

Practice Management **SAMPLE FORMS**

By:
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OFFICE OF LOSS PREVENTION

The Loss Prevention Program is available to assist Louisiana State Bar Association members in the prevention of legal malpractice and the improvement of office practices and procedures.

Most services are free to members of the Louisiana State Bar Association. Other services are free to those insured through the LSBA-sponsored malpractice program. Among the services provided are:

- Workshops for attorneys on preventing malpractice and office management (CLE credit)
- Workshops for non-attorney staff members
- Louisiana Loss Prevention Newsletter
- Sample Forms and Sample Forms Diskettes
- Louisiana Prescription Quick Reference Card
- Lawyers Helping Lawyers article in each issue of the LSBA Journal
- CLE ethics and professionalism presentations for organizations, universities and local bar associations
- Law School skills course instruction

Whether you are a solo practitioner or work with a small firm, a large firm or a corporation, please do not hesitate to ask for assistance. You can contact the Office of Loss Prevention at (985) 898-1785 or 1-800-Gilsbar, Ext. 785, fax: (985) 898-1636, e-mail: lossprevention@gilsbar.com, or by writing to: Professional Liability Loss Prevention Counsel, Judy Cannella Schott, Esq., Cynthia O. Butera, Esq., Johanna G. Averill, Esq., or Lindsey M. Ladouceur, Esq., Gilsbar, Inc., P.O. Box 998, Covington, Louisiana 70434. We look forward to assisting you with your practice!

FORMS DISCLAIMER

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FORMS TO ASSIST THE LOUISIANA LAWYER IN EFFECTIVELY HANDLING CASES AND CLIENTS

Practice Management Forms

Potential Client Screening Form	
Conflicts of Interest Pointers	
Conflicts Search Form Instructions	
Conflicts Search Form	
Conflicts Search Results Memo	
Authorization to Obtain Information	
Previous Attorney Interview Form	
New Client Interview Form	
Fee Agreement and Authority to Represent	

POTENTIAL CLIENT SCREENING FORM

(To be completed by the interviewing attorney)

POTENTIAL CLIENT: _____ Date: _____

NOTE: Confine the discussion to public facts at this point to avoid conflicting the firm out of another matter by learning confidential information in this potential client interview.

1. Why did the potential client contact our firm? _____

2. Was the client referred to the firm by someone? _____ Yes _____ No
If so, by whom? _____
3. Is potential client's matter a new matter or a continuation of a case, business deal or transaction already in progress? _____
4. Nature of case and dollar amount involved: _____

5. Prescription problem? _____
6. Opposing parties: _____
7. Opposing counsel: _____
8. If **not** a new matter, who previously represented the potential client?

9. Why did the potential client change lawyers? _____

10. Will the potential client sign an authorization for the former lawyer to answer fully (and confidentially) all of your questions? _____ Yes _____ No
(**NOTE:** If the potential client refuses to sign the authorization, representation shall be declined immediately, and a non-engagement letter shall be sent. If the potential client agrees to sign, have him/her sign the firm's AUTHORIZATION TO OBTAIN INFORMATION prior to formal acceptance of representation).
11. If the matter is not a new matter, will the client provide you with the entire file?
_____ Yes _____ No
(**NOTE:** Have paralegal or assistant obtain, for review, pertinent copies of documents filed in the public record **prior to** accepting representation).
12. If the matter is a new matter, is there a likelihood that the new matter will be a one-time-only deal with no potential future relationship? _____ Yes _____ No
13. Is there a likelihood that the new matter might preclude the firm's future representation of

more desirable clients or work (i.e., conflicted out of future work)?

_____ Yes _____ No

14. Has the potential client been involved in prior litigation? (i.e., is the potential client unduly litigious?) _____ Yes _____ No

(NOTE: Have paralegal or assistant review court records if suspicious).

15. Does the potential client appear to understand how the legal system works?

_____ Yes _____ No

16. Will the potential client provide references? _____ Yes _____ No

(include telephone numbers)

17. Does the potential client appear to understand the fee arrangement? ____ Yes ____ No

18. Is there any other information regarding this potential client that would assist the firm in deciding whether or not to accept representation thereof?

CONFLICTS SEARCH FORM completed on _____

AUTHORIZATION TO OBTAIN INFORMATION signed on _____

PREVIOUS ATTORNEY INTERVIEW FORM completed on _____

Signatures of three attorneys who authorize acceptance of representation:

Name: _____ Name: _____ Name: _____
Date: _____ Date: _____ Date: _____

Loss Prevention Pointers For Conflicts of Interest

Types of conflicts: (1) Dual or multiple representation
 (2) Hidden interest/financial interest
 (3) Adverse representation

Avoid conflicts . . . Every office should have an established conflicts screening procedure. To set up the system, the following information should be inputted initially and updated as needed:

All Lawyers
Employees/Past Employees
Spouses/Parents/Siblings/In-Laws

Require all newly hired lawyers, secretaries, paralegals and legal employees to disclose necessary information concerning potential conflicts relating to past clients or matters at their previous place of employment (without revealing confidential information), including financial or other interests.

A conflicts check must be completed at least three times during a legal matter:

1. BEFORE the initial consultation - a preliminary check
2. AFTER the initial consultation but before accepting the client - a comprehensive check
3. EACH TIME a new party enters into a legal matter

To check for potential conflicts of interest, don't just check your potential new client's name against your current client master list and your former client list. A thorough conflicts check includes a comprehensive search. Use a Conflicts Search Form for each file. Check for conflicts of MATTER (such as taking totally opposite positions for different clients involving the same subject matter).

If a conflict is found, the best decision is to decline the representation and send a non-engagement letter. However, if you choose to accept the client, then be sure to:

- Disclose to potential client:
 1. The circumstances which give rise to the actual or potential conflict
 2. A description of any actual/foreseeable adverse effects of those circumstances
 3. If the potential conflict arises out of a dual representation (joint representation), then disclose that no attorney-client privilege exists as between the clients
 4. If the potential conflict arises out of a past representation (e.g., past representation of adverse party in unrelated matter), then disclose all pertinent non-privileged facts necessary for the potential client to make an informed decision.

- Obtain written informed consent:
 1. Advise potential clients to seek independent legal advice regarding the conflict waiver
 2. If potential conflict which was waived, later becomes actual conflict, additional informed consent is necessary
 3. If additional informed consent is not obtained, withdraw

Conflicts Search Form

Instructions

This form is to be completed BEFORE the initial consultation with the client. Immediately after the consultation, a more comprehensive check should be completed. The original completed form should be kept in the client file permanently and updated as information becomes available. A duplicate original should be kept in a master "conflicts search file". Remember: a conflicts search must be repeated each time a new party enters into the legal matter.

Types of Names to be searched:

This is not a complete list.

General	Full name, maiden name, prior names used Spouse name
Litigation	Insured Plaintiff(s) Defendant(s) Insurer Tutor/Minor Spouse Expert Witness(es)
Probate	Deceased Spouse/Children/Heirs/Legatees Succession Representative/Administrator
Divorce	Client Spouse Children
Workers Compensation	Injured Worker Employer Insurer
Corporate/ Business/ Real Estate	Owner(s)/Spouse(s) Buyer(s) Partner(s) Seller(s) Officer(s) Directors Shareholder(s) Subsidiaries/Affiliates Key employees Property address Any opposing party in a transaction
Estate Planning	Testator/Testatrix Spouse/Children/Heirs/Legatees Trustee
Criminal	Client Victim(s) Witness(es)
Bankruptcy	Client Creditors Spouse
Clients You Have Declined to Represent	Person You Declined to Represent Adverse Parties, if known

Conflicts Search Form

This Form was filled out by: _____

Potential Client _____
Last First Middle

Potential Client – Other names
(maiden, prior names) _____

Spouse Name _____
Last First Middle

Spouse Name – Other Names
(Maiden, prior names) _____

Area of Law of Legal Matter _____

Associated Persons/Entities:

Last First Middle Other Names Relationship

Last First Middle Other Names Relationship

Last First Middle Other Names Relationship

Results of Search:

Conflict System Search Done by _____

<u>Name</u>	<u>File #</u>	<u>Relationship to Firm</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Instructions:

- Duplicate of this form routed to and Conflicts Search Results Memo signed by all attorneys and employees
- No conflict found; entered as new client into conflict system
- Conflict found, analyzed, client accepted (explain reasons) _____
- Conflict found, non-engagement letter to be sent by _____

This memo should be in standard bright color, attached to a copy of the Conflicts Search Form, and distributed to each attorney and staff member.

Conflicts Search Results Memo

Deadline: _____

Please review the attached Conflicts Search Form and answer the following questions:

1) Do you have any business interests with:

Client? Yes No

Anyone associated with client? Yes No

Anyone associated with persons/entities? Yes No

2) Do you have any personal interests with:

Client? Yes No

Anyone associated with client? Yes No

Anyone associated with persons/entities? Yes No

3) Have you had any current or past relationship, affiliation, or association with this client? Yes No

4) Do you know of any reason we should not represent this client? Yes No

If you have answered yes to any of the above, please give details below:

Signature of Attorney/Staff: _____ Date: _____

AUTHORIZATION TO OBTAIN INFORMATION

For individual client:

I, _____, do hereby authorize and consent to the obtaining of information, by conversation, documentation or otherwise (including receipt of my entire original file and its contents), by

_____ ("Attorneys") from any and all previous attorney(s) which were represented by me in the following matter:

It is my understanding that, to the extent provided by law, such information shall be deemed confidential.

WITNESS

Date: _____

For corporate client:

I, _____, acting on behalf of and with due

authorization from _____ (the "Corporation"), do hereby authorize and consent to the obtaining of information, by conversation, documentation or otherwise (including receipt of the Corporation's entire original file and its contents), by _____ ("Attorneys") from any and all previous attorney(s) which were represented by the Corporation in the following matter:

It is the Corporation's understanding that, to the extent provided by law, such information shall be deemed confidential.

WITNESS

_____, CORPORATION

By: _____

Name:

Title:

Date: _____

PREVIOUS ATTORNEY INTERVIEW FORM

Name of potential client: _____

Name of previous attorney: _____

Interviewing attorney: _____

Date of interview with previous attorney: _____

Description of matter or proceeding: _____

1. Did attorney represent potential client in the above matter? Yes No

2. Did the potential client retain any other attorneys, even prior to this previous attorney? Yes No
If so, who? _____

3. Why was the relationship terminated? _____

4. Does the attorney have the file? Yes No
If so, will he forward it to you? Yes No
If not, did he return it to potential client? Yes No
If returned, when? _____

5. Are there any fees outstanding? Yes No
If so, will attorney elaborate? _____
Are there any actual or potential fee disputes? Yes No

6. What was the prior fee arrangement (if attorney will offer)? _____

7. Other pertinent information offered by previous attorney regarding the potential client (including potential client's attitude, cooperation, financial problems, etc.--use reverse if necessary):

8. Does the client have any actual or potential claims against this previous attorney?
 Yes No If yes,
explain: _____

NEW CLIENT INTERVIEW FORM
(To be completed after conflicts screening)

CLIENT'S NAME: _____

CLIENT'S ADDRESS: _____

CLIENT'S TELEPHONE NUMBER: _____

Date of Initial Interview: _____

Interviewing Attorney: _____

Matter Description: _____

If lawsuit, Case Name: _____

Court: _____

Proceedings No.: _____ Judge: _____

Client is _____ Plaintiff _____ Defendant _____ Other _____

Client's Insurer(s): _____

Policy No.: _____ Claim No.: _____

Billing Instructions: _____ Hourly _____ Contingency _____ Flat Fee
_____ Monthly _____ Quarterly
_____ Annually _____ Semi-Annually
_____ On Completion _____ Other _____

Handling Attorney: _____

Hourly Rates (if applicable): \$ _____ Responsible Attorney \$ _____ Other Partners
\$ _____ Associates \$ _____ Paralegals
\$ _____ Law Clerks

Engagement letter sent on _____. If no engagement letter sent, explain why:

Comments (including any deadlines, closing dates, conferences scheduled, will/probate information, corporate information, special instructions or requests by Client, important dates, etc.):

Conflicts Check conducted on: _____ Attorney's Signature: _____

FEE AGREEMENT AND AUTHORITY TO REPRESENT

I, the undersigned client (hereinafter referred to as "I", "me" or the "Client"), do hereby retain and employ _____ and his/her law firm (hereinafter referred to as "Attorney"), as my Attorney to represent me in connection with the following matter:

1. **ATTORNEY'S FEES.** As compensation for legal services, I agree to pay my Attorney as follows:

Contingency _____ Yes _____ No

(Attorney shall receive the following percentage of the amount recovered before the deduction of costs and expenses as set forth in Section 2 herein)

_____ % if settled without suit
_____ % in the event suit is filed
_____ % in the event a trial actually starts
_____ % in the event an appeal is filed by any party

It is understood and agreed that this employment is upon a contingency fee basis, and if no recovery is made, I will not be indebted to my Attorney for any sum whatsoever **as Attorney's Fees**. (However, I agree to pay all costs and expenses as set forth in Section 2 herein, regardless of whether there is any recovery in this matter. In the event of recovery, costs and expenses shall be paid out of my share of the recovery.)

Hourly Fee--No Advance Deposit _____ Yes _____ No

I agree to pay Attorney's Fees at the rate of \$ _____ per hour and paralegal fees at the rate of \$ _____ per hour. I agree that time is billed in increments of _____ minutes. Attorney shall provide me with itemized Statements for Professional Services Rendered (including costs and expenses), and I agree to promptly pay each Statement. If I fail to pay each Statement within ten (10) days of Attorney's request, Attorney shall have, in addition to other rights, the right to withdraw as my Attorney based on my failure substantially to fulfill an obligation to Attorney.

Hourly Fee--With Advance Deposit _____ Yes _____ No

I agree to pay Attorney's Fees at the rate of \$ _____ per hour and paralegal fees at the rate of \$ _____ per hour. I agree that time is billed in increments of _____ minutes.

It is understood and agreed that I shall pay my Attorney an initial Advance Deposit of \$ _____ due upon Attorney's acceptance of this agreement, which deposit shall be applied toward the payment of Attorney's Fees and costs and expenses. This deposit shall be deposited into Attorney's trust account and Attorney is authorized to pay Attorney's Fees and costs and expenses out of the existing deposit, at least on a monthly basis. Periodically Attorney shall provide me with itemized Statements for Professional Services Rendered (including costs and expenses). Should the work performed by my Attorney exceed the amount held in trust, I agree to replenish the Advance Deposit upon Attorney's request. If I fail to replenish the Advance Deposit each time it is exhausted within ten (10) days of Attorney's request, or if I neglect to pay Attorney's Fees, costs or expenses outstanding within ten (10) days of Attorney's request, I agree that, pursuant to this agreement, Attorney shall have, in addition to other rights, the right to withdraw as my Attorney based on my failure substantially to fulfill an obligation to Attorney.

Flat Fee _____ Yes _____ No

I agree to pay a flat fee of \$ _____.

2. **COSTS AND EXPENSES.** In addition to paying Attorney's Fees, I agree to pay all costs and expenses in connection with Attorney's handling of this matter. Costs and expenses shall be billed to me as they are incurred, and I hereby agree to promptly reimburse Attorney. If an advance deposit is being held by Attorney, I agree to promptly reimburse Attorney for any amount in excess of what is being held in trust. These costs may include (but are not limited to) the following: long distance telephone charges, photocopying (\$.25 per page), postage, facsimile costs, Federal Express charges, deposition fees, expert fees, subpoena costs, court costs, sheriff's and service fees, travel expenses and investigation fees.

Advance required _____ Yes _____ No

I agree to advance \$ _____ for costs and expenses, which amount shall be deposited in Attorney's trust account and shall be applied to costs and expenses as they accrue. Should this advance be exhausted, I agree to replenish the advance promptly upon Attorney's request. If I fail to replenish the advance within ten (10) days of Attorney's request, Attorney shall have, in addition to other rights, the right to withdraw as my Attorney.

3. **INTEREST; ATTORNEY'S FEE FOR ENFORCEMENT.** If any Attorney's fees or costs and expenses are not paid within ten (10) days of Attorney's mailing of statement to me, I agree to pay interest thereafter on any balance due at the rate of twelve percent (12%) per annum. I further agree to pay the reasonable attorney's fee of any attorney employed by Attorney to seek enforcement of this agreement.

4. **NO GUARANTEE.** I acknowledge that my Attorney has made no promise or guarantee regarding the outcome of my legal matter. In fact, Attorney has advised me that litigation in general is risky, can take a long time, can be very costly, and can be very frustrating. I further acknowledge that my Attorney shall have the right to cancel this agreement and withdraw from this matter if, in Attorney's professional opinion, the matter does not have merit, I do not have a reasonably good possibility of recovery, and/or I refuse to follow the recommendations of Attorney, and/or I fail to abide by the terms of this agreement, and/or if Attorney's continued representation would result in a violation of the Rules of Professional Conduct.

5. **STATUTORY ATTORNEY'S FEES.** In the event of recovery under the provisions of the Longshore and Harbor Workers' Compensation Act, or under Louisiana Worker's Compensation laws, or under any other laws which specify attorney's fees to be paid, then the Attorney's Fees shall be paid in accordance with the maximum allowed by law.

6. **CONSENT TO SETTLEMENT.** Neither Attorney nor Client may, without the prior written consent of the other, settle, compromise, release, discontinue or otherwise dispose of this matter, claim or lawsuit.

7. **PRIVILEGE.** I agree and understand that this contract is intended to and does hereby assign, transfer, set over and deliver unto Attorney as his/her fee for representation of me in this matter an interest in the claim(s), the proceeds, or any recovery therefrom under the terms and conditions aforesaid, in accordance with the provisions of Louisiana Revised Statute 37:218, and that Attorney shall have the privilege afforded by Louisiana Revised Statute 9:5001.

8. **ALTERNATIVE DISPUTE RESOLUTION.** In the event of any dispute or disagreement concerning this agreement, I agree to submit to arbitration by the Louisiana State Bar Association Lawyer Dispute Resolution Program. I further agree that any award by the arbitrator shall include the costs and expenses of arbitration, including attorney's fees actually incurred (if Attorney represents himself/herself, he/she shall record his/her fees and charges as they would otherwise accrue in the representation of a third party). In the event that I do not comply with the arbitrator's decision and satisfy an award within thirty (30) days of the rendering of a decision and Attorney resorts to judicial enforcement of the award, Attorney shall be entitled to recover as well ten percent (10%) of the whole amount awarded (plus costs, expenses and attorney's fees) as a penalty in accordance with Louisiana Civil Code Article 3106.

9. **ADDITIONAL TERMS.** Attorney and Client agree to the following additional terms:

10. **ENTIRE AGREEMENT.** I have read this agreement in its entirety and I agree to and understand the terms and conditions set forth herein. I acknowledge that there are no other terms or oral agreements existing between Attorney and Client. This agreement may not be amended or modified in any way without the prior written consent of Attorney and Client.

This agreement is executed by me, the undersigned Client, on this _____ day of _____, 19__.

CLIENT

Name:

The foregoing agreement is hereby accepted on this _____ day of _____, 19__.

ATTORNEY
