

# Poor Client Relations Can Lead to Malpractice Claims

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**W**hat is the one common element in all legal malpractice claims? A dissatisfied client, who often is dissatisfied not with the legal services but with the way he or she was treated. Take the following steps to enhance client satisfaction and reduce the likelihood of malpractice claims.

**1. Use engagement letters and contingency fee agreements that clearly set forth the client's identity, the scope of the representation, and the fee.** Don't assume that there is some mystical meeting of the minds between you and your client regarding the vital terms of your representation. Instead, start the relationship off with a clear and concise engagement letter or contingency fee agreement.

**2. Don't create unrealistic expectations.** Be careful not to engender false expectations in the client about the cost, the outcome, or the time needed to resolve the matter. For example, suppose that you casually suggest at the initial meeting that a \$10,000 tax refund or personal injury settlement is possible. You have just created an expectation of a \$10,000 outcome. If the client receives one dollar less than \$10,000, he or she will be disappointed because of the false expectation you unintentionally created.

The bottom line is that you cannot allow a client to pressure you into giving a premature estimate. Instead, inform the client that you don't yet have enough information to make a meaningful evaluation.

**3. Give clients whatever bad news there may be early and often.** This may sound like odd advice on client relations, but it's true. First and foremost, you have an ethical duty to keep clients informed, and that includes delivering the bad as well as the good news. Second, you will fall into the false expecta-



**Communicate with clients, listen to them — your reward may just be the suit you don't have to defend.**

tion trap if you put off informing your client of the weaknesses in his or her case or the risks inherent in a particular course of action or strategy. By pointing out potential problems and weaknesses early and often, the client will be better able to make informed decisions and won't be shocked at an unfavorable result.

**4. Listen to your clients.** Let's face it — most attorneys are not great listeners. Yet listening to your client is one of your most important tasks. Attorneys who do not listen carefully often fail to identify the true concerns and objectives of their clients and may pursue courses of action against their clients' wishes.

For example, assume that your client has been named in a nasty lawsuit. You believe that the client has an ironclad

defense and aggressively pursue it. Your client, on the other hand, has repeatedly tried to tell you that she wants to avoid the publicity of a trial. In this situation, if you fail to vigorously pursue settlement and the case ends up in trial, you will have an extremely dissatisfied client — even if you win.

The solution is to train yourself to listen to your clients. At the initial meeting with the client, ask yourself, "What are my client's concerns and what is his or her ultimate objective?" If you can't answer these questions, you need to listen more attentively.

**5. Copy the client on everything.** Establish a procedure under which your secretary automatically sends the client a copy of every document relating to his or her matter unless you instruct otherwise. If you're afraid that each copy will elicit a telephone call, attach a standard cover memo informing the client whether the attached material requires action or is for information only.

These simple procedures serve several purposes. Even if the client doesn't read any of the paper, he or she will know you're working hard and not neglecting the matter. And the client who receives a copy of your written work product is more likely to pay your monthly bill than a client who hasn't received anything in the preceding month. Finally, by keeping the client up to date on the matter, you may flush out minor disagreements before they become irreconcilable differences.

**6. Correspond with your clients on a regular basis.** Never allow 60 days to pass without contacting your client in some manner. (Sending copies of your work product as suggested above is often enough.) If nothing is happening on the file, send the client a brief letter

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explaining why. For example, you might briefly inform the client that you're waiting for a judge to rule on a dispositive motion and that no further work will begin until after the ruling. If you don't send periodic updates, the client might get the impression that you are neglecting the matter.

You can accomplish this goal by calendaring each file for review every 30 to 60 days. Then each Monday have your secretary pull all of the files scheduled for review that week. Review each briefly for its status. If the file indicates that the client has not heard from your office in the last 60 days, dictate a quick letter. Automatic file reviews not only improve your client relations, they reduce the risk that you'll neglect a file during busy or stressful periods.

**7. Return those telephone calls!** The infamous *unreturned telephone call* is the most common complaint among clients. Why do we continue to exasperate our clients with this bad habit? Consider how irritated you feel when you don't get a return call from, say, opposing counsel, one of your own partners, your doctor, or the cable guy. Well, your client feels that same frustration.

Returning telephone calls expeditiously shows your clients that you value their business and feel their matter is as important as any other. It is the quickest and most inexpensive way to bolster client satisfaction. Start with a hard and fast rule that all calls must be returned by the end of each day, or within 24 hours at the latest. Set aside a time at the end of the day for returning calls.

If you're at a closing, on vacation, or otherwise preoccupied, have your secretary return the call. Your secretary should ask the client if the matter is truly an emergency or if it can wait until you return. This will reduce the number of calls that must be returned by the end of the day. *Then, follow through and return the call as soon as possible.* If you live by these rules, your clients will grow to trust you and will not be forced to fabricate emergencies to get your attention.

There are thousands of lawyers in Illinois. If you don't treat your clients right, they'll find someone who will...and, worse yet, they may reward your lack of courtesy with a malpractice claim.