

## **Attorney Referral Fees**

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Hi Sezzers,

If an attorney referred a business litigation case to you where you work at an hourly rate and get a fee retainer from the client upfront and that attorney wanted a referral fee, what would a reasonable referral fees be in this situation?

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Good question.

I'm a big proponent of referral fees. I pay and receive them. But my cases are all flat fee. Much easier to just pick a percentage and roll with it.

I pay 20% of the flat fee, and that's a common amount for me to receive when I refer out a case.

What about 20% of the first month's invoice? Or, if it's a really lucrative client who is going to be around a long time, and the referral source can send you more of those - maybe 20% of the first three months, paid once a month.

Just throwing out some ideas. Hourly billing is foreign to me. :)

Andrew Flusche, Virginia

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Very state-specific.

North Carolina only allows fee-splitting in proportion to the contribution to the work on the matter, and technically, any attorney receiving a fee is potentially liable in malpractice. That is MY understanding of the ethics rulings. However, I have heard of people justifying referral fees as being base on "the hardest part of the case is finding it" logic.

I routinely refer cases and have them referred to me.

I have only one case where a "referral fee" applied, and that was because the referring attorney did substantial qualification and preliminary evidence collection.

-Rick

Richard J. Rutledge, Jr., North Carolina

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Absolutely. I wasn't at all opining on whether or not it's within the rules for a referral fee to be paid in Scott's scenario. I'm sure he's done that homework already.

Virginia's are very tolerant of referral fees. It's ok, as long as the client is informed in advance, the client consents (preferably in writing), and the total fee is reasonable. That's the basics anyway. I just add a line to my fee agreement when I'm going to be paying a referral fee.

I don't get to pay them very often, but a client has never asked about the referral fee. Until today. :) I explained what it meant and that I pay the fee from my pocket, and he was cool with it.

Andrew Flusche

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I don't charge them or accept them. Referrals are an expression of trust and confidence AND SERVICE and should be reciprocated in kind where appropriate. Wealth without work is one of Ghandi's seven deadly sins.

James Moriarty, Iowa

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My thoughts, too. I turned down referral fees in favor of overflow referrals from the receiving attorney. Of course, family law is not a percentage-of-recovery practice anyway, but I wouldn't charge or pay for a referral. At least that was my philosophy before I RETIRED AND I'M SO GLAD I DID!

CJ Stevens, Montana

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Sure. That's another view.

I guess you don't have any interest-bearing bank accounts.

Personally, I see referral fees as a marketing expense, so I'm happy to pay them.

On the receiving end, I spend an INSANE amount of time and money on my marketing. I refer out HALF of the business that I generate. Receiving a few referral fees helps compensate me for the time and trouble of generating the leads and referring them on to attorneys who are better suited to handle the cases.

I could do like some attorneys do: hire someone right of law school, pay them peanuts, send them all over the Commonwealth doing a half-ass job for people, and keep all the cases for myself.

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Or I could connect these potential folks with high quality, local attorneys who will provide great service and outstanding results.

And just for the record, there are some localities where I know folks who would happily pay me a referral fee. But they don't treat clients right, so I refer people in those areas to the state bar's referral.

Andrew Flusche

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Why not a percentage of the case forever? That is what I do (mostly as the referring lawyer). Of course you have to consider the ethics rules in your jurisdiction(s).

Shell Bleiweiss, Illinois

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I agree with Rick. In Indiana, I refer in return for a referral.

Sincerely,  
Lalita Haran, Indiana

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This is exactly the reason that I am now very much in favor of paying referral fees. I think that they are win-win for lawyers and the profession. Although abuses are possible (e.g., lawyers sending cases not to the most well qualified but to those who will pay the largest referral fee), overall, the prospect of negligent referrals and lawyers' interest in maintaining reputation serve as a check.

Many really good lawyers will gladly spend money on referral fees for a variety of reasons. Some lawyers simply don't like to market - and accepting a referral from a fellow attorney is preferable to paying \$65 a lead for no guarantee of a case. Other lawyers may work in different areas and don't necessarily want to market heavily. For example, I have a friend who does a good deal of white collar defense work - but he loves the court room. He used to do federal court appointed work to keep his skills fresh but now he pays a 20 percent referral fee for DUI cases. He doesn't want to aggressively advertise in that area because of his other work so it's a win-win - the clients are getting a great lawyer and the lawyer who does the marketing gets a referral fee.

Carolyn Elefant, District of Columbia

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Here in NY, at least in my area, downstate, the usual referral fee is one third.

Graham W. Kistler, New York

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"wealth without work"

So you get clients for free and never have to market? They are lining up outside of your door just banging on it hoping you take their case?

It takes work (and money) to:

- 1 Get a law degree.
- 2 Open a practice.
- 3 Attract clients.
- 4 Retain clients.
- 5 Work on client matter.

A referral fee is paying for #3.

There are attorneys who don't employ any outside marketing except to other attorneys. They pay a referral fee. Let's say that fee is 20%. Now they know their marketing costs/cost of acquisition. It's 20% (plus whatever they have to spend to woo the attorneys of course).

Normal fees are for 10% up to 1/3 for PI/criminal matters I've seen. Talk to the referring attorney, that's what I do. If you don't want to do it for the lifetime of that particular case tell them. Put a cap on it, etc. If there are expenses involve factor that in.

Joseph D. Dang, California

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I agree. Most of the PI attorneys I know down here in the Tidewater area pay 1/3 of the attorney's fee they receive. Sounds hefty, but I know several PIs who do next to nothing in the way of advertising because they have good referral pipelines from other attorneys. One of those attorneys told me that 1/3 of his recovery is actually a good deal less expensive than paying for advertising--and a good deal less demeaning.

Interestingly, there's an inverse correlation between referrals from other attorneys and the amount of advertising that an attorney does. Clients don't seem to think much of a referral to the guy that screams "cash for your crash!" at them on daytime TV.

Kevin W. Grierson, Virginia

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