

Managing Caseloads in Challenging Times

I. Introduction

- a. As immigration practitioners, we have felt like yo-yos the last few years. It started a few years ago with the ever increasing USCIS and EOIR backlogs and policy changes like DACA and DAPA. As the wait times have gotten longer, there is a cascading effect to our day-to-day work. How do we advise clients on the best legal course for their case? How do we adjust our caseloads to maintain flexibility to handle what may unexpectedly come up in a case that was supposed to resolve within a year but now could take up to 4 or more years?
- b. Then over the past two years we have not only added to the backlogs but it seems that every week a new policy is coming out of DOS, USCIS, or EOIR that dramatically and drastically changes the way we do our work. It could also dramatically and drastically change the advice we give our clients.
- c. This panel will discuss how we, as practitioners, can adapt to change, meet our ethical obligations, and empower our clients to understand and make decisions in their legal cases.

II. Ethics Rules to be discussed

- a. While we will not parse out the ethics rules specifically, we will discuss generally the following rules:
 - i. Rule 1.1 – Competence
 - ii. Rule 1.2 - Scope of Representation & Allocation of Authority Between Client & Lawyer
 - iii. Rule 1.3 – Diligence
 - iv. Rule 3.1: Meritorious Claims & Contentions
 - v. Rule 3.2 – Expediting litigation
- b. Increasing concerns that are take an increasing amount of time
 - i. Intake time in increased given that any possible claim must be examined and reviewed increasing the time of intake
 - ii. Because cases are more likely to end in a defensive posture – must evaluate for what passes the “laugh” test in case you need to present it
- c. Maintain client communication
 - i. Communicate processing times and the how they have changed - DOCUMENT
 - ii. Communicate regarding changes in the processing times that necessitate extra work, like RFEs or EAD renewals, that will require a change in pricing/scope of representation
- d. Practice Tips
 - i. Have a mentor and appropriate resources available you can speak with and bounce ideas off.
 - ii. Being okay with “I don’t know; I have to research it” – what does that mean practically and ethically speaking

III. Practice Discussion

- a. How to appropriately set client expectations
 - i. Begin managing client expectations at intake

- ii. Acknowledgement that it is hard to advise when you don't have control over the timelines or consistency in them
 - iii. Given the increasing delays in adjudications, attorneys are finding themselves more and more in a position of advising clients about non-legal related issues.
 - 1. In addition, more and more conflicts between principal applicants and derivatives have been arising as cases are taking longer to resolve.
 - b. How to marshal limited resources and stay light on our feet
 - c. Creating disclosures
- IV. Resilience in ourselves and our teams
 - a. Staffing
 - i. Practice groups is one way to organize
 - 1. For example: removal practice group with 2 attorneys and 4 staff. Allows specialization that could allow for higher caseloads due to expertise
 - 2. Have responsible attorney for every case
 - b. Case management
 - i. Need a system to help you track deadlines and changes in cases
 - c. Self-care
- V. Some resource materials
 - a. https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/
 - b. https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/lsc_colap_well-being_toolkit_for_lawyers_legal_employers.authcheckdam.pdf
 - c. <https://vtt.ovc.ojp.gov/about-the-toolkit>
 - d. https://ovc.ncjrs.gov/pdftxt/Creating_a_Vicarious_Trauma-Informed_Organization_Strategies_for_Success_Recording_Presentation_508.pdf
 - e. <https://www.lexisnexis.com/legalnewsroom/legal-business/b/strategy/posts/section-2-11-of-how-to-manage-your-law-office-practice-groups-as-part-of-organizational-structure>
 - f. <https://www.legal.io/guide/5beb4a52c7ec141e6ec5bd65/Managing+Client+Expectations+When+Their+Outcome+Is+Uncertain>