Boundaries and Work-Life Balance
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Boundaries are important. In sports, they define the area of play. In personal relationships they mark the emotional and physical limits one establishes in a relationship. But what about professional boundaries? Professional boundaries are designed to protect both, the client and the lawyer. They define effective and appropriate interaction between the parties. The failure to set healthy boundaries with clients can lead to ethical violations, and with the increased of the use of technology in the law practice the boundary lines can sometimes begin to blur. Without boundaries problems can arise, schedules can implode, and the lawyer can lose a sense of work-life balance.

At KALAP, we believe in the importance of work-life balance to help lawyers stay healthy and engaged with their work. We also understand that this balance means different things for different people. For some, work is life. For others, work is great, but spending time with family and friends is more important. Some want more personal time to focus on physical health, while others just want time to rest. Ultimately, it is important to figure out what’s important to you before determining what work-life balance means to you.

Depending on where you are professionally, achieving a work-life balance may seem hard and unrealistic, but it is important. If you're teetering and fail to find some level of work-life balance, consequences may follow. These consequences can include:

• Fatigue. Productivity and clarity dwindle as sleep does. As a lawyer, you need clarity, and productivity, and everything else that comes from a well-rested night.
• Lost time. Most of us all already know: time with loved ones is precious. But time spent relaxing, traveling or enjoying a good meal is also time lost when you’re struggling to find balance.
• Increased expectations. When you convey that you have no boundaries, working at home in the evenings and working through the weekend, others will believe you. This means more responsibility, more aggressive deadlines, and more challenges finding balance in return.
• Health risks. While stress alone may not kill us, the effects of it might. Stress increases the risk for anxiety, depression, substance abuse, cardiovascular disease, and it negatively impacts our immune system.

So how do we then achieve a work-life balance? My recommendation is to create a routine, minimize interruptions, and set boundaries. Once these items are set, you must then stick with them. Otherwise, they may quickly go out the window. For instance, if you set a communication boundary establishing that you will not answer emails after 7 p.m., but then begin to answer a client’s emails after 7 p.m. on a few select nights, those few nights can quickly become every night. The client’s expectations will change, and the next thing you know you have no boundaries with this client. So, keep in mind, to set a boundary and then not to enforce it is to have no boundary at all.
Setting Boundaries

The first place to start with establishing a work-life balance is to evaluate the boundaries you are currently setting with your clients, and possibly your employer. For some of you, this means recognizing that you might not have well defined boundaries. In order to establish your boundaries, you will want to identify two specific categories: client boundaries and self-boundaries.

Setting Boundaries with Clients

Communication

According Lawyerist.com two of the most common customer service complaints in every industry include tedious communications and companies taking too long to respond. This is no different for lawyers. Of the bar complaints filed, the most common include issues surrounding client communication.

Communication is a key foundation to your practice. It builds your business, it can enhance your reputation, and it can protect you and the client. However, a lawyer can also fall victim to communication overload if boundaries are not set within the lawyer-client relationship. In the very first meeting with the client you should answer questions such as:

- What type of communication channels will be used?
- How often should the client expect communication?
- How long will you take to respond the client?
- Who should they contact if they have questions?
- What are the office hours for communication?
- How long do you expect for client response?
- When will the client answer communication?

These are just a few examples of the questions that should be answered. Note, the questions not only establish the lawyer’s responsibilities with respect to communication, but also the clients.

It is important to establish client boundaries for several different reasons, but one important consideration is that the way we now operate in society with respect to communication. This may establish an unreasonable expectation on behalf of the client. Communication nowadays is instant. Services and products are also almost obtained instantly. A client may expect the same level of response as they get from Amazon Prime from their lawyer. As a result, discussing communication expectations is an important part of establishing boundaries. You will want to consider 1) the communication methods to be used; and 2) what response times should a client expect. Here are a few methods of communication that should be evaluated:

1. Phone Calls
2. Emails
3. Text Messages
4. Direct Messages

Each of these methods may require different standards. If so, be clear in your explanation to the client.

When establishing your communication standards, it is also important to keep in mind the Rules of Professional Conduct. KRPC 1.4 states, “A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.” Comment 5 reminds that, “A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. A lawyer should promptly respond to or acknowledge client communications.”

So, the question ultimately becomes what does it mean to keep a client reasonably informed and to promptly respond? As a former deputy disciplinary administrator, I can tell you what it doesn’t mean. It certainly doesn’t mean responding to the 2 a.m. email at 2:05 a.m. However, if you set this expectation of immediacy for your clients, then yes, that is what they are going to expect from you time and time again.

I mentioned above that the new ways to communicate open doors for unreasonable expectations from our clients, but it also puts a lawyer at risk for becoming technology dependent or even cross over to a digital addiction. Lawyers must be careful when it comes to screen time. We should be balancing our duties under 1.1 Competence with respect to technology, but we must also balance our use of technology to ensure we have a good work-life balance.

A digital addiction, or even overuse, can have significant effects including sleep disruption, anxiety, depression, stress, inability to focus on anything other than your devices, and even an inability to interact normally with people. Lawyers can become addicted to work and lose their focus on work-life balance. This addiction to the device can also affect those around you, including your family. The lawyer can also be distracted from work by their devices. This causes the lawyer to be unable to focus on important tasks. Instead, the lure of the device interrupts workflow, and even reduces productivity. This device distraction can affect whether a lawyer can enter into “deep work” and can affect the overall work quality of the lawyer. Meaning, the lawyer may not produce the best work product they are capable of. Knowing that these issues can arise, and that our work makes us vulnerable, should further prompt you to set boundaries with your clients in order to empower you to use devices less during non-work hours.

In a recent American Bar Association Young Lawyers Section article, Even New Attorneys Need to Set Boundaries, they gave the following tip, “Most offices keep 8 a.m. to 5 p.m. hours. As a new attorney, you don’t want to stray too far outside those hours. After 5 p.m., courts are closed, and judges are gone. Even if you answered, you wouldn’t be able to accomplish much.” While it was written for the young lawyer in mind, I believe it is a good reminder for every lawyer when it comes to client communication.

Office Appointments
Do you make yourself available anytime a client wants you? Have you found yourself offering late last minute after hour appointments for a client? If so, it sounds like this might be a boundary area to work on.

With respect to appointments, the most important thing for you is to stick to the schedule that you set. It is understandable that a client may not be able to meet with you during normal business hours, and if you wanting to accommodate that client is also reasonable. My recommendation, however, is to have a set schedule, whether that includes a day out of the week where you will take an after 5 appointment, that is up to you. Just make sure you are adhering to your schedule and it doesn’t become a nightly thing.

Additionally, you should decide whether you are willing to accept the random unexpected pop-in by a client. The better practice would be to have the client call and set up a time to meet. If it is an emergency, then of course you can be willing to accommodate, but it is best practice to have the client call first.

*Emergency vs. Non-Emergency*

Clients may have an emergency after business hours. Unfortunately, clients often do not understand what an emergency is. As a lawyer, you also need to decide and know what constitutes an emergency so that midnight calls from clients don’t become the norm. It is important to have a discussion with the client on the front end of the relationship about your definition of what constitutes an emergency. Make sure the client has a clear understanding.

*You Are a Lawyer, Not a Therapist*

Lastly, it important to have boundaries that establish your role as a lawyer. Most therapists understand that they should not provide legal advice. Likewise, most lawyers know that they should not provide therapy to clients. However, you may often find yourself in situations where it feels like you are doing both. Clients confide in lawyers in ways they don’t others. It is important, however, for you as the lawyer to recognize when your client might need professional clinical help.

If you find that a client is contacting often for emotional support, rather than legal, you should consider recommending the client seek a mental health care professional. The Attorney at Work blog said it best when they said, “A lot of lawyers are “fixers” — if there’s any kind of problem, they want to fix it now. But your clients likely have lots of problems and you cannot and should not be responsible for fixing them all.”

*Using the Engagement Agreement Effectively to Manage Boundaries*

Your engagement agreement can be your best friend when it comes to establishing boundaries and expectations with a client. A well drafted agreement establishes what is acceptable on the part of both parties, the client and the lawyer. Ultimately, you should be using your agreement to manage:

- Expectations about service
- Expectations about time
• Expectations about costs
• Expectations about results

While the Kansas Rules of Professional Conduct only require contingency fee agreements to be in writing, it is still a good practice to put all fee agreements in writing. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding on the part of the client.

Additionally, it is important to remember obligations under Rule 1.5(b) of the Kansas Rules of Professional Conduct, which states: “[w]hen the attorney has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.” While it is not required to put the agreement in writing, it is preferred. At the end of the day, what it is going to hurt you to put the agreement in writing. In fact, it could save you from risks down the road.

Two big risks inherent to running your practice are 1) legal malpractice or an ethical violation; and 2) not getting paid. In addition to managing client expectations, a well-thought-out and continually reexamined agreement is an essential tool for the managing those risks. Your agreement should be a living document, continually reexamined considering changes in the law and lessons learned in your practice. With respect to boundaries, here are two areas to pay close attention to within your agreements:

1. Scope - The scope of representation should be set forth and any limits on what the lawyer will do must be clearly spelled out. A lawyer may limit the objectives of the representation if the client gives informed consent in writing. However, any limitation must be in accord with the Rules of Professional Conduct and other law. For instance, a client may not be asked to agree to representation so limited in scope as to violate KRPC 1.1 relating to competence or to surrender the right to terminate the lawyers’ services. A lawyer also cannot limit their duties or liability under the Rules of Professional Conduct in the agreement.

As a practical matter, a lawyer should not only set forth the legal services that he or she will provide but, in some instances, spell out the services that are not included as part of the agreement to aid in setting boundaries with client. This can also help limit any misunderstanding the client may have about the lawyer’s responsibilities. Additionally, KRPC 1.4 requires lawyers to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. This includes explaining the nature of the attorney-client relationship. You want to make sure the client understands up front the scope of your representation as well as the terms of your representation.

2. Communication Expectations - Of course, the duty of communication always rests on the lawyer, however, it can be helpful to outline certain expectations that a lawyer needs from a client to provide quality legal services to that client. This is where the lawyer can describe the frequency and form of communications with the client, identifying the person or persons whom the client should contact with questions.
Informing the client of the firm's policy regarding the time within which calls will be returned and what to do if a timely response is not received is advisable. Additionally, state the firm's policy regarding the use of faxes, e-mail, and text messages to the client and obtain the client's consent to such communications. If your preferred method of communication is email first, then explanation of when the client should be using encryption to protect confidential information is also advisable.

When it comes to the expectations of both the client and the lawyer, some of my practice management advisor friends and colleagues have even suggested drafting a separate integrity agreement between the client and the attorney to outline what is expected of both the lawyer and the client. This is separate from the engagement agreement and is designed to give the client a full understanding of their own roles and responsibilities in the matter, as well as those of the lawyer. During the initial conversation, the lawyer should talk through each point, both lawyer and client sign it, and a copy is given to the client. The bottom line is that whether you include this information in your engagement contract or in a separate agreement, taking an extra 15 minutes in the beginning educating a client and setting the mutual standards for working together can save uncounted hours of frustration, multiple phone calls, and potentially uncollected invoices.

**Setting Boundaries with Yourself**

*Your Time*

Setting your own personal boundaries about how you will use your time is a useful technique for managing the stress associated with the practice of law and for enabling you to enjoy a reasonably balanced life. Boundaries will help you preserve time for vacations and activities other than practicing law that are meaningful for you. Time boundaries will also give you opportunities during the day to take breaks for reflection and rejuvenation. Here are some questions you should ask yourself:

- How much time do you want to set aside for vacations each year?
- Are you willing to have clients and colleagues contact you while you are on vacation? If so, under what circumstances?
- How often, and under what circumstances, will you bring work home with you at the end of the day?
- How often, and under what circumstances, will you work on weekends?
- How frequently will you check email during the week? Will you check email on weekends? Will you check email while on vacation?
- Will you block out time on your calendar for important family events and religious holidays?
- Will you set aside time on your calendar during the week to think about ways you can improve your professional situation and take your law practice to the next level?
- Will you give yourself permission to take breaks during the day?
Once you set boundaries around your time, it will be important to manage the expectations of your clients and colleagues consistent with those boundaries. Unless you take affirmative steps to manage your time consistent with the boundaries you want to maintain, clients and colleagues will be more than happy to manage your time for you.

**Your Mental Health**

We tend to see clients on the worst days of their lives, which means you will get the brunt of all the negativity. This coupled with disturbing facts, horrifying pictures, and constant analysis leads to some of the highest depression, anxiety, and substance abuse rates in the profession. In addition to taking a vacation, know that it is beneficial to take mental health days. Do not ignore fatigue, anxiety, or depression. These are often symptoms of a larger problem like burnout. Allowing yourself permission to take mental health days will help prevent long-term burnout and will help you get in tune with your body and brain.

**Perfection: Let it Go**

This will be one of your hardest challenges; however, the sooner you learn that perfection is unrealistic and dangerous, the better and healthier you will be. As type A personalities, perfection is the goal, but what happens when you fail? You end up in a vicious cycle of depression, anxiety, burn out, and perfectionism. Allowing yourself permission to let go of perfectionism will break this cycle. This doesn’t mean that you aren’t going to produce high quality work or that you are going to fail your clients or ignore your ethical responsibilities. Instead, it will allow yourself to let go of the pressure.

**What is Next?**

**Minimizing Distraction and Setting a Routine**

Once you have established your boundaries, the next steps in this process of achieving a better work-life balancing is attempting to minimize distraction and then establish a daily routine.

**Setting a Routine**

Set time limits for single tasks, like responding to email. Don’t do that task outside your set hours. Do the same for leisure activities or exercise. Routines and written schedules help you better manage stress, tasks, and time. Routines can include taking a lunch at a set time every day to ensure you’re taking a break. Stepping outside the office can help your mind decompress from the responsibilities of the professional world and can help you work more effectively in addition to relieving some of your work-based stress. Studies show that if something is on our calendar, we are more likely to do it. So, don’t be afraid to schedule you daily routine.

If you already have a daily routine, it might be time to re-evaluate it. If there’s a daily activity that is not required and does not bring you a deep sense of satisfaction nor serves your greater good, get rid of it. Then, replace its time slot with something that does bring you joy and serves
your greater good. What you replace it with does not need to be something obligatory, like another household chore. Instead, consider replacing it with something that feeds you.

Minimize Distraction

Research tells us that interruptions lead to higher workloads, more stress, higher frustration levels, and more time pressures. Cal Newport, Georgetown professor and author, suggest that we can divide our work (any work really) into two categories that represent how we work and the type of work generated:

- **Shallow Work** — Tasks that do not create much new value, easy to replicate, often performed while distracted.

In contrast, we also have...

- **Deep Work** — Tasks that create new value and hard to replicate, push cognitive capabilities to their limit, performed free from distractions.

There is a parallel between deep work and the work we do as lawyers. Writing briefs, preparing for trial, research issues to present on a motion to the court—these are all examples of deep work. We also do shallow work as lawyers that distracts us from deep work – rapid fire communication, social media, busyness that serves as a proxy for productivity.

Have you ever found that while doing a project, it’s easy to get distracted and fall into the trap of assigning way too much time to shallow activities? I know I have. We may find ourselves running out of time to complete work that produces value because the amount of shallow work that distracts us throughout the day. This is an unhealthy relationship with deep work. In fact, cognitive switching from deep work to shallow work, from shallow work to deep work, and back and forth again has penalties as it drains our time and our energy. As result, it important for you to take time to find your distraction-free zone in order to produce your best work.

Our brains like it when we establish a routine. To introduce deep work into your workday, it helps to define upfront the rules of engagement. Define where are you going to work and for how long. Use time management techniques such as the pomodoro technique to maximize your distraction free time.

You may be asking what all this deep work vs. shallow work has to do with establishing a healthy work-life balance. If so, my answer to you is that if we set effective client boundaries, we reduce the amount of distraction we will allow in a given day or at a given time, ultimately allowing us to compete more meaningful work for clients. Additionally, you should be able to complete task in a more efficient manner, allowing you to go home without work in hand thereby creating a better work-life balance overall.