Popular Threads on Solosez

Client Wants to Approve Everything in Advance

I've got a sticky problem with a client who wants to approve everything I do in advance, such as approving temporary orders, filing something with the court, etc. How do I handle this, as I can see it becoming a problem. She's acting like she's the attorney, etc. Any tips are appreciated.

Unless she shows you a law degree in your jurisdiction, show her the door. Some money is not worth earning.

If everyone could do this, we wouldn't need lawyers, law schools, bar exams, etc.

James P. Moriarty, Cresco, Iowa

I very clearly tell the client that some issues are lawyer issues and some issues are client issues. They either stop trying to make the call on lawyer issues or find another lawyer, once addressed.

At times, there may be a reason for this which bears investigation. Perhaps it can be solved by deduction after investigation. If client is not changeable, then dump them fast, otherwise both of you are going to be unhappy. Better that it is only her and she is unhappy with your replacement.

I have been known to simply tell them, "I'm sorry, but it doesn't work that way." Some things the client has more say in than others. The bifurcation between attorney and client roles is a place where one bends at one's dire risk.

Darrell G. Stewart, San Antonio, Texas

Alternatively, tell her fine, but she will be charged for the time it takes you to send the draft, the out-of-pocket expenses associated with that draft, the time it takes you to review her comments, and respond to them (probably to explain why she is wrong), and that doing so could get expensive. Maybe she will get the hint....

Ms. Ronni S. Jillions, Washington, D.C

I always explained to my clients (in writing, certifed mail) that legal

decisions (such as decisions as to the necessity of a response to a pleading, the form of responses, the nature of discovery and depositions, matters reflecting ethical considerations) are mine alone. That's what a lawyer is for--to make such decisions. If the client wants approval rights, fine--charge him for the time. If he disagrees with a legal decision, fine--let him act as his own attorney or find another attorney who is more malleable.

Richard O'Connor

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it is guaranteed trouble, plus you cant possibly do it. if she is a j.d. even worse. DONT DO IT Joel Selik

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As both a recent JD recipient and a client. I just try to observe and ask as few questions as needed. After all I don't pay him $150/hr cause he can sound Texan. Though I'm sure I get a different level of explanation then Joe Lunch Bucket. I also try to use what training I do have to be a better prepared client. Anything to save a few $$$.

John A. Davidson, Pennsylvania

----- Bill her for all of your time. (...assuming you have a fee agreement stating that you will bill for these activities.)

Michael D. Day, Meriden, Connecticut

I just fired a client last night for this very reason. He would not answer my questions regarding certain facts of the case, because he was conviced that there is only one approach needed to win the case. He then proceeded to 'tell' me all the questions I need to ask the opposing party, and he suggested that if I can't win the case just by following his methods, that something must be wrong with me. He got to the point of yelling, at which point I told him I was withdrawing.

Get out now. It will get worse and worse as time goes on.

David Tarvin, Omaha, Nebraska

I had a mentor in my early years who stressed that to some extent we are all high priced whores. We get paid to do the bidding of our clients. From my perspective, most of the time it is as simple as that. I won't do something illegal or immoral or otherwise improper. Short of that, it's my client's case, my client's business deal, etc. I am an advisor, not the principal. If my client wants to review every word of every document or letter I draft before it goes out, and is prepared to pay my going hourly rate and out of pocket expenses for the privilege of doing so, why should I care? If the client is unreasonable about following my advice, such that I fear a malpractice claim down the road, or if the client is otherwise

objectionable to deal with, that is a different story. Otherwise, educate your client to the added cost, get it in writing, and then enjoy the extra income without resentment.

Henry Reckler, Greenwood Village, Colorado

To a degree I can agree with your position. However, I do not allow clients to tell me how to practice law any more than my doctor or mechanic allows me to tell her or him what to do. I'm certain that my doctor would review x-rays with me if I asked her to show them to me. I'm sure she could explain in great detail any prescription or treatment plan if I asked her. She would even entertain questions about her choice of treatment plan. But I doubt she would go too far off her recommendation because she considers herself a mediwhore who gets paid to do my bidding.

When a potential client's adverse party is represented by someone on my Short List, my retainer goes up at least 25% because these attorneys are like the ones you're talking about. They will do whatever their clients want, although they dress it up in pretty 24-lb embossed letterhead and loads of well-orchestrated mondo discovery, and charge a premium for the trick.

Carolyn J. Stevens, Lolo, Montana

I never said anything about being willing to ignore my professional responsibility to exercise independent judgment. I don't back off my recommendations, ever, simply because my client disagrees. But I am an advisor. It is not my money or property that is at risk. Let's stick with your analogy. If I go to a doctor, and the doctor says this is his treatment plan, and I say thanks, but I choose not to follow it, sure the doctor may use that as a reason to fire me as a patient, but must or even should he do so?

Doctor says, you have inoperable cancer. I recommend chemotherapy and radiation treatment. It will make your life hell but may prolong your life. I say no. I believe my days are numbered and I choose quality rather than length. He need not back off his recommendation whatsoever, but he also need not quit being my doctor.

And I should have added, with regard to your doctor analogy, did you ever go to a doctor who said do it my way. I am the doctor. Don't tell me how to practice medicine. Sure, you can ask me whatever you want, but do it my way or else. Seems to me that is not the exercise of independent professional judgment, it is just plain arrogance. I don't know about you, but I know I don't know it all, and I also know that sometimes when my client overrules me, it works out just fine. I could go on all day, but enough. The point is, don't confuse the obligation to exercise independent professional judgment with the right to make decisions.

Henry R. Reckler, Greenwood Village, Colorado

Okay, Henry. I think we're talking about two different things here. The original post was about a client who was micromanaging. Declining chemo is not micromanaging, it's merely choosing an option. [snip]

I inferred "short of illegal or immoral" you agreed with your mentor. I thought that - my inference - was probably due to imprecise writing.

Carolyn J. Stevens, Lolo, Montana

No, I don't think we are talking about 2 different things at all. Micromanaging is a convenient word to describe a client who wants to be involved in every decision. I hate being in that position and dealing with clients of that sort. However, every time there is a decision, there is a choice. If the client wants to pay you to lay out the alternatives and the make the choice himself, so be it. You get paid for your advice, and your client takes you off the hook. If you can't stand having your recommendations questioned, get out of the kitchen (so the speak).

Henry R. Reckler, Greenwood Village, Colorado

Oh good, my turn! I agree with Henry, at least generally. I had two clients in 33 years who uttered a similar injunction. I told one that it was fine with me, but as it was a case which could not be billed houorly I increased my fee by ten thousand and said if he wanted me to continue he should pat in cash before I made a step. (I was asked to do the trial after another lawyer had fired or deserted him). The trial was two days away and the file came in a packing box. I interviewed him, went through the file and went to pre-trial conference. I settled it that morning signed, sealed and delivered. He could not abide by the terms he accepted and led to more and more litigation and, since he moved to a distant place, never bothered to review anything and paid for representation. It came out alright. The other paid a larger retainer after I had fourteen times and in two letters told him not to proceed, couldn't win, it was against the state and because the documentation was fouled up, the state wins in such cases. I even told him to call me next time before taking the job. Finally I fired him after I had more than earned the retainer, and he lost miserably. I guess I got paid in both although I did not feel all that good. It was like triage in the emergency room, not nice, but had to be done. My view is that I will do many things for the client (they may be right -- no one made me a judge) so long as they took responsiblilty for what they directed. I also used frequent letters, sometimes with sign and return acknowledgements, to confirm what I advised and what I was doing by direction. I think that this is the middle ground particularly with reasonable clients. When it comes to businesses and unfamiliar industries, I need the client to play a larger role. I judge the case and client, not the manner of dealing except insofar as it is an element of character.

Richard Howland, Amherst, Massachusetts

I've read a lot of crap the last few days about this thread. But the bottom line is, I believe, that you cannot escape ethical rsponsibility for taking an action that you consider to be legally unsound just becauise your client says that's what he wants you to do,. Your job is to make those decisions that are purely legal, not your clients. If he doesn't like it, fire him (or let him fire you).

Richard O'Connor

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had a client who's a lawyer, but (a) he has been retired for years, and (b) he was never a litigator. He knew just enough to kibbitz but not enough to be useful. And he liked kibbitzing. Every day he'd send me an email with a new strategy or legal theory. At one point, we and the other side had already filed all our papers for a summary judgment motion, but the judge was taking months to schedule a hearing. During that delay, every day the client would send me an email asking me to file new papers raising new legal arguments.

I knew his arguments didn't hold up (and the procedural posture of the case didn't support a new set of papers anyway), so I tried taking the approach of brushing him off, but he wouldn't take the hint. Finally, I tried the opposite approach: I took everything he said seriously. Every email he sent me, every day, would result in a full research effort. I think seeing the first bill after I took that approach cured him of that habit.

David Marc Nieporent, Clifton, New Jersey

You got it.

Henry R. Reckler, Greenwood Village, Colorado

I almost always have clients review orders - that way they can make sure nothing factual is missed. I give clients the option of reviewing demand letters before I send them - mostly to make sure any facts stated are correct. If filing something is optional, I may let the client decide (and the decision may warrant a CYA letter), but I have had clients who had to be fired when they started acting as if they were the lawyer. In retrospect, I probably could have seen the problem coming. Those people also seem to start threatening me when fired FWIW. On the other hand I had a very nice client who kept researching and handing me copies of cases the client had found. I finally pointed out that I would be a pretty bad attorney if I relied on my clients to do the research and, since I wasn't going to do that, I would probably end up charging twice for reading them (once when the client gave them to me and again when I did my own research). The client understood and we did not have another problem. This client's reaction was in stark contrast to the reactions of those mentioned in the first paragraph - perhaps that's a clue?

Veronica Schnidrig, Oregon

I agree that there are lawyer decisions and client decisions. The classic example of a lawyer decision is when an adversary asks for an extension of time to file an answer, respond to discovery etc. The classic example of a client decision is deciding how to respond to a settlement offer. In my humble opinion, a client who wants to make the lawyer decisions is a significant risk of a disciplinary complaint or malpractice claim should things not turn out the way they want. Not to mention that he or she will make your life miserable. So I would ditch the person if at all possible. Dave Abrams

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Gently put. I agree that this is a very real concern to me as well.

I have had a very similar recent experience with an intelligent client. In many ways the client was helpful, but in other respects, he created far more work and got issues wrong, so I had to spend more time correcting him than if I had simply done all the work in the first instance.

I also spent excessive time explaining why he did not quite get it right. Unfortunately, I had a fixed rate deal, which made it worse than if I was billing by the hour. I had to be strict.

In the end, we seem to have lost the case because of his independent actions. I like him and I wish him well, but he thought he knew what was best and did not consult me as to strategy. Too bad, because the consequences to him and his company are in the millions. -- All the best,

Norman Solberg, Osaka, Japan

The client I fired was not micromanaging. He was ordering me not to pursue any theories of defense besides the one he wanted me to use. "If he gets on the stand and says 'x' then he's perjuring himself!" The line of defense he wanted to pursue was pretty much a 'he said, she said', and he was convinced no one in their right mind could see it any way besides his. He might convince the judge that his position is correct, but I am not about to let a client prevent me from developing back up arguments as to why we should win in case we lose on the primary argument.

Micromanagement itself I would have no problem with as long as the client was current on their bill. If they want to call me 5 times a day and pay for each call, I'm happy to take their money.

David Tarvin, Omaha, Nebraska

Well, I've had it with this client - the last 2 e-mails I received from the client have all but convinced me that I need to withdraw. First he

complains that I shouldn't do anything without her prior approval, then he turns around and asks where are the pleadings (temp. orders) that he wanted to review first before sending to opposing counsel. I feel like I'm damned if I do and damned if I don't. Of course, now he's expressed an objection to my fees (mind you, he's only paid a portion of the retainer I quoted at our first meeting. In any event, I e-mailed him this morning and told him that I'm not doing anything else until he and I have a meeting. He agreed with that. I'm waiting until next week to give myself time to cool off, but I will have a motion to withdraw when he comes in. As someone said at the conference I've been attending this week, life is too short to have to put up with an idiot!

Exasperated Lawyer

While I generally accomodate client demands, the failure to pay as originally requested is a CLEAR sign that you will get screwed. That is why I would withdraw. Better to not work and go fishin than to work for free!

I NEVER WORK for free. If I do it for free, by definition, it is not work!

Randy B. Birch Heber City/Salt Lake City, Utah

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let me clarify, I never intentionally work for free.

Randy B. Birch Heber City/Salt Lake City, Utah

Hey, let's keep it on an even keel and try not to read what hasn't been written. Client's do not own lawyers, nor do good lawyers think they own clients, in my view. Neither has to put up with the other when either one or both get pigheaded.

The client has a right to a great deal of control over the case until it runs into ethical issues, which belong to the lawyer to observe or withdraw, or when it runs contrary to the law and/or ethics and the lawyer must withdraw before the court when litigating, always a dicey manoeuvre. Those lines a pretty clear.

If the client doesn't want to sue his Mother and his children, he can say so and you can tell him why it will alter his options and recovery. If the client wants to preserve her business from publicity adverse in her exclusive judgment and take a lawful, but stupid (in the attorney's view) she has the call. If the preference is for lying or otherwise dishonest, particularly in court, the lawyer has remedies and does not need to get into who is managing whom. Finally if the client is a gifted "mule hole" it is a matter of preference or comfort which does not need to be countenanced, but may not be as easy to walk away. Any scenario leads major concerns and probably should be prudently brought to the attention of the insurer unless the client desists. Always write lots of specific cautionary letters with

Draconian consequences likely to befall momentarily. Like Doctors, "If I place this band aid on your cut, you may possibly die of infection or other terrible unforeseen consequence which in no event will not be my responsibility, right?"

If a client wants the attorney to take a lawful stupid step, one can always say to the court or other side, "My client has directed me to make very clear, that under no circumstances will they . . .." It is code for not my idea.

Dick Howland, Amherst, Massachusetts

Clients like this are nothing but trouble. I suggest having a substitution of attorney form ready and invite the client to substitute you out. If he refuses than do a motion to withdraw. I could not, and will not work with clients like this.

Norman Gregory Fernandez, Chatsworth, California

I just had an interesting thought. Has anyone ever analyzed the ethical implications of this? I've done it, and I'm sure we all have, but if the client found out that you indicated to opposing counsel that something was not your idea but client's, could the client make some sort of claim against you for inadequate representation? "He sabotaged my case by indicating to the other side that our argument/request/demand was not a good position!"

Any thoughts?

David Tarvin, Omaha, Nebraska

I realize I am chiming in late, but I am dealing with clients who are just like that, at the moment. However, they are well-educated, albeit somewhat overly involved in the minutiae. My answer is to make use of their need to control. We are in the middle of an arbitration, and my client prepared all the exhibit books and lists, and numbered them. I keep giving them jobs. It is really a win-win, because they are doing a lot of the leg work for me, and saving money at the same time. When they kept passing me cross-examination questions during the arbitration, I pointed out that it was distracting, and I had already formulated many of the same questions. I suggested they make their own lists and check them off as I go along. At the end, they can let me know what they think I've missed.

The clients know their own side better than you do. My suggestion is to capitalize on that and keep them busy so you can attend to the real legal work. If they want you to do something that is against your better judgment, let them know that this is a "lawyer" decision.

Andrea Goldman, Newton, Massachusetts

Sometimes clients need to. I had a friend who sued for child support in Georgia. It should have been a slam dunk. The guy had the child on his Federal Health insurance and even had his name on birth certificate. Which after 60 day is uncontestable.

Her lawyer allowed the other party to delay paying for 2 months to allow for a paternity test. Then after there had been a settlement allowed the opposing party to file and answer and cross complaint after the settlement and over 90 days after the complaint was served. Did her attorney argue that the answer was untimely (What part of 30 days didn't she understand) No, she said well I knew he'd file on eventually. Ok there's accommodating and then there is not acting in the best interests of your client.

Eventually she found another lawyer who finally brought up the fact the answer was late and got a default judgment though he wasn't going to bring it up either.

She did get answer and counterclaim thrown out, but not without a lot of effort and emotional costs.

John A. Davidson

Back to Popular Threads