MENTORMATCH PROGRAM
WORKSHEET CC
INTRODUCTION TO CLIENT DECISION-MAKING & INVOLVEMENT

Worksheet CC is intended to facilitate a discussion about the responsibilities of the client and the lawyer in decision-making and the best ways to involve a client in their case.

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- Discuss the importance and necessity of involving clients in decision-making in their cases. See Rules of Prof. Cond. 1.2, 1.4, 1.6, and 2.1.

- Provide examples of the types of decisions in the mentor's practice in which he or she involves the client, including the ways in which the client are involved, the reasons for involving the client in those instances, and the reasons for not involving the client in certain decisions.

- Discuss the difficulty in knowing what instructions are given (or not given) by a client and some traps that a lawyer (particularly in the new lawyer's practice area) can fall into regarding identifying the client instructions.

- Share best practices that the mentor has adopted in his or her practice to document client instructions, including confirming in writing to the client about the instructions that were given and the steps that were or were not taken.

- Read and discuss the article by Donald R. Lundberg, *It Takes Two to Tango: Autonomy and Interdependence in Lawyer-Client Decision-Making*, RES GESTAE, September 2006

RESOURCES

- Discuss the suggestions given in the book HENRY W. EWALT, *THROUGH THE CLIENT'S EYES: NEW APPROACHES TO GET CLIENTS TO HIRE YOU AGAIN AND AGAIN* at 71 – 88 (3RD ed. 2008). THIS BOOK CAN BE PURCHASED AT HTTP://WWW.ABANET.ORG/ABASTORE/INDEX.CFM?SECTION=MAIN&FM=PRODUCT.ADDTOCART&PID=5110592

INDIANA RULES OF PROFESSIONAL CONDUCT

CLIENT-LAWYER RELATIONSHIP
RULE 1.2: SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope and objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

View comments at http://www.in.gov/judiciary/rules/prof_cond/

RULE 1.4: COMMUNICATION

Rule 1.4. Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law or assistance limited under Rule 1.2(c).

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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View complete rule and comments at http://www.in.gov/judiciary/rules/prof_cond/

RULE 1.6: CONFIDENTIALITY OF INFORMATION

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Rule 1.6. Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or from committing fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order.

(c) In the event of a lawyer's physical or mental disability or the appointment of a guardian or conservator of an attorney's client files, disclosure of a client's names and files is authorized to the extent necessary to carry out the duties of the person managing the lawyer's files.

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COUNSELOR
RULE 2.1: ADVISOR

Rule 2.1. Advisor

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

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