

## **EFFECTIVE CLIENT RELATIONS – A KEY TO BUILDING A SUCCESSFUL PRACTICE AND TO REDUCING THE RISK OF MALPRACTICE CLAIMS**

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There are few sports more popular in America than lawyer bashing. The public's perception of the legal profession is not favorable, and is not what it should be. Nowhere is this problem more acutely felt than in courtrooms where the defendant is a lawyer being sued for malpractice.

Poor client relations are a major cause of public dissatisfaction with the profession, and of the proliferation of legal malpractice claims as well. It is up to each of us to pay closer attention to establishing and maintaining positive client relations, and we have three compelling reasons to do so. First, good client relations are good for business. Second, they are a key to avoiding meritless malpractice claims and to minimizing exposure when meritorious claims are made. Third, good client relations go a long way toward restoring public confidence in the legal profession. As President Theodore Roosevelt aptly said: "Every man owes some of his time to the up building of the profession to which he belongs." By developing a pattern of effective client relations, lawyers not only benefit their own practices, but also help to raise the stature of their profession in the eyes of the public.

This article will focus on: (1) educating clients and assisting them in formulating reasonable expectations; (2) keeping clients fully informed and involved; and (3) other

general considerations related to maintaining good client relations.

**I. TAKE THE TIME TO EDUCATE YOUR CLIENT AND TO ASSIST THE CLIENT IN FORMULATING REASONABLE EXPECTATIONS.**

Clients frequently have limited or confused information about the legal process. Attorneys should therefore educate their clients at the outset with regard to how the system works. A client who knows what to expect is less likely to become frustrated with the system or angry at his or her attorney.

For example, if you are handling litigation for a client who is not regularly involved in that process, you should take the time at the outset to explain how the system works from the filing of the complaint through appeal. In addition, because time delays are a primary source of client frustration, you should explain what types of delays occur in the course of litigation. For example, it is important for a client to understand that while a trial is apt to be set within a specific time after the complaint is filed, they can expect to learn at the eleventh hour that there is no courtroom available and that the trial is going to be delayed for several months.

While the nature of the explanation will differ in a transactional matter, it is no less important. The transactional attorney should explain the process at hand in detail unless the client regularly goes through the process as part of his or her business. This discussion should also include an explanation of expected time parameters, and the steps at which delays or problems can occur.

Once you have set the stage with information about how the legal process works, you should discuss relevant risks with your client. Your goal here should be to foster the development of reasonable expectations about the ultimate outcome of the case or transaction. For, when a client has unreasonable expectations, he or she is likely to be dissatisfied with the outcome and angry at you.

In the litigation context, most clients feel they are telling the truth and have a just

cause, and that a good lawyer will be able to convince any jury that they should prevail. Do not perpetuate that misconception. Clients need to know from the first meeting that it is difficult to predict how a particular judge and/or jury will respond in a given case and that there is always a significant risk of losing. If you have not properly prepared your client for the potentiality that he or she may end up on the losing side (as half of all litigants do), you are setting the stage for future hostility and ill-will.

The same holds true in transactional matters. Do not start the process by telling your client how smoothly you will make everything work. The client who has never been told about the risk of the deal falling through or of being forced into litigation is the client who is likely to be unhappy with your representation when one of those events occurs.

Some lawyers are afraid to discuss “negatives” with their clients at the outset of the representation, fearing that the client will go to another lawyer who “sees things the same way they do.” However, a client who is not willing to listen to and to acknowledge the risks is a client who is likely to have unreasonable expectations and who is apt to be dissatisfied with your representation. It is better to learn about these clients in the initial meeting, and to have them seek other counsel.

Attorneys should also avoid creating unreasonable expectations concerning fees. Virtually all fee agreements must now be in writing, and even those that are not required to be in writing should be. When discussing fees, be very careful about providing estimates. What you perceive as “an estimate” of the fee is often going to be interpreted by the client as “a maximum” fee. If you do give an estimate, make sure that you emphasize in writing that it is an estimate only and that the fees could (or likely will) be higher.

Furthermore, while giving an estimate that is on the high side may scare some clients away, it is a much safer approach than giving a low estimate. No client is going to be angry because the matter ended up costing less than you estimated. However, very

few clients will be understanding when the ultimate cost exceeds your estimate, even if there have been unusual circumstances.

## **II. KEEP YOUR CLIENT INFORMED AND INVOLVED DURING THE PENDENCY OF THE REPRESENTATION.**

To maintain effective client relations, attorneys must also make sure that their clients are informed of significant developments and participate in important decisions throughout the pendency of the representation.

There are many easy and virtually cost-free ways to keep clients informed. For example, sending the client copies of correspondence and pleadings generated by you and the other attorneys involved in the matter will go a long way toward keeping the client informed.

An effective method of helping the client to keep track of the information that develops during representation is to give the client a labeled file at the outset of the representation for correspondence, notes and pleadings. Then advise the client to keep everything you send and all notes he or she makes in the file. Few clients who are provided with this type of information will complain that their lawyers did not keep them fully informed.

Itemized billings (where clients are billed on an hourly basis) are another easy way to keep clients informed. Moreover, if the client is advised at the outset that the work being done will be set forth in some detail in billing summaries, the client is more likely to understand the work you have done and why the bill is in the amount indicated.

While the foregoing are simple and effective ways of keeping clients informed, they do not suffice. You must also take the time to discuss your preliminary evaluation of the matter with your client, as well as changes in that evaluation as they occur. How often do you have the same evaluation of a case at the start of trial that you had the first day you met with the client? Almost never. Yet, many lawyers do not tell their clients how their evaluation has changed or why until it is time to discuss settlement. When developments alter your initial view of the client's matter, don't wait until a pre-settlement meeting to discuss the changes. Instead, let your client know in a prompt and appropriate manner what has happened and how it affects your evaluation. Remember, a client needs that information in order to make informed and appropriate decisions, and many clients are skeptical of information imparted for the first time in a settlement meeting or on the eve of trial.

It is also prudent to provide the client with confirming letters when you have discussed your evaluation, or other important matters. Many clients will review such a letter and ask why you took the time (and their money if the fee is based on time) to repeat what you already told them. To avoid this problem you should tell the client at the outset that you will be confirming certain aspects of your most significant discussions in writing. Explain that by doing so you will minimize the risk that there has been any miscommunication or misunderstanding, and will give the client the opportunity to review and to reconsider the information outside of your office so that the client can

make important decisions in a studied and appropriate manner.

Finally, it is exceedingly important to keep your client involved in the process through participation in major decisions. Remember that the case is the client's and that your role is to assist the client in achieving his or her objective.

The public's perception that lawyers are arrogant stems in large part from the failure of attorneys to keep clients involved in the decision-making processes that have a direct bearing on their lives. It is up to each of us to change that perception, in large part through the way we relate to our clients.

### **III. OTHER IMPORTANT CONSIDERATIONS IN FOSTERING GOOD CLIENT RELATIONS.**

The preceding sections of this article addressed the importance of educating clients, creating reasonable expectations, and keeping clients informed and involved. This section includes a brief list of other factors that are important to establishing and maintaining good client relations.

1. Make each client believe that his or her matter is important to you.
2. Treat each client with respect at all times.
3. Listen to what your client has to say.
4. Be prompt in returning phone calls and in meeting your client.
5. Keep attorney-client relationships professional by avoiding business dealings and personal relationships with clients.
6. Keep your relationships with your adversaries professional.

7. Avoid conflicts of interest.

#### **IV. CONCLUSION.**

Good client relations exist when your client walks away from the representation with a feeling of trust and confidence. Given the public's view toward our profession and the dramatic increase in the frequency and severity of legal malpractice claims, one can only conclude that too few lawyers are making the appropriate effort to develop and to maintain good client relations.

Most clients will develop a feeling of trust and confidence if they have been: (1) educated about the process; (2) kept fully informed and involved; and (3) treated with respect. These are not difficult goals to achieve, and they can provide substantial rewards. The client who has trust and confidence in you at the end of the representation is apt to be a source of future business (either directly or through referrals), and is much less likely to sue you for malpractice. In addition, you will be doing your part to restore public confidence in our profession.