

How to Deal with a Troublesome Client

By Steven A. Meyerowitz

A difficult client can almost make a lawyer want to give up *all* clients. Here are some steps that can make a headache-causer easier to deal with.





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There is no pleasing some clients. Even lawyers who love to practice law have been retained by clients who seem to argue with them over the provisions of every motion, paper or contract they draft; who frequently disregard advice; who cause problems with the office staff; or who just complain, complain, complain. Lawyers want to (and often do) fire such clients, and they can make lawyers wonder why they went into the profession in the first place.

Ellen S. Fischer, the immediate past chair of the Montgomery Bar Association Family Law Section, has had her share of troublesome clients in the dozen or so years in which she has practiced family law exclusively. She says she recognizes that people who come to her are “often emotionally distraught.” Because her practice deals with people who are “going through hell,” Fischer said she understands they are “going to react.” Still, that does not mean the poor behavior of some is easy to accept.

One problem group, she says, consists of clients who “do not appreciate that divorce is about adults and not children.” Some of these clients “tell their children everything and share with them my letters, their arguments with their spouse and the difficulties they are facing.”

Recently, Fischer was representing a husband in a divorce action; he and his wife had a child in college and another in high school. “The husband let the children know what was going on. I could not control him,” Fischer says. He got his kids so enmeshed and involved in the divorce that they “sent their parents e-mail and letters.” Although Fischer believes her client’s actions did not have a “direct impact on my representation,” she acknowledges that they “led me to deal with opposing counsel in a different way than I ever would have, a negative way.”

Troublesome clients are not limited to lawyers who practice family law or who represent individuals, as opposed to corporations. John H. Schmidt Jr. is a partner and member of the executive committee of Lindabury, McCormick, Estabrook & Cooper P.C. As head of the employment law practice in the firm’s Westfield, N.J., office, he represents businesses through their senior executives and in-house counsel and admits that

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“occasionally, I have a troublesome client.” In fact, he says, “I have one now. The client is complaining because they have not seen satisfactory results in the period of time their litigation has been ongoing.” Schmidt said he believes that “frequently, clients do not understand the old adage that ‘the wheels of justice turn slowly.’ In this case, they are complaining because they have paid fees but have not seen results.”

Prevention as the Best Cure?

Even though it might seem logical that clients are only interested in results and will press their lawyers when they do not obtain the results to which they feel entitled — perhaps especially when they pay attorney’s fees before a lawsuit is over or while the matter or transaction for which an attorney has been retained is still pending — there are steps that lawyers can take to limit the impact of trouble-

some clients on them while they are seeking to eliminate these clients’ troubles.

Stacy Clark, an attorney and law firm marketing consultant in Devon, said the first step occurs at the retention stage, when lawyers should “set out client service standards.” According to Clark, this allows both parties, the client and the lawyer, to “know what is expected of them” in terms of crucial relationship matters such as “the kinds and frequency of communications the client wants, the kinds of responsiveness and accessibility the firm will provide, the strategy and expectations for the case and more.” In Clark’s view, “knowing what the ground rules and ‘promises’ are at the inception can prevent there from being any problems or ‘problem clients’ in the future.”

Schmidt agrees that communication can be key. This can help, he says, not just to lower the heat in a difficult attorney-



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client relationship but also to "protect against malpractice and fee disputes." Schmidt says that when there is a problem, he tries to "communicate with the client to see where [the problem is] or what is causing the problem." He does so by "personal communication — by telephone or in person at a conference or meeting," so the client will understand that Schmidt has a "personal interest in making sure the client's needs are being satisfied."

Then, after discussions with the client and pinpointing the issues creating the problem, Schmidt said he explains how he has tried to resolve those issues and the consequences of his efforts. This usually helps to deal with the client's ire, but if not, he says he will try to work out "an amicable transfer of the file."

Know Thy Client

Another tactic recommended by Clark is for lawyers "to learn everything they can about their clients and to understand deeply and utterly how the client makes money and increases revenues, what are its obstacles to success and more." The benefit to this strategy, says Clark, is that the more acquainted a lawyer is with a client's business and the issues that are keeping its owners up at night, the more likely the lawyer is to be "a true advocate for and partner in the client's success." If a client sees that a lawyer truly is a partner vitally committed to the client's success, Clark says, that client is more likely to have a positive view of the lawyer rather than seeing him or her "as a troublesome service provider." In Clark's opinion, all of this will contribute to a "happy" attorney-client relationship.



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Deborah Addis, a Boston-based strategic marketing consultant, says lawyers should make certain that a troublesome client is “worth the effort” — that is, that you are “dealing with a client you want to keep for financial reasons and one you can get the desired results for.” If that test is met and the client is a corporation or other business entity, but the lawyer’s problem really is with an individual executive at the company, then the lawyer “should go out of [his or her] way to develop good relationships with ‘gatekeepers,’ that is, individuals in the client organization you can work with to get or convey essential information, do scheduling and confer with, generally without having to deal directly with the troublesome person.”

The idea is to find a way to work around the “troublesome” individual, which, Addis points out, is good anyway because that will “save everyone time and trouble.” She adds that “of course, you don’t want to appear to be avoiding the client altogether, but limiting nonessential direct contact might diminish the opportunity for the client to get in the way of results, which is finally what the client cares about.”

On occasion, the client itself — the organization as a whole and not just a particular individual — is the problem. In that situation, Addis suggests the best thing to do is “examine the reasons for sticking with that client” as well as “examine why it is troublesome.” The underlying reasons could be that the client is not happy or that there are things the client has not revealed, “like they are about ready to fall off a cliff.” It may be something as simple as “the chemistry in the relationship is just not there.” Addis says the chances are that if the client has been troublesome for a while, the relationship will not last. In this scenario, she says the lawyer must ask himself or herself, “Do I want to wait for it to fail or do I want to withdraw gracefully, if that is possible, before that happens?”

Third-Party Involvement

John Schmidt of the Lindabury firm suggested another possible solution to the troublesome-client problem. Describing how another lawyer had lost a case at trial and had recommended that his client take an appeal but the client was unhappy and wanted to fire that lawyer, Schmidt said the lawyer asked him to review the file and give the client an opinion on the chances for a successful appeal. Schmidt did so, listing to the client the issues on which he thought the other lawyer had a good chance to succeed. The client went back to that lawyer and agreed to have him prosecute the appeal. Schmidt describes this process as “a way to show

that the attorney was doing everything possible for his client.”

On occasion, having an outside third party get involved in the attorney-client relationship may be more than a good idea; it may almost be necessary. Family lawyer Ellen Fischer said she once was representing a wife in a divorce and the wife’s father, who had lent a lot of money to her husband, mentioned at a meeting that “there were guys he met who could ‘take care of’ the husband.” Fischer called the ethics hotline to discuss this and explore whether or not she should contact the police. After “agonizing” over it with the Disciplinary Board, Fischer decided the father’s statement did not rise to the level of something that she had to report to law enforcement, but she welcomed the opportunity to analyze this issue in depth with the board. 🌀



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