

Best Practices: Good Forwarding Gets Better, CLLA National 2026

Panelists:

Robert Ash, *Radius Global Solutions*, Ramsey, NJ

Brandon James, *Tucker Albin & Associates, Inc.*, Richardson, TX

Christopher S. Young, *BTLG*, Columbia, MD

A practical discussion of appropriate and sound practices in Forwarding and Receiving claims. We will discuss the preferred methods for the entire process from placing to closing a claim, and what should and often happens in between. The focus will be on the handling of cases, situations, and circumstances in direct relation to what are the best practices for the relationship.

Creditor/Client Expectations

What should you relate to your client and what steps should you take in order to continue to improve your relationship with the client and the attorneys you are forwarding business too?

- Costs of filing depending on the jurisdiction, including any admin costs and potential post judgment costs in order to avoid having to go back and ask the client for more money. However, letting them know if post judgment activities are needed or a process server has to be hired outside of the sheriff or constable, then there could be additional expenses.
- What back-up is needed?
 - Credit-app, invoices, statement
 - Any collector notes they have prior to being sent to collections
 - Any and all contact information (some companies have multiple CRMs that may have additional contacts and their information)
- Assignment and affidavit are required along with a copy of the check for filing fees, preferably not electronic copies and wet ink in case some courts require it
- Who their main point of contact will be? Assuming there are agencies with a team of legal reps for the clients, who can they expect to hear from and who do they need to reach out too in the event something is needed (updates, etc.)

- What the typical process is when forwarding out to legal? (Realistic expectations)
 - Nothing is done until all the proper paperwork is received
 - How many days it will take to process the paperwork on your end as an agency, and when they can expect it to be in the attorney's hands
 - Once the attorney receives the file, do they send out a 30-day demand, 60-day demand, etc. prior to filing with the courts?
 - Once filed with the courts, what is realistic on getting updates?
 - Typically, the debtor will have 30 days to answer, this needs to be relayed to the client so they aren't asking for an update 2 weeks after the motion is filed
 - If no response how long will it take for the courts to render a judgment, get the debtor served or require additional time, etc.?
 - Communication is always the most important part between the agency and client, as well as agency and attorney
- What are the chances of success if we end up filing suit?
 - While we can't answer with any sort of guarantee, here is what we have already researched to help you make an informed decision
 - Debtor has XXX amount of liens
 - Debtor has XXX amount of judgments against them
 - Debtor has retained an attorney for BK but hasn't filed yet
 - Debtor has been placed in our office prior to the client placing
 - Debtor's company credit report which we know is typically inaccurate shows XXX

Forwarders frustrations with receiving attorneys

Poor or NO communication, we have demanding clients to reply to and they expect our answers, if not instant gratification. This can be largely alleviated via:

Advising when the suit is filed; advising when the debtor is served; advising when filing for the judgment, usually default; advising when a defense is filed and send me their defense, some clients want to see that. Be proactive, without this consistent information, this can put our business with that client at risk. Maintain the trust in our partnership.

We rely on you to ensure that business is maintained even if no funds are recovered. We are still able to show the client every effort that was made to protect their rights as a creditor, paid or not.

When you provide us with suit requirements, do you look for reasons to sue, or do you provide reasons not to? Is the debtor squeaky clean, or are there red flags? I've had receivers tell me while this does not look promising, I will support your client and proceed, costs are...And had receivers tell me, collectability is not going to happen, I'm closing our file.

That alone can put us in a precarious position as the client usually from an emotional perspective, wants to sue, even though logically that case should not be.

Clients/creditors ask me now more than ever before how viable of a case it is, if the debtor has assets, what are my chances of recovery, am I throwing good money after bad? The information you provide, or not, can go a long way to assisting us in answering that question.

There is a much bigger agency-client-picture than that one legal case. Your assistance (or not) though with that specific case can and does affect our overall relationship with that client. We have had clients who instructed me not to use a specific attorney for them again. And we have had clients who have instructed me to use a specific attorney, as they were very pleased with the way the case was handled, the communication, even though the judgment was not collected. At the end of the day, your duty goes to us and to our client even if they are the cause of the problem.

Try to avoid us as forwarders from seeing warning signs, that put us in the position to rethink our mutually beneficial relationship. Keep our perception a positive reality. We don't necessarily take bad news personally, like unable to collect, we do though take little, untimely or no interaction personally as it creates tension which can negatively affect the intertwined relationship.

The way we look at things in our roles and via our three-party system, gives us a different and multifaceted view of our relationships.

Then we have to consider the various “stations” on the timeline between the client, forwarder and the receiving attorney, to see where the pitfalls and problems of communication and representation may or do become a “fault-line” in the relationship.

We have to look to what the responsibilities are for each party of the relationship at each “station” to determine what the ultimate requirements are to deal with the claim, including the business relationship we have with our clients, the position that the lack of communication puts us in, and how that can affect us both in the short and long term.

This leads us to the ethical requirements between client/forwarder and attorney.

Attorney Ethical obligations

Poor or no communication is bad business. Beyond that, there are attorney licensing implications. The opined number one reason for ethics complaints is “failing to communicate effectively with clients”¹. Reports of attorney bar discipline from various states mirror this opinion with communication being one of, if not the top, complaint.

The ABA Model Rules of Professional Conduct incorporated in some form in most, if not all jurisdictions, and more specifically Rule 1.4, requires regular communication and informed consent of actions on behalf of clients:

Client-Lawyer Relationship

(a) A lawyer shall:

¹ [These common mistakes can lead to lawyer ethics complaints:](https://www.abajournal.com/news/article/these_common_mistakes_can_lead_to_lawyer_ethics_complaints)
https://www.abajournal.com/news/article/these_common_mistakes_can_lead_to_lawyer_ethics_complaints

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

ABA Model Rule of Professional Conduct 1.4.²

To satisfy ethical duties, an attorney must do more than simply “report”. Regular communication includes not only reporting but consultation, explanation, and informed consent. This includes consulting with a client “prior to taking action” and responding to request with “prompt compliance”, as outlined in more detail by the Comment to the Model Rule:

Rule 1.4 Communication - Comment

Client-Lawyer Relationship

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

² [Rule 1.4: Communications https://www.americanbar.org/content/aba-cms-dotorg/en/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/](https://www.americanbar.org/content/aba-cms-dotorg/en/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/)

Communicating with Client

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the **client's consent prior to taking action** unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations — depending on both the importance of the action under consideration and the feasibility of consulting with the client — this duty will require consultation **prior to taking action**. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires **prompt compliance** with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in Rule 1.0(e).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer

may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 3.4(c) directs compliance with such rules or orders.

Comment to ABA Model Rule of Professional Conduct 1.4 (emphasis added).³

The failure to communicate, inform, obtain informed consent and take instruction is an ethical violation, not just a matter of convenience or bad business.

³ [Rule 1.4 Communication - Comment
https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/comment_on_rule_1_4/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/comment_on_rule_1_4/)