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**§ 3.3****Correspondence***Letter, Emails, and More*

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The initial correspondence with either a client or the opposing party establishes a tone of professional communication. The initial correspondence with the opposing party is often a demand letter. The initial written correspondence with the client is some form of update regarding initial steps being taken by the law firm in the client's case.

**The Demand Letter**

There is no single correct form for a demand letter and no statutory requirements that must be followed. Some states have specific rules covering demand letters in collection cases, but a demand letter should always inform the recipient of the matter in controversy and the sum of money demanded. A demand letter is part of the concept called "exhaustion of remedies." This means that at all stages of a given dispute, every reasonable solution or remedy has been tried. A good demand letter can fulfill this obligation. Basically, the person who eventually files suit with the court wants to be able to say, "Your Honor, I tried to ask for my money without involving the court. Here's the demand letter to prove it."

In some jurisdictions, but not all, adherence to this concept can go a long way toward establishing an argument for the award of attorney's fees. If the amount of money won at trial exceeds the amount requested in the demand letter, the argument for attorney's fees is much more likely to be successful.

Consider these strategies when you draft a demand letter:

*Be clear and straightforward.*

Sometimes, less is more. Do not get bogged down in details. The paralegal does not have to provide exact details and facts. Most importantly, never make up numbers or facts, and never embellish information. Doing so will almost certainly come back to haunt you.

For example, if the matter being litigated is a car accident, do not provide the estimated speeds, the models of the cars, the time and weather conditions, or the names of witnesses who viewed the

event. Simply set forth the claim: *On January 17, 2005, Mr. Hayes ran a red light at the intersection of Main Street and Second Street, causing a collision with Mr. Jones.*

Don't explain why a specific request for damages is being made. Simply itemize the amounts and add up the total. A dispute about a specific damage belongs in the courtroom, not in the demand letter.

Upon the reading of the document, the recipient should be able to clearly identify two things: what allegation is being made (the claim), and how much money is being demanded (damages). If the reader cannot remember those two things after reading the letter, it should be rewritten.

*Do not argue your client's case in the demand letter.*

In other words, do not feel as if you have to prove your case in the demand letter, because you don't. Argument involves explanation, reasoning, and conclusion. Not only is arguing not required in a demand letter, providing argument on your client's behalf might give away strategy the attorney intends to use at trial.

*Provide documentation to establish the claim*

The claim is the reason for the controversy. While not required in a demand letter, documentation can act as a "shot across the bow," making the opposing party aware that the matter is serious and provable.

- If an escalator malfunctions in a department store injuring the rider, the claim is the failure to properly maintain the escalator. Documentation of the claim might include a witness statement.
- If a passerby is injured when he steps on a rollerblade left on a sidewalk in front of a house, the claim is the negligence of the homeowner. Documentation might be a picture of the scene, including the rollerblade.
- A store sells a defective product and refuses to provide a refund or replacement. The claim is defective merchandise. Documentation might include the sales receipt.

Documentation's only role at this point is to establish that the event occurred. Do not try to prove your case in the demand letter. If there is extensive documentation available, do not feel like all of it must be disclosed at this stage. Be minimalist. Only provide enough to establish the basic claim.

*Provide documentation to establish damages*

Documents to establish damages in a demand letter are more important than those establishing the claim. No money will be granted at a trial unless damages can be established. If the documentation provided in the demand letter is clear and reasonable under the circumstances, the other party may choose to pay the damages without a lawsuit. Receipts, invoices, bills, accounting statements and hospital records provide excellent documentation.

**EXAMPLE OF A SIMPLE DEMAND LETTER**

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January 17, 2021

Dear Mr. Smith:

This is a demand for payment for injuries suffered by John Doe. Enclosed are the following:

1. Mercy Ambulance Billing, transport report
2. Rose Medical Admit/Discharge Summary
3. Dr. Henry Morpheus Billing/Office Notes
4. Emergency Medical Services Billing
5. ABC Radiologists Billing

You will recall that John Doe was the driver in a vehicle going west on Main Street when Mr. Smith failed to yield the right of way at a stop sign and struck the vehicle driven by Mr. Doe, causing the injury and damages indicated.

As indicated by the records, there are no preexisting conditions for which Mr. Doe was being treated, nor did he have any restrictions in his day-to-day activities at home or at his employment at Mail Boxes Etc. prior to this event.

Enclosed are copies of photographs depicting the property damage to the automobile associated with this matter. Mr. Doe is not making any lost-wage claim at this time. Inasmuch as documented care has plateaued as indicated, and insofar as there is no other contributory cause, demand for resolution of this claim is made in the sum of \$3,833.79. Please review the materials enclosed and respond in writing to this demand within 20 days.

Very Truly Yours,

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Bryson Justice, Attorney at Law  
Bar No. 98-354  
3482 Heartbreak Drive  
Memphis, TN 37544

**ASSIGNMENT § 3.3 | THE DEMAND LETTER**

Review the following example of a demand letter. If this assignment is relevant to your client's legal matter, prepare a demand letter on your client's behalf giving the defendant an opportunity to remedy the matter without going to trial. You may either assume the attorney has provided the amounts or ask your instructor to set damages.

*For this assignment (and for all written assignments on behalf of your client), you are required to attach your time sheet.*

**The Client Letter**

When a client has complaints regarding legal representation, the dissatisfaction often cites the lack of communication between the attorney and the client. A paralegal can assist in maintaining frequent and clear client communications.

As a general rule, when a paralegal communicates with the court (such as when filing legal documents), the opposing counsel, or witnesses regarding the case, at some point he or she should notify the client of this communication, preferably in writing. A copy of the correspondence should be included in the letter to the client. Some firms ask the paralegal to give monthly updates to the client, which serves the same purpose.

Consistent communication will help prevent misunderstandings, help the client understand the representative process, and encourage him or her to feel more involved. The letter should not be long, and it does not need to explain the reasoning behind every action taken on behalf of the client.

It is important to be professional. Attempts to be humorous or "buddy-buddy" can be misinterpreted and may appear unprofessional. Even if the relationship with the client is relaxed and good-natured, in your written correspondence you should impart the persona of a legal professional.

**EXAMPLE: A CLIENT LETTER**

January 17, 2021

Dear Mr. Doe,

Attached please find a copy of the demand letter sent to Mr. Smith. If we have not received payment from Mr. Smith within twenty days, Ms. Wallace will contact you to discuss your options.

Please feel free to contact me if you have any questions regarding this matter.

Respectfully,

Terry Smith  
*Paralegal for Jeanne Wallace*

**ASSIGNMENT § 3.3 | THE CLIENT LETTER**

Prepare a letter informing your client that the demand letter has been sent to the defendant. Keep track of your billable hours. You may use one timesheet for both this client letter and the previous demand letter.

*For this assignment (and for all written assignments on behalf of your client), you are required to attach your time sheet.*