

CORPORATE/COMMERCIAL LAW – LOSS PREVENTION TIPS

Carefully document instructions, advice and steps taken

Taking detailed notes and documenting client conversations can minimize misunderstandings. Claims often involve a dispute over what was said and done, or not said and done, or confusion over who was to look after which tasks.

Follow the firm's conflict checking system and take action on conflicts

Most law firms have rigorous conflicts checking systems that do a good job of catching potential conflicts. The problem is that these warnings are often ignored. Listen to your instincts and ask yourself “who is my client”? You can't always objectively judge your own conflicts, so get the opinion of someone outside the matter. Send clients for ILA when appropriate. Keep in mind that conflicts can unexpectedly arise in the middle of a matter. If there's a real or potential conflict, decline or terminate the retainer, even if it means turning down work for a good client or turning down substantial fees.

Take time to catch and consider all the details

Whether it is misreading (or not reading) information on a corporate document, not doing a title search on a corporate lease matter, or failing to ensure that two merged corporations don't lose a 'grandfathered' exemption, rushing or taking shortcuts can come back to haunt you. Take the time to do the job right, even if it takes a bit longer or involves coming back on another day. Make sure clients understand the risks if they instruct you to take shortcuts (usually to reduce fees), and that those discussions are documented. Do not be pushed into taking shortcuts that make you uncomfortable.

Do not dabble in areas outside your expertise

Corporate/commercial law is complex and diverse, so don't stray outside your area of expertise. If necessary, recommend your client retain the services of an expert in specialized areas like tax, IP or franchise law if you don't have a thorough knowledge of those fields.

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