



# Guidelines: Termination Letters

**Disclaimer: LMICK is providing general legal information for Kentucky lawyers drafting disengagement letters. This document is intended to provide a starting point and must be adjusted to suit your practice's and your client's needs. LMICK is not providing legal advice.**

When a matter is closed, it is important for lawyers to provide clients with a termination of representation letter. Without a termination letter, lawyers risk the client believing (and, therefore, a court eventually deciding) that the lawyer-client relationship did not end. This can lead to a determination that duties were still owed to the client; a failure to act to protect their interest could give rise to a malpractice claim.

Lawyers can effectively mitigate this risk with a well-crafted termination letter. The goal of the letter should be to clearly end the relationship, tie up any administrative items, and invite them to reach back out with any future legal needs. Much like the adage fences make good neighbors, termination letters provide clear boundaries and can lead to great repeat clients.

The following checklist for termination letters is a great starting point:

- Provide a summary of what you were engaged to do and a description of how you accomplished those tasks.
  - It can be helpful to review your initial engagement letter for any language around the scope and purpose of representation outlined there to ensure you met all of the goals contemplated.
  - Lawyers should review the file to ensure documentation of the reasoning behind key strategic decisions. In an ideal world, all of this is captured during the course of the representation through client communications and will not be necessary to include in the termination letter. However, a short summary of any key issues may be helpful to include here, especially when:
    - The lawyer anticipates the client may not (accurately) recall why certain strategic calls were made;
    - The lawyer diverges from the typical approach to similar matters or issues; or,
    - Matters have had a negative result (or could have a negative result in the future).
  - Lawyers must use their discretion and understanding of their client in determining what to include in the letter versus including in a memo to the file for future reference. Lawyers Mutual of Kentucky insureds that are closing a matter with a particularly difficult client, can reach out to LMICK for additional information and assistance.
- Clarify that upon the date the case is closed, the lawyer-client relationship is ended and, therefore, all future communications with the client will not be covered by lawyer-client privilege unless a new engagement letter is executed.

- Outline your firm’s file retention policy and provide an opportunity for the client to pick-up a copy of their file.
  - It is helpful to reference your file retention policy, indicating how long the file will be retained in the normal course of business if they fail to pick up the file. If you have explained the file retention policy in your engagement letter, you can refer them to that provision or copy and paste the provision into your disengagement letter. For more information about file retention best practices, please review [this article on our website](#).
  - List all documents given to the client during the course of the representation.
    - You may wish to note whether the documents are originals, especially if the documents have intrinsic value, such as wills and other estate planning documents.
  - Obtain written client acknowledgment of receipt of documents. If their acknowledgement was not obtained during the course of the representation, determine whether you want to include a signature line for acknowledgment in the termination letter. Additionally, if the client elects to obtain their entire client file, obtain acknowledgement of their receipt of the file.
- Confirm payment of all funds owed to the client.
  - If not already previously provided, include a copy of the final client trust account ledger showing all proceeds, expenses, and disbursements made from the client’s funds. If you routinely provide this information, you may only need to include the final report, here.
  - If you have not previously obtained the client’s signature acknowledging the receipt of their funds or other property, you may want to do so, here.
- Outline any outstanding payments required from the client.
  - Arguably, the termination letter should not be sent until no outstanding monies are owed. If there is an outstanding balance owed, discuss this in your closing letter and include a copy of the final invoice.
  - REMINDER: You cannot condition the release of the file on payment for services rendered. You must release the file to the client and comply with your ethical obligations under [SCR 3.130 \(1.16\), Declining or Terminating Representation](#) and [SCR 3.130 \(1.9\), Duties to Former Clients](#).

After termination, close the file according to your file retention policy. Also, update their status in your conflicts check system to “former client” and ensure you meet your obligations under [SCR 3.130 \(1.9\), Duties to Former Clients](#). For questions or more information, please contact Courtney Risk at [risk@lmick.com](mailto:risk@lmick.com).