

Polite way of telling clients "You listen to ME, not your neighbor!"

Folks, I have a couple that I am pretty fond of, really sweet young kids. I am helping them on their 2nd case with me, when the wife brings up the first case and says, "I was talking to my neighbor, and she used to be an attorney, I guess she still is but she's not practicing, and she read over the complaint and she said for me to tell my attorney to not ask for anything less than \$67,000 because..."

I just cut her right off mid-sentence and said "No! I am your lawyer and unless that woman was an auto fraud attorney with experience in Central Texas, I don't know or care what she says."

Well that kind of surprised my client, I mean, I'm usually nicer! So I did explain that I have had attorneys refer me clients but tell the client they have a 1,000,000 case when they do not (true) and I have more attorneys learn what I do and tell me, "Well I turn away all people who have that problem and say there is no legal help for them!" So I just tried to explain that advice from outside the field is not so important.

This client and I have a good bond but I think for next time this comes up, probably I need more considerate language than "I don't know or care...".

What do you all say in similar situations?

This brings up a big pet peeve of mine: Lawyers who do not practice immigration law who take a "guess" at the law by applying general legal principles.

This is damage that is hard to undo in the mind of the client. Even after I say that the other attorney was incorrect and that unless that attorney practices immigration law and are familiar with the Immigration and Nationality act and the relevant portions of the Code of Federal Regulations then they are not qualified to give advice, the client will continue to think that he got two lawyers opinions and he is not sure who is right and who is wrong. After all, don't all lawyers know all law? The answer is NO! This is a very big public misconception!

I stop people in their tracks when they attempt to ask me a non-immigration related question. Often the PC will wonder (politely and out loud) whether I don't know the answer anyway since I'm a lawyer and that should be enough? Or the most recent one came from a caller who said that a woman who studied immigration law - granted she hadn't passed the bar yet, the called noted - told him X, Y and Z.

SoloSez Popular Threads, August 2012

Attorneys should keep in mind that no matter how much of a disclaimer you give someone before dispensing advice (i.e. that you don't practice in that area and they *really should* consult with an attorney who practices in that area) because you are an attorney, in the client's mind your answer is at least 50% correct and carries some weight and has some value. The truth is that unless the attorney practices in that practice area they could be 100% wrong.

Regards,

--

Amy Long, Virginia

If you prefer to listen to your neighbor who *used *to be an attorney and is giving you *free *advice as opposed to listening to me, who is *your practicing* attorney and whom you have *paid* for advice, that's your option. However, my fees are non refundable, and I reserve the right to withdraw from your case if you insist on not taking my advice and counsel. :)

Anna D. Collins Ford, Paralegal

Family law is the worst. Just yesterday a client said "My friends said I shouldn't tell you, but....."

She then told me something that I really needed to know.

Anthony S. Alpert, California

I find that I am getting more like you in kissing off clients. I mean, I try to be polite but I just don't care anymore.

What I am sick of are lawyers who undercut other lawyers like the idiot who told your client to tell you do it this way. Yes, I can understand if a lawyer reviews a colleague's work and sees blatant malpractice or a potentially fatal error (e.g., failing to plead something, filing a federal court complaint in diversity jurisdiction with \$5k in controversy, etc...).

And even there, I would tell the client to have their attorney contact me to discuss.

At least most clients don't know better. Attorneys do and they should keep their noses out of someone else's case.

Carolyn Elefant, District of Columbia

Diplomatic approach is to listen and make the point that a neighbor or friend or relative is not their attorney. I have also inquired before why third parties were shown documents given standard instructions not to discuss their case with third parties. There are a number of well-meaning but poor opinions out there. I have also been known to suggest that if they want to listen to that person, they should hire them for representation. There are other approaches, such as pointing out that the person may not be aware of all of the details of the case, and that anyone can be mistaken if given a snapshot view.

Darrell G. Stewart, Texas

I really haven't tried to come up with the most "friendly" response. I tend to fall back on sarcasm:

"Obviously, that guy knows more than I do. He was able to evaluate the case and make a recommendation in a fraction of the time and without even having all the information. He has the answer, and I'm still trying to figure out the question."

I got that approach from another lawyer, so I can't claim credit. It probably won't work for everyone, but it works for me.

Cheers,

David Allen Hiersekorn, California

I usually compare the situation to doctors or quarterbacks; depending on which they will relate to better. Your heart doctor doesn't need advice from the doc that clips your corns. There is only one quarterback per team; they have a split moment to evaluate the situation and make a decision. No kibitzing.

I usually explain it very gently to people the first time; second time not so much. More than twice and I dump the client.

D.A. "Duke" Drouillard, Nebraska

I smile as I read most of these responses because I have shared the frustration at one point or another. But, how has that experience changed you? Do you tell friends a brake job with rotors should be under \$500? Have you ever suggested someone get a different doctor, different realtor, different orthodontist because you thought your friend was being taken advantage of by their current professional. Yes, people talk; especially to their friends. That may be how you got the client in the first place. I think we, and especially me, need to be more understanding of people who are nervous, afraid, or shelling out big dough to hire a lawyer. When my clients act nervous, I take extra time to comfort and reassure them. The ones I have a problem with are the ones who act like they are clever or have inside knowledge so I had better give them better service. I suspect many of them are presenting a false shell of confidence while inside they are really nervous and afraid too. Unfortunately, I haven't disciplined myself to be as patient and gentle with them as perhaps I should be.

D.A. "Duke" Drouillard

Oh god yes. Because they all have a friend who got divorce, custody, child support. And they want the same damn deal. Never mind that family law cases are as different as families are. My usual response is "This is not your friend's case. This is yours. Every case is different."

Elizabeth Pugliese, Maryland

I'm willing to be patient and gentle right up to the point when I'm not and I tell them they can either take my advice or I'll be happy to send them a final bill immediately and they can move on. This is why I'm unwilling to have any client who makes up more than 10% of my practice. So I can fire anyone I want. I also tell them that I will write as many memos as they want explaining why I'm correct and their neighbor/a lawyer they met on a plane/Google/e-how.com are wrong, but I'll charge them for the time and usually that changes their mind. (Yes, e-how.com, that was my personal favorite.)

I do find I do this much less that I use to to doctors, contractors, etc., although I still do it. But I try to keep in mind that I hired an expert and if I did it myself the result would be substantially worse.

Emilie Fairbanks

There is a reason why she is not a practicing attorney. As a non-practicing attorney she is not up to date on the laws, the courts, or this specific field.

Now if you wish to take her advice, then you are free to hire her to handle your case. But, this is a speciality area and many attorneys do not understand it and frequently overestimate the case.

Erin M. Schmidt, Ohio

Well my friend on the line at the car plant says my child support is too high. He makes about what I do and is paying less.

My response (and this was a problem client and we were on our 4th or 5th discussion about things like this), then I suggest you hire your friend for your divorce because he can obviously fill out the Form 14 and do the calculations better than myself AND the computer.

And of course a week or 2 after the case was done and even the judge had told him the form 14 was correct he came back wanting to appeal because his "friend" said it was too high.

Got to love "friends"

Erin M. Schmidt

In this case, we had gone over the form 14 about 25 different times.

It really is a simple form especially when both parties are salaried.

Input parent 1's gross monthly salary, input parent 2's gross monthly salary. Input the amount each parent pays for child care or health insurance (in this case 0 for both) and then give credit for overnight stays (standard 10% credit) and it all calculates.

Great, we have our number. Then the client goes but my friend says and has to argue that child support shouldn't be that number, just the exact amount needed for the child's extras per month (not for housing, food, car, etc. Just clothing and other little things). No No the legislature says this is what we use. I know you don't like it, but call your state congressman.

Then it was why he didn't get a health insurance deduction because it was through his work, my friend says I should get it. Sorry the law says you only get the deduction if it comes out of your check.

Then it was my friend says I don't have to split my pension. No sorry you do.

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And on, and on, on every thing about the divorce. I think I even heard but my friend says when we discussed the division of each piece of personal property (like towels, cds, etc)

I asked the client several times why they hired a lawyer if he is not going to believe anything I tell him (and I was his second lawyer, he left me and went to a big expensive firm and paid lots of money that they spent in a month doing very little then came begging me to let him come back and then tried to appeal the case after he settled with a 4th attorney).

This client managed to turn a fairly simple divorce into a (grand total) way of blowing \$50,000. He couldn't figure out where all the money was going, I just kept telling him it was going to the lawyers.

Erin M. Schmidt

I always had that discussion at the start of the case. What do you expect to get/achieve/result from what you are doing? Now here is what the law says, here is what our judges typically do etc. That gave me the opportunity to give realistic expectations from the start. Now, sometimes clients just plan lied and things changed over the course of the case and so did what I was telling them.

I told many a family law client that I could litigate many things, I could get orders for the other side to do many things, but I couldn't stop them from being a jerk.

The biggest problem, especially in family law, is that you get those expectations set, they talk to other people, and they come back repeatedly with overblown expectations. No matter how many times you tell them that each case really is unique and extremely factual based as well as what judge your in front of, they are so emotionally invested in hurting the other side that they do not listen.

I had lots of discussions with clients, telling them it is time to put emotion in a box we need to talk finances etc. I treated my family law clients as if they were grieving and we had to walk through the 5 stages. Many made it, other's didn't.

I have watched clients reject and destroy very good settlements on their part out of emotion. I have watched ex-clients so caught up in emotion get hosed in the end because they were stuck in the he's a jerk and thus I deserve everything phase (this is the denial stage of grief). I have seen some both parties so intent on just sticking it to each other that they were ridiculous (and both attorneys threatened to walk on the day of trial because they settled and then when we went to sign they kept bringing back up things that were already settled and had little to no value except to annoy the other)

Erin M. Schmidt

What I would say:

1. Re-read my memo to you regarding confidentiality and attorney-client privilege. Especially the part that says, do not discuss your case with anyone. Including your neighbor and other lawyers you know.
2. Did this neighbor/former attorney know you already had an attorney? Did this neighbor remind you of the need to preserve attorney-client privilege? No? Hmm, that says a lot right there.
3. A complaint usually does not provide a sufficient basis for valuing a case.

Cheers,

Eugene Lee, California

I once had a doctor-client put me on speakerphone and ask me to discuss the case with a trusted subordinate, a JD-MD who once practiced law before going back to medicine. My client had been bouncing ideas about his lawsuit off of this subordinate, apparently. They wanted me to discuss adding "res ipsa loquitur" as a cause of action to the complaint. I asked to be taken off speakerphone and, as gently as I could given I was fuming, asked my client to respect AC Privilege and not to jeopardize it again. He in turn assured me that this subordinate was trusted, had stayed at his home, and owed his job to my client. This discussion was just the first of several such discussions, maybe 5 or so.

Imagine my client's surprise when the defense later named the "res ipsa loquitur" subordinate as their witness at trial. After the employer fired my client, the subordinate had been promoted into his position, which he had been gunning for. In deposition, the newly-promoted subordinate was as hostile as they come and testified about the conversations he had had with my client regarding the lawsuit. It turns out, the subordinate had been coordinating with the defense all along and were only too eager to have my client reveal strategy and AC communications with him.

Never again.

Cheers

Eugene Lee

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I typically don't get offended when a client asks me about something someone else said or did. I find it useful to anticipate the issues. There are some clients who are simply difficult personalities and hard to please or appease. I think this reference will help with that.

Thanks,
JW

Jaconda Wagner, Maryland

I get odd looks from clients who want to ask me real estate questions. I had one women call my office and launch into a story and wanted an answer, for free of course. When I politely told her I could not answer the question because I was an INTELLECTUAL property attorney not a REAL property attorney, she quipped, "don't you know you're on the internet." Part of the problem is that people distrust lawyers and then there are lots of legal products that say they can do what we do better and cheaper. I say I can't help you and hang up, walk away, or give them my confused dog look.

Jaconda Wagner

You get what you pay for.

Or go with him and when it goes down the toilet try collecting from his malpractice carrier.

-- {John}

John A. Davidson, Pennsylvania

Samples of what I've said before:

"I'm sorry, I didn't realize your brother was a lawyer. does he practice with a local firm?"

"Your cousin said that? I didn't realize there were two lawyers on your side in this case! How are you affording to pay two lawyers?"

"Did your shipmate graduate from law school before joining the Navy?"

"Is the paralegal on your ship licensed to practice law in Virginia?"

There are more, but these are the ones that come to mind without hard thinking.

Marilou, a nonlawyer who gets a laugh when she says these things, after the client realizes how ridiculous he sounded

When a client does this, I try to keep in mind their perspective, and how I've done the equivalent thing by politely questioning my doctor (who I trust) based on information from doctors in my family (who I also trust). But the reality is that a professional who is most competent in the field and knows the client's facts the best is the best advisor.

The first time a client does this and mentions outside advice, I usually explain (or re-explain) the logic of what I'd recommended and why. If the client brings up the outside advisor again, or re-questions the issue again, I politely mention that I'd explained my rationale before, and that rather than explain it again to the client alone, I'd prefer we have a phone conference with the client, me, and any other advisor(s) giving the client advice, so we're all on the same page. Of course, this would waive attorney-client privilege if the conference actually occurred. But I've never had someone take me up on it, and it usually politely bolsters the point that there is one advisor and one atty/client relationship that should be occurring. Another option is to genuinely say (as is true) that the client is free to drop me and retain another attorney, but that the client cannot be represented effectively by two separate attorneys who get piecemeal information about the case and the other attorney's involvement.

Michael Brown

I think there is a danger in one-size-fits all approach to this issue.

If the client is a "problem" client - just won't listen to you, second guesses everything - then the short, blow-off approach is probably the only right move (short of firing client). Same if you've gone over the same ground multiple times.

But it does us well to remember that litigation (especially) is usually an incredibly significant event in clients' lives. They may talk to neighbors about it, just like they would talk about their upcoming cancer treatment or surgery. A lawyer can either acknowledge their honest search for some greater comfort and certainty, or a lawyer can ignore it at his peril.

Let's put it this way. If I was represented by counsel, and asked a legit question about why they limited a damage demand to a certain amount, and got an answer along the lines of "because I know what I'm doing, now shut up", I would be royally pissed.

Part of what a good lawyer does is educate the client about the realities of a situation. A client could either be ecstatic with a \$50,000 recovery or outraged by a \$50,000 recovery depending on what his expectations were, and how those expectations were managed by the lawyer. You want your client to know when you got them a good result. Often the only way to get to that knowledge is by taking the time to explain it to them, sometimes repeatedly.

None of this is to say that you need to suffer a fool or a jerk. But having clients who are nervous and insecure is part of the job

Patrick W. Begos, Connecticut

I will usually ask the name of the lawyer. The response is usually that they cannot recall their name.

Rob V. Robertson, Texas

Oxford University Press has a sale on and one of its offerings is this book about counseling clients through bad news and legal realities. This thread about back-yard-fence legal advice came to mind when I saw this spam ad from OUP. See the description below. I am going to order this book.

Client Science

Advice for Lawyers on Counseling Clients through Bad News
and Other Legal Realities

Marjorie Corman Aaron

Add to Cart

ISBN13: 9780199891900 ISBN10: 0199891907 Paperback, 288 pages

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Price: \$39.95 \$31.95

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Shipping Details

Description

Features

Reviews

Product Details

Author

Information

Table of Contents

Description

Lawyers know that client counseling can be the most challenging part of legal practice. Clients question and often resist the complexities and uncertainties inherent in law and legal process. Honest advice from the lawyer can make a client doubt his or her allegiance and zeal. Client backlash may be directed at the lawyer who communicates bad news. Thus, the lawyer may feel torn between the obligation to clearly inform a client about weaknesses in legal positions and fear of damaging the client relationship. Too often, the lawyer struggles to counsel a particularly difficult client, but to no avail.

Client Science is written to provide insight and advice to lawyers on how to more effectively communicate with their clients with regard to legal realities and difficult decisions. It will help lawyers with the always-difficult task of delivering "bad news," which will result in better-informed and thus more satisfied clients. The book explains applicable social science research and insights and translates them into plain language relevant to legal practice and client counseling. Marjorie Corman Aaron

SoloSez Popular Threads, August 2012

offers specific suggestions related to a lawyer's ordering, timing, phrasing, and type of explanation, as well as style adjustments for the lawyer's voice, gesture, and body position, all to impact client counseling and to improve the lawyer-client relationship.

Features

Provides insight and advice to lawyers on how to more effectively communicate with their clients, both as to legal realities and difficult decisions

Explains the applicable social sciences and translates insights from these fields into plain language

Offers specific suggestions related to a lawyer's ordering, timing, phrasing, and type of explanation, as well as style adjustments for the lawyer's voice and gesture

Reviews

"No one wants to deliver bad news, but we all have to do it. In *Client Science*, Marjorie Corman Aaron makes sense of intuition and translates gut feelings into an effective operating procedure for difficult conversations that we dread having. Her expert guidance and analysis will help lawyers handle tough client moments with grace, confidence, and control."

--Russ Bleemer, Editor,
Alternatives to the High Cost of Litigation

"In this highly readable book, Marjorie Corman Aaron focuses on the real world in which our clients make decisions. She presents a clear-eyed, holistic review of our clients' needs, perspectives, emotions, and false beliefs. Brimming with practical insights and supported by real-world examples, her advice will help counselors to assist clients in making wise decisions about risk -- which is, after all, what our clients want and need from their lawyers."

--Joseph D. Heyd, Director & Associate General Counsel, Global
Litigation
The Procter & Gamble Company

"Lawyers need emotional intelligence as well as analytical abilities. Based on years of experience both as a classroom teacher and a mediator, Marjorie Corman Aaron's new book, *Client Science* is a 'must read' for lawyers who want to communicate more effectively with their clients and create more productive relationships."

--Robert H. Mnookin, Williston Professor of Law and Chair,
Program on Negotiation,
Harvard Law School

"Marjorie Corman Aaron explores the characteristics that distinguish a great counselor from merely a good lawyer. Knowledge, strategy and skill all define a good lawyer, but it is emotional intelligence and the ability to communicate effectively that define a counselor who understands that client communication is not just about speaking; it is also about hearing and translating. Professor Aaron helps us understand how body position, posture, and motion all play a role

SoloSez Popular Threads, August 2012

in how clients listen, what they learn and how we are heard by them. Client Science should be mandatory reading for every lawyer entering the practice of law today."

--Regina M. Pisa, Esq., Chairman, Goodwin Procter LLP

"Client Science is a thoughtful and enlightened manual for perhaps the most difficult of all lawyering skills -- handling the client. Starting from a base of practical experience and social science, Marjorie Corman Aaron provides wise advice in an important area that is frequently neglected, if not ignored entirely. The book is not only clear and persuasive, it is one of those rare books that manages to be practical, entertaining, and thought-provoking at the same time. I strongly recommend it to lawyers and law students alike."

--F.

Dennis Saylor IV, United States District Judge, District of Massachusetts

"Given the wide array of books addressing the many aspects of business and professional success, it is surprising how few texts there are offering practical advice for legal practitioners. Marjorie Corman Aaron's Client Science is a gem, providing common sense yet thought-provoking perspective on the challenges of counseling clients and practical advice for doing it effectively. The lessons are all the more powerful because they afford helpful insight and concrete approaches to lawyers at all stages of their career. This is a book I expect to go back to over and over again as long as I am practicing, and I strongly recommend it to law students, lawyers, faculty and professional development managers."

--Laura C. Hodges Taylor, Partner, Goodwin Procter LLP

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Marjorie Corman Aaron is Professor of Practice and Director, Center for Practice at the University of Cincinnati College of Law, where she teaches courses in negotiations, client counseling, mediation, and decision analysis. She is also an active mediator, arbitrator, and trainer in negotiation and dispute resolution in Cincinnati, Ohio, and previously served on the Ohio Commission on Dispute Resolution and Conflict Management, the Ethics Commission of the CPR Institute for Dispute Resolution, and the Publications Committee of the ABA Section on Dispute Resolution. Until July, 1998, Marjorie Aaron was the Executive Director of the Program on Negotiation ("PON") at Harvard Law School, where she was also a lecturer teaching negotiation. Prior to joining PON, Ms. Aaron was a Vice President at Endispute (now known as JAMS-ADR), and a panel mediator for the Middlesex Multi-Door Courthouse. She has designed and taught numerous workshops on mediation, negotiation, alternative dispute resolution, and litigation decision analysis for law firms, corporations and universities. She is the author of numerous articles, book chapters, cases, and guides in the field of negotiation, mediation and other forms of dispute resolution. ----

Rob V. Robertson

SoloSez Popular Threads, August 2012

I try to diffuse this situation by explaining to the client that I learn something new about my cases each and every day. I welcome the input of anyone who has thoughts about the case and I will evaluate each thought that may lead to something. I further explain to the client that she should have the idea-man give me a call to go over the situation. I then explain that we will have to reveal this person in discovery as someone who aided in the answering of discovery, if the question is asked, and that person does not have the shield of attorney-client privilege that the client has with me. I explain that if the other side should learn of idea-man's involvement in the case, that the other side could depose the idea-man and find out what the client told him about the case. This of course is a way for the other side to learn about our strategies to the extent that client discussed things like this with idea-man. Last, I remind the client that I get paid by the hour and that if they want to pay me listen to idea-man explain it to me, I will listen, but the client will pay. I have yet to have anyone take the next step. We then usually get into why the idea is bad and we leave it at that.

Robert W. "Robby" Hughes, Jr., Georgia

Robby,

Very nicely played. I learned something new today and it is only breakfast time.

Deb Matthews, Virginia

When potential clients tell me something like that, I suggest they might be happier having that person represent them. When it turns out that person isn't an attorney, I suggest they should find an attorney. Another attorney.

When a current client says something like that, I explain the reasons for why I'd like to do things the way I want to do them. Usually, that's enough. If it isn't, and depending on how important it is, I might do it their way -- unless it's a malpractice issue or a moral issue or something like that. But I have them tell me in writing that that's what they want. If there's too significant of a difference, I can't represent them.

I wish I had some magic words. "You listen to ME, not your neighbor!" is pretty close to what I would say in similar circumstances.

Russ Gray

People ask me if I handle civil litigation or even consumer litigation and I always say yes, but that is the broadest possible category - narrow it down. I handle some civil litigation matters and some consumer litigation matters, although just about everything I handle is consumer litigation and/or civil litigation. Got that? :)

Sharon Campbell, Texas

Agreed.

In the immigration law context this is important to recognize as the law is often counterintuitive and contrary to general legal principles, as I am sure it is in other practices as well.

Take, for example, H1b wage laws where the employer is required by law to pay the employee, even if the employer has no work.

Immigration lends itself to cross over areas that I won't touch with a 10 foot pole. Tax law comes to mind.

Vonda K Vandaveer
