

**Sharpening the Edge:**

**Using Retainer Agreements and Technology Systems to Manage  
Client Relationships and Deliver Legal Services**

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Prepared By:

**Edward P. Gallagher**

**Patriot Law Group**

**Onoway, Alberta**

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## **SHARPENING THE EDGE:**

### **Using Retainer Agreements and Technology Systems to Manage Client Relationships and Deliver Legal Services**

By: Edward P. Gallagher

As solo and small office lawyers, we have the need to be as efficient as possible, but precious little time to devote to this important task.

In this paper, I will be surveying two important tools available to the small office lawyer to improve the planning and delivery of legal services:

- The Retainer Agreement, which focuses on shaping and managing the lawyer-client relationship; and
- Using technology to improve the speed and accuracy with which legal services are produced and delivered.

The contents of this paper reflect several years of reading and experimentation “in the field”, so to speak, with a view toward allowing other small law office lawyers to get a jump on improvements in both these areas.

A list of further readings is included at the end of the paper.

## PART 1

### Some Thoughts on Retainer Agreements

#### INTRODUCTION

During my first ten years as a lawyer, which was spent in government service, I never had to prepare a Retainer Agreement. Soon after entering private practice, I was quite surprised to discover that a significant number of lawyers do not use Retainer Agreements, or use them for some matters but not for others. Those that do use them, more often than not, employ a very basic Agreement that does not convey much information and is rarely updated or customized.

I have long felt that the Retainer Agreement is the cornerstone document governing the relationship between lawyer and client. As such, it deserves much more attention than it presently receives. The commencement of the relationship between lawyer and client only happens once. As such, it presents an ideal opportunity to structure a lawyer-client relationship that keeps both parties focused and possessed of appropriate expectations, and fosters a mutually beneficial relationship that will hopefully last long after the initial matter has been brought to a conclusion.

The purpose of this Part is to survey and discuss some of the practices with respect to Retainer Agreements that I have developed over the last six years of steady research and experimentation in the area. It is not meant to be the last word in this field, but rather a starting point to whet the appetite of other lawyers who, as users, can develop their own best practices.

Although other types of cases will be discussed, the main focus in this Part is the family law or litigation case, as it was the demands of these cases that first got me thinking about the content of the Retainer Agreement.

#### THE RETAINER AGREEMENT DEFINED

Although I do not like the term “Retainer Agreement” (for reasons that are discussed further on in this Part), I will use the term to mean the written document signed by both lawyer and client which sets out the work to be done by the lawyer, the costs to be paid by the client, and various ancillary information necessary to establish the basic structure of the relationship.

#### PURPOSES OF THE RETAINER AGREEMENT

The Retainer Agreement should satisfy each of the following purposes:

- a) Technical purpose. This purpose is to establish a contract that is enforceable by both lawyer and client. Standard contractual principles apply: offer, acceptance, consideration.
- b) Ethical purpose. Of course, the Retainer Agreement is required to comply with the ethical standards established by the *Code of Professional Conduct*. Various rules apply, including (in particular) the setting of fees.<sup>1</sup>

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<sup>1</sup> Chapter 13, *Code of Professional Conduct*, Law Society of Alberta (as of June 6, 2009)