



# Immigration Hot Topics and Ethical Considerations for Practicing Attorneys

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# Hypo I

A client comes to you and tell you that he wants to immigrate his wife and family to the United States. He filed the Initial I-130 prior to March of 2020 and it was approved in late 2020. He got notice from the NVC that he is ready to start the next part of the case. He comes to your office and he wants to know how long the case is going to take from start to finish. He wants you to explain to him the processing time lime step by step. He also wants to know your legal fees for the entire process and how often your office will communicate with him throughout this process.

What are some of the potential ethical issues that arise in this hypothetical and what are the pitfalls to avoid?

# Hypo II

- You represent a client in removal proceedings on a cancellation of removal case for a flat fee. The case is filed with the court and you attend 2 master calendar hearings. At the 2<sup>nd</sup> master, the Immigration Judge sets your hearing for a trial date 2 years in the future. You prepare the cross – service and witness list and submit all of the evidence 30 days before trial. 4 days before trial, the case gets reset by the court for another 2 years. At this point, the original fee has been fully paid but you will have to do all of the work again because there will be new evidence when the case comes up in 24 months. Can you charge additional legal fees? Are you bound by the original contract for legal services since you have not tried the original cancellation of removal case yet?

# Hypo III

You represent two companies who are desperately looking for workers after the pandemic. They are both actively seeking to rebuild their IT teams after many people have decided either not to return to work or to find other work from home options instead of having to go into the work places.

You just received a request from existing client A to register an H-1B for an employee of existing client B. Existing client B is also registering for her. It is her last chance and they are both realistic job offers (she interned for A so has an prior relationship).

She has not disclosed to her current employer (B) that she is also having A apply.

Is disclosure necessary before registering her? Both companies are existing clients.

# Hypo IV

- John, a U.S. citizen, and his foreign born wife Maria hire you to handle her marriage-based application for permanent residence. You agree to prepare a one-step application that includes John's I-130 petition and Maria's I-485 application for adjustment of status. During your intake interview, they both clearly state this is their first marriage. Before you begin work on the case, you explain that you will be representing them jointly because of their shared objective of permanent residence for Maria, and they sign a written representation agreement acknowledging potential conflicts of interests and agreeing to dual representation. In the dual representation paragraph of the agreement, the clients also acknowledge that any information either client provides to the lawyer will be shared with the other client. The agreement indicates that in the event of an actual conflict, the lawyer may be required to withdraw from the representation altogether. Mary calls confidentially and says she was previously married but did want John to know because she is embarrassed about it.

- You tell her that you must reveal the information because it's required in the I-130 process. Mary gets upset and hangs up. John calls immediately after and asks if it's been filed.
- What you do you do?

# ABA Model Rules

- Always a good idea to review both state and the ABA Model Rules when dealing with issues regarding questions of professional responsibility.
- Source AILA Ethics : [AILA - Answers to Your Ethics Questions with AILA 's Ethics Compendium](#)