

# Top 5 Ways to Avoid Legal Malpractice



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It is an unfortunate reality for a great deal of lawyers that malpractice claims have simply become part of the “cost of doing business,” and regardless of the steps that some lawyers take, they may still end up as a defendant in a legal malpractice claim. But following the guidance below should reduce—and hopefully eliminate—the threat of malpractice claims for many lawyers.

**1. Define the Scope of the Relationship**  
Perhaps the easiest way to establish certainty in the attorney-client relationship is to use an engagement letter. It should define who the attorney represents and the scope of the engagement. When appropriate, it is also a good idea to specify who the attorney does not represent, and what she will not be handling. Doing this will set client expectations and protect the attorney.

**2. Don’t “Dabble”**  
Many lawyers have gotten themselves into situations where they have stepped far outside their normal practice areas in order to accept a new matter or accommodate a client, and that can easily lead to malpractice claims. Don’t be afraid to specialize, and don’t be afraid to refer clients to other lawyers.

**3. Avoid the Problem Client**  
“Problem clients” (i.e., clients who expect favors, complain excessively or unreasonably, have unreasonable expectations, or don’t pay) increase your risk of malpractice claims in two ways: 1) they frequently get themselves involved in difficult situations more likely to result in adverse consequences; and 2) they are more willing to blame you when something goes wrong. If you can avoid them at the outset or part ways with them once they become difficult, you will certainly reduce your exposure to malpractice claims.

**4. Comply With Deadlines**  
Calendar errors remain a leading cause of malpractice claims. Common mistakes include data entry errors, failing to use file review dates, absence of a back-up calendar, and procrastinating until the last minute to file documents. To avoid this trap, an office should have, at its organizational core, an office-wide calendar and practices in place regarding its use.

**5. Avoid Conflicts of Interest**  
It is crucial that each firm establish stringent procedures for early identification and resolution of the broad variety of situations in which unexpected conflicts may arise. Lawyers should be particularly cautious when asked to represent two parties, become personally involved in a client’s business interests, serve as an officer of a client’s company, or deal with unrepresented parties.