as important as it is to have good communications with your client, it is equally important to make sure to keep those communications confidential. Rule 1.6(a) prohibits disclosure of any "information acquired during the professional relationship with a client unless the client givers informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by [Rule 1.4(b]." Note how broadly the Rule defines what is confidential. It is any information from any source that the lawyer acquires during the representation. It doesn't matter that the information is known by others. As the attorney for the client, you have a duty to keep it confidential if it was acquired by you during representation. Note also that the information remains confidential after the death of the

client. Unless the personal representative of the estate of a deceased client authorizes disclosure, you must keep the communications confidential.

A final thought on client communication is to always ask the client at the outset what the client hopes to accomplish. Many lawyers never bother to ask this question. They make assumptions about what the client wants or they substitute their judgment for the client. This is a mistake that can have negative consequences down the road. And when the client tells you what she wants, do not overpromise what you can accomplish. It's always better to underpromise and overdeliver.

7. Don't Dabble

Rule 1.1 of the Rules of Professional Conduct prohibits a lawyer from handling "a legal matter that the lawyer knows or should know he or she is not competent to handle without associating with a lawyer who is competent to handle the matter." Handling matters for which you are not competent is known as dabbling, and it is one of the leading causes of malpractice claims.

For new lawyers most new matters will involve some level of dabbling. Law school training may be sufficient for certain matters but does not provide the practical experience for handling many practice areas. That can only come from experience. If you're in a law firm with other attorneys, you can rely on the experience of more experienced attorneys in the firm to mentor you through a case or matter. If you're solo, you must find another solution. Here are a few suggestions for new lawyers.

1. Associating Counsel: This might have a cost associated with it early on, but having an experienced practitioner walk you through the process once or twice might be all you need to handle the next case on your own. Be sure to familiarize yourself with the requirements of Rule 1.5(e) of the Rules of Professional Conduct regarding division of fees. Under that rule, a division of fees with another lawyer who is not in your firm may be made only if: 1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation; 2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and 3) the total fee is reasonable. Note that the client must agree in writing to the arrangement. Note also that, if the division is not in proportion to the services performed, then each lawyer must agree to joint responsibility. It is our strong recommendation the division be in proportion to the services performed by each lawyer. In your engagement agreement, you should specifically define the scope of each lawyer's responsibility in the matter and what the client will pay for each lawyer's services.
2. Educate Yourself: Look for CLE programs in your new practice area and consider the cost/start-up expenses. Attending CLE classes in your new practice area is also a great way to expand your network to include lawyers who might be willing to associate with you on cases or to serve a mentoring role answering your questions and offering guidance along the way.

3. Use the Resources of Your Bar Association or Specific Practice Area Associations: The North Carolina Bar Association and many local bar associations offer vast resources for members. The Advocates for Justice and North Carolina Association of Defense Attorneys also offer valuable resources for lawyers practicing in those areas.
4. Get Involved in a Mentoring Program: If your local bar has a mentoring program, this can be an excellent resource and another opportunity for networking.
5. Call on Lawyers Mutual Claims Attorneys: If you are insured with Lawyers Mutual, maximize your premium dollars by calling on our claims lawyers for advice and guidance. Our team of claims attorneys spend much of their days talking with lawyers about their cases and matters. Our Client Services Department also provides risk management advice, forms, checklists, articles, as well as free CLE for insureds.

We understand the temptation to take a new client. There are bills to pay and mouths to feed. However, be cognizant of the risks in taking on new practice areas. It's easy to get overconfident and make mistakes. Take, for example, the real estate lawyer who decided to handle a wrongful death case. There was a lull in the real estate market, and his business was slow. When the prospective client showed up at his door asking him if he could handle the wrongful death case, the lawyer thought that he could supplement his declining revenues with this case. It appeared to be a very strong case with clear negligence. The lawyer docketed the case for a three-year statute of limitations. When he realized he had missed the three-year deadline by one day, he contacted Lawyers Mutual to report that he had missed the statute of limitations by one day. He was surprised to find out that he had actually missed the deadline by one year and one day. He wasn't aware that wrongful death cases had a shorter two-year statute of limitations. He just assumed that it must be the three-year statute of limitations for personal injury claims, so he didn't even look at the statute. He was overconfident in his knowledge of the law.

8. Watch for and Avoid Conflicts of Interest

Conflicts of interest account for many legal malpractice claims and ethics complaints. Sometimes, conflicts are obvious. Other times, a conflict can be subtle or might only become evident well into a representation. Every firm, regardless of size, should have conflict of interest policies and procedures in place to identify conflicts of interest before accepting representation. However, even with a conflict checking system in place, lawyers must still exercise good judgment in assessing conflicts and potential conflicts. Additionally, it is essential to understand the conflicts rules under Rules 1.7, 1.8 and 1.9 of the Rules of Professional Conduct.

Rule 1.7 sets forth the conflict rules for current clients. Under Rule 1.7(a)(1), a lawyer may not accept or continue representation that is directly adverse to another client. Under this rule, it does not matter whether the matters are unrelated. Direct adversity is obvious when a client or prospective client asks you to sue another current client. That is clearly not allowed. However, not all matters are that clear when it comes to the question of direct adversity. For example, if you represent a restaurant in your community and are approached by a prospective client who

wants to open a restaurant that would compete with your client's restaurant and possibly have a negative economic impact on your current client's restaurant, is that considered direct adversity under Rule 1.7(a)(1)? According to the comments under Rule 1.7, this would not be considered direct adversity under the Rule. Apparently, mere economic adversity does not rise to the level of adversity envisioned by Rule 1.7(a)(1). It might have business ramifications but should not be the basis for an ethics complaint.

Rule 1.7(a)(2) further prohibits representation where the representation would be materially limited by the lawyer's responsibilities to a third person, another client, a former client or by the lawyer's own personal interests. This situation may arise in the context of a mistake made by a lawyer that could provide the basis for a malpractice claim. In this situation, the lawyer wants to continue to represent the client because he thinks he can fix the mistake. Because the lawyer is facing a legal malpractice claim and wants only to avoid the claim, his personal interest in fixing the claim might interfere with his ability to exercise independent judgment in representing the client. Therefore, this presents a conflict of interest under Rule 1.7(a)(2).

Even where a conflict of interest exists, a lawyer may accept or continue representation if: 1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; 2) the representation is not prohibited by law; 3) the representation doesn't involve the assertion of a claim by one client against another client represented by the lawyer; and 4) each affected client gives informed consent, confirmed in writing. Comment 18 to Rule 1.7 explains that "[i]nformed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client." When seeking a waiver and informed consent, it is not enough simply to say that you have a conflict and then ask for consent. You have to explain all the ways in which the conflict might affect he representation. There is no one-size-fits-all informed consent. When multiple clients are involved, the informed consent must include the possible effects on loyalty, confidentiality and privilege, and the advantages and risks involved.

Rule 1.7 applies only to current client conflicts. Rule 1.9 addresses former client conflict issues. Under Rule 1.9, a lawyer shall not represent a client where that client's interests are materially adverse to another person whom the lawyer formerly represented in the same or a substantially related matter unless the former client gives informed consent, confirmed in writing. Note that this prohibition applies only where the matter at issue is the same or substantially related. Rule 1.9 further provides that a lawyer who has formerly represented a client shall not use information obtained in that representation to the detriment of the former client except where the Rules permit or when the information has become generally known.

Rule 1.8 addresses conflicts with current clients in nine specific contexts.

Rule 1.8(a) deals with business transactions with clients. The rule governs conflicts of interest when a lawyer engages in a business transaction with a client in which the lawyer's interests

are adverse to the client's interests or the lawyer acquires some other financial interest adverse to a client. The rule requires that all such transactions be objectively fair and reasonable.

Rule 1.8(b) prohibits the use of information relating to a client representation to that client's disadvantage, unless the client consents or the Rules of Professional Conduct permit otherwise.

Rule 1.8(c) deals with gifts from clients. Taking gifts that are freely offered is not prohibited. Soliciting substantial gifts is prohibited.

Rule 1.8(d) prohibits a lawyer from making or negotiating an agreement giving the lawyer literary or media rights in a matter pertaining to a client representation until it is over.

Rule 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation, with the exception of being able to advance court costs and expenses of litigation.

Under Rule 1.8(f), a lawyer shall not accept compensation for representing a client from one other than the client unless: (1) the client gives informed consent; (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and (3) information relating to representation of a client is protected as required by Rule 1.6.

Rule 1.8(g) prohibits a lawyer who represents two or more clients from participating in making an aggregate settlement of the claims of the clients unless each client gives informed consent, in a writing signed by the client.

Under Rule 1.8 (h)(1), a lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement. Rule 1.8(h)(2) prohibits a lawyer from settling a malpractice claim with an unrepresented client unless that person is advised of the desirability of seeking and is given an opportunity to seek the advice of independent legal counsel.

Rule 1.8(i) prohibits a lawyer from acquiring a proprietary interest in a client's cause of action. There are exceptions. A lawyer is allowed to have a reasonable contingency-fee interest in a client's case, and a lawyer is allowed to assert legally recognized lien rights in the client's case to protect the lawyer's fees or expenses.

You should familiarize yourself with all of these rules. But don't stop there. When you encounter what appears to be a conflict or potential conflict, be honest about whether you can exercise loyalty and independent judgment notwithstanding the conflict. Don't be tempted by the lure of fees that you might receive from the representation. Your reputation and your standing with the State Bar and your malpractice carrier matter too much to cut corners when it comes to conflicts.

9. Take Time to Investigate and Develop Facts

As law students, we spend three years learning about the law. We learn how to research cases, statutes and regulations and apply what we find to a given set of facts. However, we are taught

very little about how to investigate the facts of a case. A frequent mistake made by new lawyers is failing to fully investigate, collect and develop the facts of a new matter or case. This is true in both litigation and transactional matters. Developing and investigating facts can be tedious and sometimes unpleasant. You may have to speak with parties or witnesses who really don't want to talk to you. Or you might have a client who needs some prodding to give you all the facts. You must be persistent. Cases are often won or lost on a particular fact that would not have been discovered but for the lawyer's persistence in digging for and collecting the facts. It can also mean the difference between filing a case within the statute of limitations or missing the statute. Consider, for example, a personal injury client who comes to your office to hire you. They were in a car accident just shy of two years before coming in to see you. You don't take the time to ask where the accident occurred but feel comfortable that you have plenty of time to file the case within North Carolina's three-year statute of limitations. You later learn that the accident occurred in another state that has a two-year statute of limitations for personal injury claims. You have now missed the statute of limitations because you didn't collect the necessary information up front. This is just one example of the way in which inadequate factual investigation can lead to a malpractice claim.

One of the tools that you can use for this process is a client intake form. You should have multiple client intake forms, each for a different practice area or type of case or matter. For example, if you are handling an estate planning matter, you should ask the new client to complete an intake form that identifies family members, assets, premarital agreements, debts, life insurance policies, retirement accounts, expected inheritance(s), any prior testamentary documents or planning, family business interests, etc. You would also want to ask the new client for any titling documents or plan documents to make sure that you know how assets are titled and what the client's current beneficiary designations are. This will allow you to come up with an effective estate plan for the client. You can find sample intake forms in Lawyers Mutual's Attorney Client Relationship practice guide.

Another tip here is to go behind what your client tells you. Do an independent investigation to verify what the client said. Also, ask the client for documents or locate documents that substantiate any of the facts provided by the client or discovered by you. Often, a document will show that a client's or other party's understanding of the facts is not accurate. And don't make the mistake of assuming that the opposing party's allegations are untrue. Sometimes attorneys pay little attention to adverse factual evidence. This is a mistake. If you do not take the time to fully investigate negative evidence, you may later be blindsided.

10. Focus Less on Outcomes and More on the Journey

Hopefully, you will have a long and fruitful career in the law. You will have good days and bad days. You will win some cases and lose some cases. You will have happy clients and disgruntled clients. Even the best lawyers lose sometimes and have unhappy clients during their career. Does that mean that they have failed? If you measure success by winning and pleasing others, then, yes, they have failed. Living life by this measure will create a life full of anxiety and disappointment. If your happiness and satisfaction are dependent on outcomes being what you

need them to be, you will frequently come up short. Plus, sometimes what we see as bad ends up turning out to be good.

But what if you measured success by something other than outcomes? What if you measured success by the actions that you took along the way? You will soon learn that, no matter what you do, you can lose a case or disappoint a client. The only thing that you have any real control over is your own actions. Have you zealously represented your client's interests to the best of your ability? Have you acted ethically? If so, you can be pleased with whatever the outcome is. Practicing law is no different than anything else in life. We have far less control over results than we think we do. So, let go of the need for control and outcomes. Work hard and enjoy the satisfaction of knowing that you did your best. And if there are times when you don't give it your best, give yourself some grace. Nobody is perfect, even though our clients sometimes think we should be.