

Referral Fees

Folks:

Hypothetically, attorney A refers a case to attorney B. Attorney B agrees to pay a referral fee on the case. While the case is pending, client is involved in a 2nd car accident. Client hires attorney B. Should attorney B pay a referral fee on the 2nd case to Attorney A?

Unless there was an agreement covering that type situation, then I think it is mostly a moral and marketing issue. Pay it if you feel you should or if you think it is good for further referrals.

Shell Bleiweiss, Illinois

I think it would be nice gesture to pay a referral fee on the second case, but not necessary. At some point, the link has to become attenuated or severed. Just my 2 cents.

Michael Weiser

I suspect it is not legally required. Attorney A referred specific case, i.e, a certain client with certain injuries arising of a certain accident on a certain date and place to B; B agreed to pay referral fee. And that's fine. Then client got into separate accident; client is certainly free to hire whomever client wants; local bar rules almost certainly say that decision to hire a particular lawyer is entirely up the client and that the lawyer doesn't 'own' a particular client. Client is apparently satisfied with B's handling of the case, at this point client is not going to go back to A to look for a referral. So, no, I'm not seeing where B has to pay a referral fee to A on second case. Now, should he? Maybe? It's as much about marketing as it is anything else. Depends on value of first case and second case; if first case doesn't pan out but second case does, I know that, as the referring attorney, I would be thrilled to receive referral fee on 2nd case. But it isn't required; as I said, Attorney A in no sense "owns" the client.

Ronald Jones, Florida

I agree that payment definitely would not be required. In FL, the retainer agreement must specify referring attorney split, and both parties and client must sign and agree. That agreement doesn't cover future cases, and I don't think it could.

OTOH, I'd be a whole lot more likely to refer another case to the same lawyer, if they paid a referral case on the second accident (which, again in FL, would require that the referring attorney be mentioned in the new retainer agreement). I'd also not be thrilled if they didn't. Losing future referrals is one of the big downsides of referring cases. And I think there is less attenuation if the second accident happens before the first has even been paid. I also think the value of the second case makes a difference (morally / fairness speaking).

But my guess is that most lawyers wouldn't pay on the second case, sadly enough. I'd like to think that some would, but I just seriously doubt most would.

Tina Willis, Florida

I wouldn't expect anything if I had made the referral. I would be overjoyed if the referred attorney sent me a handwritten note (maybe with a bottle of whatever I like to drink) explaining that the client relationship is still strong and you've been entrusted with another matter.

Matthew Rasmussen, New Jersey

But for the initial referral Atty B would not have the second case.

Graham W. Kistler, New York

Legal requirement no, because it is a different case and that case was not referred. Marketing or relationship or discussions may impact answer.

Darrell G. Stewart, Texas

It would not be legal to pay a referral fee unless the client agrees in writing. This is clear California law. *Chambers v Kay*. Cal Rules Prof Conduct 2-200(A)(1). Attorney B can pay a gratuity to Attorney A, but not a referral fee.

Does B want to continue to receive referrals from A?

Roger Rosen, California