

Client and Matter Selection as Risk Management Tools

Attorneys should carefully consider the client and the matter before accepting any engagement. Important factors to consider with respect to client selection include:

1. The potential client's motivation for pursuing the matter;
2. The reasonableness of the potential client's expectations with respect to the matter;
3. The number of lawyers previously involved with the potential client or the potential matter;
4. The likelihood of success in the matter; and
5. Financial concerns with respect to the client.

Likewise, attorneys must consider the matter itself and the attorney's own competence to handle the matter. Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct require attorneys only to accept those matters which they can competently handle:

- (a) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence, unless:
 - (1) another lawyer who is competent to handle the matter is, with the prior informed consent of the client, associated in the matter; or
 - (2) the advice of assistance of the lawyer is reasonably required in an emergency and the lawyer limits the advice and assistance to that which is reasonably necessary in the circumstances.

The Preamble to the Rules defines competence as "the possession or the ability to timely acquire the legal knowledge, skill, and training reasonably necessary for the representation of the client."

Relevant considerations in determining whether one can competently handle a matter include not only expertise and experience in the area of the law, but also capacity to take on new matters, ability to meet deadlines, and financial issues with respect to the matter. While an attorney can become competent through learning and research, it is ill-advised to dabble in areas in which one is unfamiliar and inexperienced.