

HANDLING CALLS: A GUIDE FOR 4ALL ATTORNEY VOLUNTEERS

Thank you for volunteering to answer calls at the North Carolina Bar Association Foundation's Statewide Ask-A-Lawyer Day on March 5, 2010.

The State Bar Ethics Advisory

The North Carolina State Bar has provided the 4All Task Force with an ethics advisory opinion stating that a lawyer may participate in an Ask-A-Lawyer Day. A copy of the opinion is available at <http://4allnc.ncbar.org/media/15497/ethicsadvisoryopinion.pdf>.

The State Bar opinion requires that 4ALL attorney volunteers provide legal services of a limited nature to callers. Attorney volunteers cannot provide specific legal advice or representation to callers. The opinion cautions attorney volunteers to avoid creating an attorney-client relationship with callers by

offer[ing] or provid[ing] legal advice in a manner or a setting that could reasonably lead the recipient to believe that the lawyer is offering his or her services to the [caller] or will protect the [caller's] interests in some manner. . . . When taking calls, the volunteer lawyers must avoid giving individualized legal advice to a caller based upon the caller's personal disclosures. The lawyers must limit their comments to general legal information, explanation of the legal system, and referral to other resources.

The State Bar opinion contains requirements relating to advertising and promotional material related to Statewide Service Day. Arrangements for the Statewide Service Day will comply with these requirements. The message will welcome the caller and explain that a volunteer attorney is standing by to answer questions about the legal system and provide general legal information and referrals to other resources. The message will explain that ethical considerations prohibit volunteer attorneys from giving specific, tailored legal advice.

Sticking to the Big Picture

Although some callers on 3/5/10 may have general questions about the legal system, many will be seeking help with specific problems. Screening of calls by legal subject matter is impractical. Volunteer attorneys must do their best to help callers with questions across a variety of fields of law while controlling the content of each call in a way that complies with the guidance we have received from the State Bar. For attorney volunteers, this will mean steering the conversation towards generalities and avoiding specific advice that is tailored to the caller's situation. Attorney volunteers will need to exercise sound judgment and discretion in an effort to help callers with their problems without offering more than general legal information, explanations of the legal system, and referral to other resources.

A Suggested Call Script

After a volunteer attorney is connected with a caller, the following framework for handling the call may be useful:

- **“Hello, I am a volunteer attorney from the North Carolina Bar Association. Thank you for calling today. What is your question?”**

Refer to yourself only as a volunteer attorney. If the caller asks your name, you are under no obligation to share it. Feel free to move the conversation directly to the substance of the caller’s question. Similarly, do not ask the caller to identify himself or herself. If the caller does so voluntarily, you may wish to introduce a note of formality into the conversation by referring to him or her as “sir” or “ma’am.”

- **Give the caller time to explain the question – within reason.**

Callers will appreciate speaking with an attorney who is willing to listen. Some people may be nervous about talking with an attorney and may have difficulty presenting facts in an orderly fashion. If a caller’s explanation becomes rambling, you may need to interrupt and steer the conversation towards resolution.

- **Begin your response by identifying the relevant area(s) of law. For example: “Ma’am, your question seems to involve the area of law known as family law.”**

After you have identified the relevant area of law, you may go on to explain some general facts or concerns that arise in that area. If the caller’s question involves a common topic (such as traffic/minor criminal matters; employment issues; family law; wills and basic estate planning; housing/landlord-tenant issues; or employee and individual benefits), you may refer to the notebook of subject matter outlines at your phone station, consult with another volunteer attorney, or speak to one of the “floater” attorneys with relevant experience in the subject matter.

- **“I don’t know” may be the best answer.**

If you believe the caller’s situation presents complicated legal or factual issues or you are not comfortable relying on your general legal knowledge to answer the question, do not hesitate to tell the caller so. Err on the side of avoiding specific legal advice if its accuracy could depend on facts the caller has not shared. Consider whether to refer the caller to the Lawyer Referral Service or Legal Aid of North Carolina (LANC) – see below.

- **“Your question involves complicated legal issues. I encourage you to call the North Carolina Bar Association’s Lawyer Referral Service at 800-662-7660, Monday through Friday from 9:30 a.m. to 4:30 p.m. or go to their website, www.ncfindalawyer.org, at any time. Ask for a referral to a lawyer who practices in the area of _____.”**

LRS referral lawyers have agreed to charge no more than \$30 for up to 30 minutes of initial consultation. (This means that an initial consultation lasting only 15 minutes will also cost \$30.) Callers should be told that the LRS is not a pro bono referral service and does not make referrals to pro bono attorneys. LRS referrals are free, except for the cost of the telephone call if the caller is from out of state. Calls within North Carolina are free.

LRS makes referrals to lawyers across an array of practice areas and specialties. Broad categories in which referrals are made include business/financial planning; estate planning; civil rights; family and personal matters; consumer issues; health and personal injury; criminal/traffic; homes/real estate; elder law issues; and labor/employment. Callers who contact LRS should be prepared to answer the question: “What do you want a lawyer to do for you?”

- **Consider referring the caller to LANC (toll free 1-866-219-LANC or www.legalaidnc.org) if the question involves:**
 - Consumer issues (bankruptcy, consumer debt, product defects, insurance coverage denial)
 - Education issues
 - Two family law issues only – protection from domestic violence and help with child custody where domestic violence or other imminent threat of harm to the child exists
 - Healthcare (insurance, Medicare, Medicaid)
 - Housing (evictions, foreclosure, tenant’s rights, public housing disputes)
 - Income maintenance (Social Security, food stamps, other government benefits)
 - Simple wills and estate planning

Before referring a caller to LANC, make him or her aware of the following:

- A caller must meet LANC’s eligibility guidelines before LANC can consider providing legal services. Generally these involve establishing whether the caller’s income falls below federal poverty guidelines. Do not attempt to determine whether the caller meets the eligibility guidelines. Encourage the caller to contact LANC or visit their website.
 - LANC has a limited staff and cannot accept every case, even if the caller satisfies the eligibility guidelines.
 - LANC does not handle criminal matters. The caller may be entitled to a court appointed lawyer or to be represented by a public defender in certain criminal cases.
- **If you refer the caller to the Lawyer Referral Service or LANC, help the caller understand how to use his/her time with the lawyer effectively.**

Many people have never met with or talked to a lawyer. Although lawyers who accept LRS referrals offer consultations of up to 30 minutes for a charge of \$50, potential clients

need to understand how to make the best use of that time. You can help by encouraging callers to:

- Prepare a written chronology or timeline of facts, so that you present the situation to the lawyer in a logical way.
 - Gather all relevant papers and documents and be prepared to show them to the lawyer when the meeting takes place.
 - If appropriate, take pictures or provide other visual evidence.
- **Caller: “Now that we’ve talked, I’d like to retain you as my lawyer. Can I meet with you personally? Would you represent me?”**

Volunteer Attorney: “No. I am only a volunteer attorney today and cannot accept fee generating or pro bono work from the calls I take. I suggest you contact the Lawyer Referral Service.”

The State Bar has advised that attorney-client relationships should not be formed in the course of or as a direct result of answering calls as an attorney volunteer. If you wish to enroll as a referral attorney through the Lawyer Referral Service, please visit www.ncfindalawyer.org.

- **Callers complaining about lawyers should be referred to the State Bar’s Client Assistance Project.**

Some callers may be calling to complain about an existing relationship with a lawyer. If the caller is having a problem with a lawyer, the State Bar’s Attorney-Client Assistance Program may be able to help. The Attorney-Client Assistance Program helps to resolve issues between clients and lawyers on an informal basis. Three public liaisons respond to calls from members of the general public who have complaints or concerns about their lawyers. Depending upon the situation, the public liaison will contact the lawyer and try to help find a resolution to the caller's problem. The public liaison does not represent one side or the other when attempting a resolution. The public liaison is unable to offer legal advice, but may be able to direct the caller to an information source. Callers may reach one of the State Bar’s public liaisons by calling (919) 828-4620 or via email by contacting dmelching@ncbar.gov.

- **Conflicts of interest.**
If you become concerned that handling a caller’s question presents you with a conflict of interest, ask the caller to hold and find that a floater attorney or another volunteer attorney to handle the call.