

Westport Insurance Corporation

Documenting Terms of Engagement / Non-Engagement

Lawyers' Risk Management Note: *Some claims reported to Westport could have been avoided or minimized if the attorney had documented in a letter the terms of his/her engagement or had documented the decision not to become engaged in the representation of a particular client.*

Engagement Letters

Whenever your law firm accepts representation of a new client, engagement agreements should be used. A standardized agreement documenting the representation should include the following provisions:

- **Identity of Client and Attorney:** This may sound obvious, but it can go a long way in preventing or resolving any potential misunderstandings. And in some cases, you may also need to specify whom you are *not* representing.
- **Scope of Services:** Clients may be involved in more than one claim. By specifying the matter for which your firm has been retained, you can avoid any potential claim that the client had hired you for both matters.
- **Right of Withdrawal:** Any engagement agreement should also spell out the attorney's right of withdrawal and should be signed by both the attorney and client.
- **Fee Arrangements:** Communicate the fee arrangement to the client, be it hourly fee, flat fee or contingency fee. If hourly or flat fee, clearly identify to the client the method of billing and the frequency of billings. Also, assure that the client understands what out-of-pocket expenses will be passed on to the client.