

Referrals: One for Me and One for You

There are three scenarios for a referral: asking a client, receiving a referral from an attorney and making a referral to an attorney, writes Best Practices for Solo Practices columnist Janet Falk.

By **Janet Falk** September 17, 2020 at 10:24 AM

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When do you encourage clients to share their experience working with you and thank them for their referrals? How do you mention your practice to other attorneys in the hope they will refer potential clients your way? Do you compensate them for such referrals, consistent with the Rules of Professional Conduct? Do you maintain a list of attorneys to whom you make your referrals?

Not surprisingly, the solo attorneys queried on this topic responded with like-minded answers to questions about their use of referrals: asking, receiving and giving. See how your approach aligns with theirs.

On the subject of asking clients for a referral, attorneys tend to be cautious and selective when initiating a referral request. Most prefer a more subtle and indirect method. One trigger for such a conversation is the successful completion of a client matter. Zara Watkins, with a practice of writing briefs for appeals and substantive motions in state, federal and immigration cases at [On Point Expertise](#), said, “Generally, I mention to a particular client for whom I did a certain appeal that I write appeals in other areas and they can share my name with anyone they hear is looking for help on such an appeal.”

Somewhat similar is the approach of Eric Sarver. “I usually wait for the client to compliment my work or to thank me, at which point I bring up that I’m happy to assist them or their colleagues/friends/peers with any similar situations. I phrase the referral as noting my availability, rather than directly requesting a referral.” He has a practice of employment law and business law for companies at [Law Offices of Eric Sarver](#).

Note how both Watkins and Sarver follow Rule 7.3, which requires that attorneys cannot solicit potential clients outright and the person must be in need of legal services.

When receiving a referral from a client, attorneys often thank the person by phone, and occasionally by other means. Charles-Eric Gordon, investigative counsel at [Law Office of Charles-Eric Gordon](#), noted “Although I never give a monetary gift to referral sources, I usually send pocket diaries or calendars; I always send a thank you email or make a thank you telephone call.” This type of nominal gift is consistent with Rule 7.2 (b) (5).

Sarver goes one step further to develop the relationship with the client. “I may invite my client to a networking event, or as a guest to a professional opportunity that they may find helpful to their business.”

On those occasions where another attorney has referred a potential client, a personalized thank you is definitely in order. Nancy Mertz, who focuses her practice on technology, copyright and trademark litigation and counseling at [Mertz Law](#), said, “If a significant matter comes in, I will typically send a handwritten note to thank the referral source and let them know how much it means to me.”

Most attorneys find multiple ways to speak about their practice with colleagues in the hope they will refer potential clients. While many in-person events have been suspended, periodic phone calls, Zoom chats and newsletters are valuable ways to maintain contact. Indeed, Mertz remarked “I try to keep in touch with lawyers who might send referrals by adding their names to my newsletter distribution list.” Watkins

mentions recent cases in her newsletter and will “post periodically to social media about them” to flag these examples of her work to the attention of possible referral sources.

The lines regarding payment and acceptance of referral fees are very clear. Model Rule 1.5 (e) requires that an attorney who accepts a referral fee must have worked on the matter and the client must be aware of this fee-sharing agreement. The attorneys who have commented here on the subject of referrals confirmed that they abide by the rule and nearly all stated they neither accept nor pay referral fees. One lawyer specifically noted the *Karma Principle*, meaning that a person who gives thoughtfully and generously to others will experience a similar result reflected back to the individual.

Barry Heyman views the referral fee issue in a different light; “I will advise the client I may work with the referring counsel on the matter; sometimes they may observe for learning, assist in some capacity with research, and earn their fee as co-counsel. I may specifically name the referring/co-counsel attorney in the engagement agreement and indicate that the client has approved working with said individual.” Heyman has a practice in entertainment, music, new media and IP at [Heyman Law](#).

An alternative referral fee payment is suggested by Gordon. “When I have referred clients to attorneys and there have been large personal injury settlements or very successful outcomes on other types of cases, I am always grateful for the attorney taking an advertisement in the fundraising journal of a favorite nonprofit organization.”

Many attorneys maintain an active list of colleagues with diverse practices to whom they might refer out clients. As a best practice, Sarver said, “I first contact the attorney I am considering, to be sure they are interested, available and have no conflict in taking on such a matter.”

Heyman agrees with this advance notification. “I do sometimes let the client know that I will also give the attorney a head’s up and sometimes be able to summarize the matter so the attorney has an idea of what the call or email may be about, if contacted.”

Usually, a lawyer will suggest two names of colleagues they know well and whom they respect as competent and capable. Watkins likes to “give three names, if possible, because personality has a lot to do with it. I want a client to be able choose for themselves who they want to work with.”

One attorney noted “When making referrals, I appreciate a thank you. If there is no thanks, that is a problem. Those to whom I refer reflect on me. Finally, poaching a client is frowned upon. Referred attorneys should always send clients back to the referring attorney for other matters.”

Finally, Heyman pointed out an interesting consideration. “As an attorney with a smaller firm, I do try to refer clients to lawyers in other solo or small practices as a way to support each other. And since solo or smaller practices likely have more limited areas of practice, there is often a better chance of receiving a referral back from a solo/small firm. Most midsize and large firms will likely be able to work on many more types of matters than a small firm and not be in a position to refer clients back, as they will be staffed to handle the next matter internally.”

Perhaps, like Watkins, you believe a referral is “the highest praise of my services.” Accordingly, plan now to review your recent referrals—incoming and outgoing. Consider how you might mention your availability and become top of mind to your clients and colleagues, so they will refer others to you. Compile a list of lawyers to whom you might refer matters, whether or not the referral is reciprocated. After all, karma might working in the office next door.

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