

THE FIRST YEAR ADVENTURES OF GRANGER AND GERTRUDE

Now in their second month of practice at their firm, Granger and Gertrude caught up with one another for lunch in the tunnel. Granger advised that he was working on a very significant piece of litigation involving a partnership dispute between partners in an oil and gas exploration project in South Texas. He shared that he was pleased to have been asked to attend depositions to occur during the next several weeks.

Gertrude, too, seemed pleased with the way her work was progressing at the firm. But, she mentioned to Granger that she was becoming somewhat annoyed by the solicitations she was receiving from friends and acquaintances for what she referred to as “quicky” legal advice concerning various situations. Her annoyance stemmed from the fact that these inquiries were time consuming, distracting, and the time spent field the questions non-billable.

Granger responded that he, too, was receiving questions of this nature—friends essentially seeking free legal advice. What worried him was the fact that some of the questions he received involved subject areas in which he had no expertise. He and Gertrude wondered whether the firm had any particular policy on how to handle situations in which friends or acquaintances seek “quicky” legal advice.

As they were discussing the subject of non-billable matters, Granger mentioned the fact that he was desirous of performing some pro bono work—perhaps for an indigent defendant in a criminal proceeding. He expressed the hope that work of that nature might help him “get to the courtroom” quickly. He and Gertrude both agreed that work of that nature would be meaningful, worthwhile, and consistent with their obligations as lawyers to perform pro bono services. Both wondered whether the firm had specific policies concerning undertaking pro bono representations?

So what are the firm’s policies concerning: (1) how to respond to informal requests for “quicky” legal advice, and (2) the undertaking of pro bono representation?

Informal Requests for Legal Advice

Most firms have a hard and fast rule that you may not perform legal services for a client until you first run a conflict’s check and then proceed with the file opening process.

But what about those “one-off” situations in which a family member or close friend calls with a legal question about a problem they are confronting. Your brother is having a problem with his landlord and wants you to look

at his lease. Your cousin was involved in an automobile accident and wants you to look at her insurance policy because the insurer is balking on coverage. We have all received inquiries of this nature. Are you expected to respond to some of these inquiries without going through the file opening process? Of course. But you must be very cautious in “helping out” in situations such as these. Offering “quicky” legal advice is just that—offering legal advice. Sometimes people you try to help out get into trouble and start looking for ways to extricate themselves from the predicament in which they find themselves. One easy way is to blame their lawyer. “Well, Granger looked at the matter and said I could do it.” You see the picture. So what is Granger to say? “Yes, I looked at it, but it was just a favor.” That will not work. If you are going to perform legal services for a client, then do it right. Run a conflicts check, follow the file opening process, and make sure that you have the expertise to perform the work you propose to undertake. If you are proposing to short cut that process to briefly advise a family member or a close friend on a matter, then make sure you handle the inquiry professionally and in a manner that will not expose you or your firm to the possibility of a malpractice claim. And if responding to the issue presented might require you to contact a third party outside your firm, make sure you run a conflicts check first before making that contact. In the past, embarrassing situations have arisen in which overzealous young lawyers called third parties to complain on behalf of family members only to find out that the third parties were their firm’s clients. Do not embarrass yourself or your firm.

Firm Policy Concerning Pro-Bono Representation

As attorneys practicing in Texas, we are committed to helping the State Bar of Texas fulfill its mission to help the poor in need of legal representation. As a consequence, you are encouraged to actively participate in the pro bono representation of indigent individuals in legal matters.

texasbar.com/transition