

Trusts & Estates

The newsletter of the Illinois State Bar Association's Section on Trusts & Estates

I Knew You Were Trouble When You Walked In: T&E Monthly Q&A

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THE ISBA TRUSTS & ESTATES

Section Subcommittee on Lawyers Who Are New to Trusts & Estates held its monthly “T&E Q&A: The Basics and Beyond” Zoom meeting on May 15, 2025. This month’s insightful meeting tackled a challenge every attorney inevitably faces: the “toxic client.” Moderated by the knowledgeable **Mary Vanek** of Matlin Law in Northbrook, co-chair of the subcommittee and a 37-year veteran of T&E law, the session provided invaluable guidance from a panel of experienced practitioners.

Our esteemed panelists included: **Colleen Sahlas**, the outgoing chair of the ISBA T&E Council with 25 years of experience practicing at Hoy & Sahlas; **Sara Riechert**, bringing nearly two decades of legal experience, with eight specifically in T&E; and **Melissa Maye**, a T&E attorney for 33 years who recently retired her Illinois license and now practices in Texas.

The discussion centered on recognizing red flags, proactively managing client expectations, dealing with problematic clients, and strategies for terminating problematic client relationships.

Spotting the Red Flags Early

The panelists highlighted several key indicators that a prospective or current client may be heading down a difficult path:

- **Disregard for Boundaries:** A client

who doesn’t respect your set boundaries is a significant warning sign. As panelists emphasized, knowing your own boundaries is crucial, and sometimes a client simply isn’t a good fit.

- **Unreasonable Demands and Rudeness:** These behaviors are clear indicators of potential trouble.
- **The 80/20 Principle:** Don’t let a disproportionate amount of your time and energy be consumed by a small percentage of your clients.
- **Living Rent-Free in Your Head:** If you find yourself constantly dwelling on how to handle a particular client outside of work hours, it’s a major red flag.
- **Erratic Communication:** Overnight voicemails, angry emails followed by a lack of recollection (potentially involving alcohol) are serious concerns.

Proactive Measures: Managing Expectations and Setting Boundaries

The panel stressed the importance of a well-drafted engagement/retainer letter as a first line of defense:

- **Clear Timelines:** Engagement letters should include specific timeframes for project completion (e.g., within 90 days).
- **Defined Scope of Work:** For trusts, clearly identify which asset transfers are included in your services.

- **Detailed Estate Plan Information:** Outline when drafts will be provided, what the plan includes, payment due dates, and potential extra costs.
- **Business Hours:** Explicitly state your working hours and (if applicable) that you do not work evenings or weekends.
- **Additional Fees:** List specific services that will incur extra charges (additional meetings, work outside the agreed timeframe, etc.). While you have the discretion to enforce these fees or not, it’s always best to have it in your engagement letter for situations where you want to enforce it.
- **Client Acknowledgement:** Have clients initial key sections of the letter.
- **Negotiation Red Flag:** Be wary if a client wants to negotiate the terms of the engagement letter itself.

Dealing with Problematic Engagements

When a client you’ve already taken on becomes difficult, the panelists offered pragmatic advice:

- **Fire Them:** Don’t hesitate to terminate the engagement, followed by a “CYA” letter documenting the decision.
- **Recommended Reading:** Colleen Sahlas suggested Garret Sutton, *Toxic Client: Knowing and Avoiding Problem Customers* (SuccessDNA

2016) as a valuable resource.

- **Protect Your Staff:** If a client is pleasant to you but rude to your staff, make it clear that you support your team. If necessary, restrict the client to email communication only.
- **Pre-Signing Review:** Encourage clients to review documents before the signing meeting to avoid surprises and difficulties at the signing meeting and/or review the documents with the client prior to the signing meeting (panelists differed on whether they send drafts to the client ahead of signing).
- **Third-Party Interference:** Don't allow referring parties (such as financial advisors) to interfere with the attorney-client relationship.

Strategies for Ending the Engagement

The discussion provided several key points on how to professionally and effectively end a problematic client relationship:

- **Avoid Argument:** Don't argue with the client about your decision to end the engagement.
- **Focus on Your Limitations:** Phrases like "I don't have the resources or

staff to meet your expectations" or even "I'm the problem, it's me" can be effective in de-escalating the situation.

- **Stick to Your Decision:** If the client tries to win you back, resist the urge to reconsider.
- **Court Proceedings:** For active litigation or probate, ensure proper termination with a motion to withdraw (including notice and potential need for substitute counsel), always maintaining attorney-client confidentiality.
- **Document Everything:** Maintain a thorough paper trail of warnings and issues, which can be crucial for withdrawal motions, liability insurance, and the ARDC.
- **Consider Refunds:** Sometimes, refunding the client's money is the cleanest way to sever ties.
- **Closing Letter:** Always send a clear closing letter outlining the end of the engagement (regardless of whether the client was problematic).
- **Multiple Communication Methods:** Don't rely solely on email to terminate a client; also send correspondence via mail.
- **Seek Guidance:** Don't hesitate to consult your liability insurance

carrier or the ARDC for advice on handling difficult terminations. Your insurance carrier may even review your termination letter.

- **ARDC Ethics Hotline:** The ARDC ethics hotline is a valuable resource for navigating ethically challenging situations: (312) 565-2600 or (800) 826-8625.

This engaging and practical discussion offered invaluable insights for both new and experienced Trusts and Estates attorneys on identifying, managing, and ultimately, terminating toxic client relationships. Although the subcommittee will be taking a break from the monthly Q&A sessions this summer, we hope to hold more Q&A sessions in the fall!

For now, if you have any ideas for meeting topics, feedback on how we can improve our Q&A meetings, or a request to be a panelist in the fall, please contact our Subcommittee Co-Chairs Amina Saeed (asaeed@huckbouma.com) and Mary Vanek (mvanek@matlinlawgroup.com). ■

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Vol. 71 #10, May 2025 www.isba.org