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**Referring Contingent Fee Cases -  
The Ethical and Practical Aspects  
of Referral Fees**

## **TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

### **Rule 1.04. Fees**

(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

(d) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (e) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined. If there is to be a differentiation in the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, the percentage for each shall be stated. The agreement shall state the litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement describing the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(f) A division or arrangement for division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is:

(i) in proportion to the professional services performed by each lawyer; or

(ii) made between lawyers who assume joint responsibility for the representation; and

(2) the client consents in writing to the terms of the arrangement prior to the time of the association or referral proposed, including:

(i) the identity of all lawyers or law firms who will participate in the fee-sharing agreement, and

(ii) whether fees will be divided based on the proportion of services performed or by lawyers agreeing to assume joint responsibility for the representation, and

(iii) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made; and

(3) the aggregate fee does not violate paragraph (a).

(g) Every agreement that allows a lawyer or law firm to associate other counsel in the representation of a person, or to refer the person to other counsel for such representation, and that results in such an association with or referral to a different law firm or a lawyer in such a different firm, shall be confirmed by an arrangement conforming to paragraph (f). Consent by a client or a prospective client without knowledge of the information specified in subparagraph (f)(2) does not constitute a confirmation within the meaning of this rule. No attorney shall collect or seek to collect fees or expenses in connection with any such agreement that is not confirmed in that way, except for:

- (1) the reasonable value of legal services provided to that person; and
- (2) the reasonable and necessary expenses actually incurred on behalf of that person.

## VIII.<sup>1</sup>

### REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL

8. Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Case. Prior to any such referral or association, Client shall consent in writing to the terms of the agreement after being advised of (1) the identity of the lawyer(s) or law firm(s) involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to the joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive, or if the division is based on the proportion of services performed, the basis on which the division will be made. The referral or association of additional attorneys will not increase the total fee owed by Client.

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<sup>1</sup> From the Lanier Law Firm, Power of Attorney with Clients

**CONSENT TO REFER**

\_\_\_\_\_ (“Client”) has previously executed a Contingent fee Agreement (the Agreement) retaining The Lanier Law Firm (“Referring Attorneys”) to represent Client in regard to certain matters and/or causes of action identified in the Agreement. The Agreement also provides that Referring Attorneys, with Client’s written consent may refer the Client’s matter to another attorney to prosecute the Client’s cause of action.

Referring Attorneys have recommended that the Client’s matter be referred to the \_\_\_\_\_ Law Firm to represent Client and to prosecute her causes of action. Client agrees that Referring Attorneys may refer her matter to \_\_\_\_\_ Law Firm to prosecute Client’s cause of action. It is further agreed and understood that:

- a. the fee to be paid to the \_\_\_\_\_ Law Firm will not increase the total attorneys fee owed by Client;
- b. the Referring Attorneys will and the \_\_\_\_\_ Law Firm will assume joint responsibility for the representation of Client; and
- c. if a recovery is made on behalf of the Client, the total attorneys fee as conveyed in the Agreement will be divided as follows:

Referring Attorneys	_____ %
_____ Law Firm	_____ %
<b>TOTAL</b>	<b><u>100</u> % of attorneys’ fees</b>

Client’s signature indicates his/her understanding and consent to the referral of his/her matter and the referral fee to be paid in the event of a successful recovery on his/her part.

Signed this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Client

# Finding the right referral counsel for contingency fee cases

When you're shopping for the best referral counsel, here's what to look for:

- expertise –
- experience –
- ethics –
- cooperation
- confidence –
- deep pockets –
- trial success -
- negotiation success –
- breadth of practice –
- mutual-referral relationships –
- client control –

## The Lanier Law Firm

The Lanier Law Firm logo consists of a solid black square. Inside the square, the words "The Lanier" are stacked above "Law Firm" in a white, sans-serif font.

The Lanier Law Firm is changing the approach to client care. Founded in 1990 by Mark Lanier, The Lanier Law Firm is committed to addressing client concerns with effective and often untraditional solutions. Now with more than 60 attorneys, the firm effectively represents a broad array of clients from our offices in Houston, New York City, and Los Angeles.

The diverse list of clients at The Lanier Law Firm has one common trait: the need for serious and sound legal representation; it's what we refer to as *Legal Care*. Firm attorneys provide individual attention to clients with serious injuries, grievances and other concerns. In addition, the firm regularly is called on as a "go to" resource for corporations when unique legal situations need immediate resolution.

The firm is comprised of outstanding trial attorneys with decades of trial experience. Firm founder, Mark Lanier, and attorney Larry Wilson both are Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. Attorney Kevin Parker is certified by the same group as a Civil Appellate Law specialist.

The firm's vast trial experience includes substantial verdicts in cases involving asbestos exposure, business fraud, serious personal injuries, products liability, toxic exposure, patent litigation and other civil litigation. As recently as April 2014, Mark Lanier and our firm won a 9 billion dollar verdict against Actos manufacturer Takeda Pharmaceutical Co. Ltd. and Eli Lilly & Co.; ranking it as the 7<sup>th</sup> largest verdict amount in U.S. history. The firm is also noted for its work defending some of the country's largest companies. One Fortune 500 Company chose The Lanier Law Firm to challenge and help overturn one of the biggest default judgments in U.S. history. Although tremendous legal victories are a firm trademark, the primary focus remains with Mark Lanier's original vision to provide "the highest quality *Legal Care* delivered in an honest, professional manner to enrich the lives or businesses of our clients."

Because of this vision, the attorney - client relationship at The Lanier Law Firm begins with the initial consultation. Economic, legal and professional relationships are established at the first meeting. The firm's attorneys and staff insure that each client know their attorney, their financial obligations, and – most importantly – that their case is being handled with a solution in mind.

Solutions to legal problems cover the entire case, not just courtroom trials. The firm's stellar track record enables many clients to resolve their legal matters out of court. When trials are necessary, our in-house attorney/psychologist provides unique insight into trial psychology and jury selection. The firm's appellate team stays one step ahead, preparing clients' cases for appeal even before an appeal is filed.

Business leaders and individual clients of The Lanier Law Firm are people, not just case numbers. The firm's attorneys and staff work on each client's case with the needs of the people behind it in mind.