

Westport Insurance Corporation

Non Engagement Letters

Lawyers' Risk Management Note: *Westport Lawyers face risk from non-clients other than third party exposure associated with the representation of clients. One quick fix to reduce that risk is to consistently use Non-Engagement Letters when declining to accept a client.*

A meeting with a prospective client that does not result in representation of that client should be followed with a letter of non-engagement. Without a non-engagement letter, the non-client can claim an attorney-client relationship allegedly created during the initial interview and detrimental reliance thereon. Non-engagement letters should be brief, but should always contain the following:

- **Statement of Declined Representation:** Any non-engagement letter should reference enough facts to identify the matter and should specifically decline representation although no specific statements regarding evaluation of the merits of the case should be made.
- **Time-Sensitive Dates:** Without calculating the exact dates involved, the non-engagement letter should alert the non-client to any pertinent statute of limitations and other imminent deadlines. Be careful when calculating such dates, as the non-client can later claim detrimental reliance in the event you had miscalculated the deadline.
- **Recommending Other Counsel:** Although specific referrals to other attorneys are risky, your non-engagement letter should always recommend that the non-client consult with another attorney about the case in question. Specific referrals are discouraged because of the potential for a "negligent referral" claim later if the successor attorney doesn't provide the desired result.