



DECLINING AND FIRING CLIENTS

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For those of you who regularly read my articles, this will seem quite a departure. I normally present topics to assist you in fine tuning your management practices, with an emphasis on competitive use of technology, retention of clients and staff, and improving client service. I frequently talk about how competitive the legal marketplace is, and how one cannot afford to overlook even the smallest area in which to improve client service and relationships. I believe wholeheartedly in those concepts. I also believe that a healthy firm must learn to say no to undesirable clients, and should, at least once a year, review the current stable of clients and select a few for termination.

There are attorneys who have never turned away a client, and others who have never fired a client. I do not interpret that as a sign of good management. In fact, I can almost assure you that a firm which never turns away a client, except for a conflict, has a higher risk of malpractice than one which does turn away clients. If you talk with highly successful attorneys, they will tell you that they regularly decline clients who are not of the “quality” they like to represent. And they periodically fire clients for whom working is not profitable or is inordinately difficult from other than a legal perspective.

I can almost hear you thinking that it’s hard enough getting the prospective clients in the door; so what would possibly prompt you to turn the client away. Here are some reasons to turn away clients:

1. The client wants to “win” at any cost on matter of principle. Money is no object. Unfortunately, experience consistently shows that when the bills start to pile up the principle fades quickly in comparison to draining of the client’s bank account.
2. You totally disagree with the client’s moral or legal position.
3. You really dislike the client, and your instincts tell you that taking on the client will produce many headaches and hours of needless stress. Give your instincts appropriate credit; that little voice is there to bail you out, not trip you up.
4. The client has left a trail of former law firms behind, and does not provide you with valid reasons for making the successive changes. Before you take on the client you should check with some of those attorneys to find out their perspective on why the relationship ended, and whether or not they’ve been paid.
5. One or more competitor has declined to take on the matter. Have they seen something you have not? Has excessive flattery from the prospective client

distracted you from making an objective assessment of the relative merits of the client's position?

6. The client's matter is in an area of law in which you are not familiar, or you do not have adequate time or staffing to properly handle the matter. This is a frequent cause of malpractice complaints. It is so easily avoided if you objectively assess your available resources of time and staffing. Remember that a high volume of client work can only mean trouble later if you do not have adequate resources to handle each matter properly.
7. The client comes to you at the "zero hour" and expects a miracle, when there was plenty of time for the client to seek counsel, and no good reason for the client not to have done so in a timely fashion.
8. The client cannot manage to sign the Engagement Agreement or come up with the retainer before you are asked to put in substantial work on the matter. If the client cannot make the first payment on time, you can rest assured that the payment habits will only get worse.

There are also many valid reasons to fire clients. First and foremost is nonpayment. As I speak to lawyers throughout the state about managing their receivables effectively, I find one particularly disturbing element repeated over and over — lawyers do not "put pens down" early enough when a client falls behind in payment.

I'm not talking about disloyalty to the client, which is how lawyers often feel at even discussing this possibility. But you are, after all, in the profession of providing legal services. And unless you knowingly take on a case pro bono, you are expecting, and are entitled to be paid for your services. You have employees and bills to pay, and a family to support, just like the client. You are not their banker.

If you wait until you begin questioning whether you can afford to write off the client's debt without jeopardizing your firm, you have already waited too long. When the receivable is mounting, you must look at it and ask yourself whether it is a potential threat to your firm's well-being if not paid. If you even start to think the answer might be yes, then, in my opinion, you *must* put pens down at that point.

To continue to work for the client and allow them to further increase their debt will actually transfer power to the debtor/client, whereby they can threaten to withhold payment to force you to continue to work on their matter. Oh no, you say, that would never happen with *this* client, we've got a personal relationship. Don't kid yourself. That relationship will disappear like so much morning mist on a sunny day when you push the payment issue once the balance of power has shifted.

Other valid reasons to fire clients include

1. Lack of profitability. Perhaps the rate you negotiated, coupled with the types of services you cannot bill for, based on the client's demands, leaves you with matters on which your *effective* hourly rate is so low you barely break even. If you cannot



find a way to deliver the services more cost effectively, your time is better spent on more profitable matters.

2. The client likes to tell you how to practice law, and constantly challenges your advice and methods. Uncooperative clients usually forget that they failed to follow advice when the outcome is unfavorable, or they blame the lawyer nonetheless for not “forcing” them to take the correct action.
3. The client continually fails to deliver documents or other items to you as promised by the date indicated. This continually causes additional work and stress for you and your staff.
4. The client has misrepresented facts or outright lied to you.
5. The client nitpicks over every item on every bill. It has gotten to the point where you regularly write off items before the bill even goes out, and the client has no appreciation of that, and always wants, and frequently gets, a further discount.
6. Over time you have come to really dislike the client, and find that you do not work well together.
7. The client is abusive of your staff.
8. You no longer enjoy practicing law in the area in which the client needs on-going representation.

In all likelihood you have a full plate. Maybe you don't have enough business. Maybe you don't have the income you'd like. But if you're like most attorneys I speak to throughout the state, you still don't have enough hours in the day to get it all done. Think carefully about freeing up some time by turning away undesirable clients, and by firing problematic, unprofitable clients. Use that free time to find better quality clients. You will enjoy your practice more, have less stress, and ultimately be more profitable.

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