



PRESENTER – GAINES WEST

West, Webb, Allbritton & Gentry, P.C.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #1

- Communicate with your client {even when it hurts};
- Control the way you communicate with your client;
- Don't expect another attorney {paralegal, legal assistant or secretary} in your firm to do it if you are the attorney with whom the representation began;
- Above all else be truthful in your communication.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #2

- Privilege v. Right;
- Example: Picture in Office;
- White Board Example.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #3

- Read your billing entries carefully;
- Bill regularly;
- Know the lodestar factors and use them when reviewing your billing.

CLE TITLE - Ten Tips to Avoid a Grievance

Rule 1.04 Texas Rules of Professional Conduct

- ★ Time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly
- ★ The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer
- ★ Fees customarily charged in the locality for similar legal services
- ★ the amount involved and results obtained
- ★ Time limitations imposed by the client or by the circumstances
- ★ Nature and length of the professional relationship with the client
- ★ the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- ★ Whether the fee is fixed or contingent on results obtained or uncertainty of collections before the legal services have been performed

Above adopted in: *Braswell v. Braswell*, 476 S.W.2d 444 (Tex. Civ. App. -- Waco 1972, writ dism'd).

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #4

- Know what to do when your clients asks for her/his file back;
- Treat your file for the client like it really is the client's file – not yours;
- Make frequent memos to the file as the representation progresses

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #5

- For Litigators: Jurors and Social Media;
- Watch how you access trial information at the courthouse – ask: does your storage arrangement in trial {if it is different from what is at your office} provide for more or less security?
- Always be cautious of email “strings” that involve your client.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #6

- Remember that old axiom: “No good deed goes unpunished.” Beware at parties and social gatherings to not undertake representation;
- Do have a fee contract with your client;
- Think a LOT before you sue a client for unpaid fees.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #7

- Don't talk to someone you know, or reasonably should know, is represented by counsel;
- Be up front with your client about not contacting opposing parties themselves;
- Know what to do if someone who is represented contacts you directly.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #8

- Don't charge (and put in your operating account) a flat (non-refundable) fee – know what benchmark billing is;
- Do prepare a settlement/disbursement statement for your client to sign anytime you are disbursing money to the client;
- Be wary when accepting something other than money for your services.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #9

- Be very concerned about confidentiality – even in anticipation of representation;
- The attorney/client privilege is not yours to waive;
- HIPPA – something surprising.

CLE TITLE - Ten Tips to Avoid a Grievance

TIP #10

- Know your responsibilities under TDRPC 5.03 {Lawyer Assistants}
- Know your responsibilities under TDRPC 1.15 {Withdrawing from Representation};
- Know your responsibilities under TDRPC 5.08 {Prohibited Discriminatory Activities}



PRESENTER – GAINES WEST

West, Webb, Allbritton & Gentry, P.C.