How Can You Commit Malpractice When Declining a Matter?

When declining to accept a matter, lawyers should avoid giving any legal advice or opinion regarding the prospective client’s legal matter. For example, if you decline a case because it is not in your area of practice, do not try to tell the prospective client the date on which you think the statute of limitations might expire. One lawyer did that, in a practice area in which she had no experience, and gave the client the wrong date because the statute had been amended since the publication of the book she referenced. Also, do not give a gratuitous opinion about the merits of the client’s case. One lawyer rejected a wrongful death action and opined that the prospective client didn’t have a good case. The dejected prospective client did not consult another attorney until after the statute of limitations had expired. She then sued the first attorney for giving her erroneous advice as to the merits of her claim. The jury in the legal malpractice case found that she had a good claim that would have resulted in a judgment of over a half million dollars and awarded that amount to the rejected client.