

## 8 Ways to Avoid Malpractice Claims

Posted by [Martha Newman, J.D., PCC, TopLawyerCoach, LLC](#) • July 18, 2010 • [Printer-friendly](#)



*Don't Set Your Firm Up for Failure!*

Attorneys are not immune to legal trouble themselves.

Sure, they may devote their careers to upholding the law, but one **miscommunication** or **management error** can put any lawyer at **risk for a malpractice claim**.

And, the results of a malpractice suit can be devastating. Firms go belly up. Attorneys lose their jobs.

But, perhaps the biggest hurdle lawyers face, is not knowing they're at risk for malpractice at all!

Here are some tips to help you and your firm **avoid a legal malpractice claim**.

### 1. Have a rock solid written retainer.

The document should clearly identify who the client is, what the terms of your engagement are, and what you are retained to do.

**Top Lawyer Coach, LLC**  
601 Penn Street  
Fort Worth, TX 76102

817/992-6711  
[newman@toplawyercoach.com](mailto:newman@toplawyercoach.com)



## **2. Get payment up front.**

At the time you are retained, get payment that will cover all initial work that needs to be done on the matter. Replenish retainer funds before they are exhausted. Set up your accounting system to remind you when the amount in trust is getting low.

**IMPORTANT:** If ethically possible, stop working on the file if the retainer is not replenished. Working on credit greatly increases the likelihood you will not get paid for your work.

## **3. Discuss expectations.**

Clearly communicate to your clients the available courses of action and possible outcomes, all implications of any decisions, how long things will take, and the expected fees and disbursements involved.

## **4. Document as much as you can.**

You want to record advice or instructions that involve significant issues or outcomes, and major client decisions. Recorded communications help confirm what was said or done for the client should you ever need to look back to explain why or what work was done.

Always keep in mind that claims can arise long after the work is completed.

## **5. Meet deadlines.**

Set realistic deadlines for completing tasks and delivering things to clients. Under-promising and over-delivering by getting work done earlier than promised will make clients very happy.

Don't leave things to the very last minute, as unexpected events beyond your control can prevent things from happening as required in the contract.

## **6. Ask for feedback.**

Don't wait until the file is closed to ask the client how you did. Ask clients for feedback as the matter progresses. Talk to major clients at least once a year, and do this off the clock!

## **7. Mind your manners.**

Be civil and professional - even when you're dealing with a difficult client. Also, avoid annoying behavior like failing to return calls or e-mails, long periods of inactivity, and surprising a client with bad news or a large bill.

**Top Lawyer Coach, LLC**  
601 Penn Street  
Fort Worth, TX 76102

817/992-6711  
[newman@toplawyercoach.com](mailto:newman@toplawyercoach.com)



Remember, your reputation will precede you.

**8. Send over a final report.**

A final report will confirm what work was done, and the successes you obtained for the client.

In all reality, having a [happy client](#) is your best protection against a legal malpractice claim.

**Serve your clients and serve them well** and you'll, no doubt, have a fruitful - malpractice-free - career.

*Adapted from article [12 Tips that will Help You Avoid a Legal Malpractice Claim](#) by Dan Pinnington.*

**Top Lawyer Coach, LLC**  
601 Penn Street  
Fort Worth, TX 76102

817/992-6711  
[newman@toplawyercoach.com](mailto:newman@toplawyercoach.com)

