

# **What Should (and Should Not) be in Your Appellate Representation Agreement**

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**The fiduciary relationship between an attorney and his client extends even to preliminary consultations between the client and the attorney regarding the attorney's possible retention.**

***Nolan v. Foreman*, 665 F.2d 738, 739, n.3 (5th Cir. 1982).**

**Foreman's fiduciary responsibilities attached when he entered into the discussion of Rick Nolan's legal problems with a view toward undertaking representation.**

***Nolan v. Foreman*, 665 F.2d 738, 739, n.3 (5th Cir. 1982).**

**The attorney-client relationship “arises from the clear and express agreement of the parties about the nature of the work to be done and the compensation to be paid.”**

***Gillis v. Provost & Umphrey, LLP*, No. 05-13-00892-CV, 2015 WL 170240, at \*10 (Tex. App.— Dallas 2015, no pet.).**

**The determination of whether there was a meeting of the minds must be based on an objective standard examining what the parties did and said and not on their alleged subjective states of mind.**

***Gillis v. Provost & Umphrey, LLP, No. 05-13-00892-CV, 2015 WL 170240, at \*10 (Tex. App.– Dallas 2015, no pet.).***

**“When interpreting and enforcing attorney-client fee agreements, it is ‘not enough to simply say that a contract is a contract. There are ethical considerations overlaying the contractual relationship.’ ” *Hoover Slovacek, 206 S.W.3d at 560 (quoting López v. Munoz, Hockema & Reed, L.L.P., 22 S.W.3d 857 (Tex. 2000) (Gonzales, J., conc. and dissenting)).***

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