



Client Intake for Paralegals

by Greg Wayment

As a paralegal, you should always be asking: How can I bring more value to my firm? In some professions, people try to do this by being the smartest person in the room or the first in the office every morning or by taking on extra projects. Guess what? If you try to do that in the law firm world, you're not going to have much of a life. There is always going to be someone with more education, billing more hours, or juggling more projects than they should. It's a profession of workaholics.

So that leaves other categories: Tasks the lawyers don't want to do. Tasks the lawyers don't have time to do. Tasks the lawyers don't know how to do (and aren't going to take the time to learn how to do). One of these tasks may be initial client intake, which is necessary (we all need new business coming in), but can be dangerously time draining. A well-trained paralegal can be an invaluable resource to a firm by performing the initial screening. It is also an opportunity to make a positive and professional first impression on a potential client.

My goal in this article is to lay out the framework needed for you as a paralegal to perform proper initial client screening. I also want to share some best practice tips and discuss areas that can be pitfalls. Ultimately, the goal in good client intake, for both the potential client and the firm, is to determine whether it is a good fit. In other words, to determine if a firm can help a client achieve a goal or an outcome in a way that is aligned with the client's expectations of timing and cost.

Once it has been established that you are going to be the initial contact for client intake, it is crucial to get an understanding of what your firm's practice area or specialty is. Most midsize to smaller firms specialize in certain niches and don't go too far outside of that box. For example: family law firms typically do divorce, custody fights, child visitation, and support. Many criminal defense firms do only criminal defense. Estate firms may do tax planning and probate and estate planning cases. Some attorneys specialize in transactional law, meaning they draft and review contracts or assist in the due diligence of

purchasing large commercial properties or businesses. Personal injury firms may do car accidents, workplace accident, and medical malpractice cases.

Only the larger firms are truly full-service firms, meaning they have practice groups in all areas of law. Hopefully your firm's website and marketing efforts are clear enough that you're not getting a lot of calls from people looking for some other type of work than your firm does. But do expect that it will happen.

The next thing to understand is what your firm's retainer and hourly rate requirements are. Most of the larger firms in Salt Lake are requiring a \$8,000 to \$10,000 retainer and may require more if there is immediate injunctive relief needed or a looming trial date. Hourly billing rates for attorneys have a wide degree of variance with some attorneys billing as low as maybe \$150 an hour and some billing as high as \$500 or more. Typically a firm will bill its paralegal's time too, with some paralegals billing as high as \$180 or \$200 hour.

Personal injury firms have a unique business model where they may advance all of the costs of a matter upfront, including attorney and paralegal time, and then take a percentage of the ultimate award. This is typically called taking a case on contingency. Unfortunately, because of the prevalence of personal injury firm advertising on television, many people are under the impression that lawyers take a wide array of cases on contingency, which is generally not true. So you may have to educate a potential client on the reality of the costs of legal work.

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What is a retainer and how does it work? Most firms require a new client to deposit a certain amount of money that the firm will hold in a trust account. If the case settles or goes away, any unused portion of a retainer is returned to the client. A retainer is typically used to provide some assurance that a firm will get paid. So, if a client runs into cash problems, the retainer might be used to pay for services rendered. Oftentimes, once a relationship is established, the retainer will either be returned or applied towards a bill. In some circumstances, an evergreen retainer might be required. This is when a certain amount must be held in the trust account at all times and if a client has to use a portion of it to pay the bill, it must be replenished.

What are the different ways a firm or lawyer gets paid? Most lawyers and paralegals keep track of their time (in six-minute increments) and send a monthly invoice requesting payment for the amount of time spent working on behalf of a client. On the other end of the spectrum are the firms (mostly personal injury) who require nothing up front from the client and may advance all the costs of litigation including the cost of depositions, expert witnesses, etc. This is called full contingency, and usually when a firm takes a case this way, when it is settled or an ultimate victory is achieved, the firm will take a third of the final amount, or sometimes as high as 40% or 50%, if it goes all the way to trial or appeals.

There is also a hybrid system called partial contingency. In some cases, this may be a good opportunity for a client to pay a reduced rate and then give the firm or lawyer a percentage of the outcome. In this fee arrangement, typically a law firm will perform work at a drastically reduced rate but still bill an hourly fee. Sometimes the client will also pay for hard costs such as e-discovery and deposition costs as the case progresses. When the case settles, or there is a victory, the firm will take a percentage of the award.

So now that you know what kind of work your firm does and how it expects to get paid, you're ready to start taking phone calls. There are three key pieces of information you should be gathering in the initial phone call: The names of all the parties involved, the basic facts of the dispute, and contact information. Getting the names of all parties involved can help you ensure there is not a conflict of interest, and getting the basic facts can help determine whether it is a good fit for your firm.

A conflict of interest is when your firm directly represents someone on the other side of a dispute or has represented

someone on the other side of dispute in the past. In this instance, the firm or an attorney might have special knowledge about the company or process that creates the potential for an unethical situation. In special circumstances, a firm may wall off certain members of a firm who have a conflict from participating in a case or having any access to the documents, but by and large if a firm has a conflict, the client must go somewhere else.

It is helpful if you have a basic knowledge of the firm's past and present clients so that if a potential client wants to sue your firm's biggest client, for example, you can say to them immediately, "Sorry, we have a conflict or we may have a conflict, let me take your name, phone number and e-mail address and I'll follow-up." You may want to assure a potential client that any information relayed during a conflict check is absolutely confidential and will not leave the firm.

Once you have gathered the names of all the parties involved, the next step is to gain a brief overview of the legal dispute. Oftentimes, people are emotional about whatever legal issue they are having, so they may jump around, get hung up on the wrong facts, attempt to use legal jargon, or just ramble. Even though you hopefully have a good understanding that there is not a conflict, until all the members of your firm have responded

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that there is not a conflict, you can't know for sure. So it is important that you keep this summary as brief as possible.

Lastly, it is important to get the name of the client spelled correctly, the best phone number to reach him or her at, and an appropriate email address. It is usually at this point that you will want to inform the potential client of your firm's retainer and hourly rate requirements and try to gauge whether those are in alignment with expectations. Also, it is appropriate to ask the client whether there is any other information the client needs or questions the client has about the firm.

Once you have those three key pieces of information, you can send the conflict check out to your firm. Usually, if you've done a good job and determined that it is a good practice fit, there's not an obvious conflict, and the retainer and rate requirements are aligned, then the next step will be for an attorney of the firm to call the client and set up a meeting to discuss the case further. This is the appropriate time for an attorney to opine on whether the "client has a case or not," what is the best strategy, how much it may cost, etc.

Some pitfalls to avoid while doing client screening and intake:

- Being short or impatient. You may have a lot going on, but remember that most people calling a lawyer are in some state of crisis. Be professional, polite, and kind.

- The mistake of getting caught up in drama and letting someone relay too much information. You may want to say something like, "Please explain your legal issue in just a paragraph or two."
- Remember that all conflict check information is absolutely confidential. Under no circumstance do you want to relay any information gained from a potential client to anyone outside of your firm.
- Most importantly, you must be very careful about not dispensing legal advice. As a paralegal you cannot opine on a legal matter. Many people will ask, "Do you think I have a case?" or "In your opinion, is this legal or fair?" Some may be just calling around to get free legal advice or gain information. As a non-lawyer, even though in many instances you know the answer, you cannot answer because doing so would be giving a legal opinion.

Initial client screening is a great opportunity for you as a paralegal to ingratiate yourself into the process of your firm and provide a great service. In many instances, because you may be more free to take the time, you may do a better job than an attorney and provide a layer of buffer. Take the time to educate yourself on the process and jump in.

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