

Friends as Clients? Yea or Nay?

When I was in business school, one of the warnings I received was not to go into business with friends. The rationale, of course, was what happens to the business if the friendship ends, or what happens to the friendship if the business goes under.

I hadn't quite considered this in the context of having my friends (or their friends) (or should I say friends? Let's say "acquaintances to near-friends to friends," so as not to throw the word around too loosely) as my clients, but life is funny sometimes. Four of my first set of clients, which include a friend of a friend, an old friend from HS, an acquaintance, and an old friend from college, have all been absolutely horrible for various reasons (including that post from a few days ago about when to drop a client).

So, now, I'm considering a general rule of not taking on friends as clients. What say ye? How dost thou handle this situation?

Clients sometimes become friends, so it is really hard to avoid the mix. Only once in 38 years has it become an issue. Very recently. I bent over backward to under charge for my time, only to have the friends (who are also neighbors, and had been clients for about 10 years) ask about the bill AND simply ask if I would consider reducing the amount. Trust is gone. Life is too short to do anything but cut bait in that kind of situation. Clients were summarily (but very nicely, with much BS about friends being more important) told to pay whatever they thought was fair and to go find another lawyer. That was last week. Still waiting to be paid.

And then there is what happens if you represent family. But that wasn't the question raised so I won't go there.

Henry R. Reckler, Colorado

I'm confused. Are you saying these folks were your clients for 10 years?

I'm not sure why all trust is gone and you had to fire them just over asking about the bill. Maybe there's more to the story that you didn't share, but it seems perfectly reasonable to have a discussion about a bill.

People ask me for discounts on my fees all the time. Sometimes I negotiate a little, sometimes I don't. But it doesn't mean that I don't trust them or tell them to find another lawyer.

Maybe the clients in your situation are having a rough time financially and want to make sure they pay you timely.

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Just my two cents,
Andrew

Andrew Flusche, Virginia

I can't imagine not taking on friends as clients, but I don't do a lot of litigation. How on earth do you get clients? Friends are great referral sources, and even better when I've handled a matter for them. When I was at BIGLAW, we were strongly encouraged to use firm money to take friends out to baseball games and the like to expose them to more of the firm and build a future client base. I've had plenty of friends as clients, some of whom I've charged reduced fees to, some of which I've charged my full fees. It just takes some ground rules, that none of my friends has ever had a problem with it. I've never had a problem, but perhaps that is because I have great friends ;).

First, we only discuss business in a business setting. No facebook questions, no discussing it at a party (unless we are both sober and there is something urgent I need to know, in which case we go to a back room to discuss and I bill them for the time!), and absolutely no calling me at home. I will never initiate a conversation about the case or matter in a social setting, other than to privately say "we need to discuss something Monday morning - please call me at the office." I will meet friends on the weekend (I actually like weekend appointments), but only at my office. I think this does a great deal in setting the appropriate tone, and ensuring that people understand what is legal advice and what is friendly conversation.

Second, you should still talk to my staff. If my assistant calls you to schedule an appointment, don't call back and ask to talk to me only. Most folks understand this as well.

Third, don't blame me if you don't take my advice or decide to proceed pro se. Just like any other client, they won't always follow advice. Or some friends have wanted just a consultation (which I will charge them for) but to not have me formally represent them. That is OK, and I even tell them that it is acceptable for any client not to follow the advice of counsel. But if that is the case, I don't want to hear about it any more after my engagement. This is the one that some folks have a problem with actually doing, but when I remind them, "I'm not representing you on this" and just stay quiet, they usually get the hint. However, I often hear about the conclusion which has, thankfully, usually been good (usually because they proceeded pro se but actually did follow my advice). I had one friend pull me aside last year, whose husband I had given an initial consultation to years ago, but he decided to go a different way (again, that is fine) in the matter, and say, "I just want to let you know that you were totally

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right. If we had done what you advised, we would have saved ourselves 2 years of litigation." Frankly, none of us are perfect, and it is hard to take advice that you don't want to hear when something else is much more attractive. And none of us can predict the future, so my advice may be a bit more cautious than others want. I was pretty amazed that she admitted it to me, and let her know that I completely understood the decision and was never offended at it, and had hoped it would work out for them anyway.

Cynthia V. Hall, Florida

I have represented friends with great success but have represented friends/acquaintances that ended poorly too. The two that ended poorly are such I don't talk to them anymore and we were fairly close. Both were given excellent service. One was told that it may cost more to do than it was worth and expect that person wanted me to do the work free and I didn't. One, I handled more casually because she was a friend so I did not do a fee agreement. We had worked together before and that ended well. This time, I think a law school wanna go grandson intervened to tell her what she should do and she listened to him instead of me. All the sudden it was we don't have a fee agreement; I never said I would pay you for this.... I walked away from that. What else could I do.

The friends I have represented were all family members and extended family members that I have known over 30+ years. Represented M&D and four of five children. All went very well. I have no hard and fast rule. I have learned from the two that went bad to proceed very slowly. Very deliberately. And, never, ever be casual with the process. They are still a client and should be treated as such, meaning fee agreements and formal process followed.

Eliz. C.A. Johnson, California

I agree with liz. Sometimes even close friendships end due to representation.

gilbert alba, Florida

I never have a problem with a client questioning where the time went, why it took as long as it did. I never have a problem with a "before the fact" discussion. This was an estate planning engagement, so I know what they have. They were charged less than they were 10 years ago. Regardless, the key point really is that you may, but I do not do business (more than once) with clients who after the fact simply ask me to reduce my bill for reasons of, essentially, "I would like to pay less."

I was about to be in a situation where I was going to use them for some brokerage services. Not a good situation. I didn't want to feel like I had to (would be expected to) negotiate on the other side.

Henry R. Reckler

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I used to turn away friends and relatives initially when I started and realized that people did not like it. I do not turn away friends anymore and have had mixed experience. I think it is best to set clear rules to avoid any unpleasantness because most relatives and many friends will tend to forget that you are running the show as a lawyer not they. At times when I had failed to set these rules upfront but noticed that client expectations are going too high, I initiate a detailed conversation with them and that pretty much takes care of it. But I agree, that you are kept on your toes all the time by these special people.

I have recently helped a family friend who were exceptionally respectful of my work and so I am of opinion that it depends a lot upon the individual regardless of whether they are friends or relatives. In my view, it is better to be meticulous and specify contractual terms in detail whether it is a client or a friend. Best Wishes!

Sincerely,

Lalita Haran

I appreciate your thoughts, and want to emphasize that this is the first for me in 38 years. I have many friends who became clients, and even more clients who became and still are friends. I cannot readily explain the details of why this immediate situation became intolerable so fast, and became one that I immediately concluded couldn't be repaired.

Henry R. Reckler

On the flip side, some of my best friends are people I met in an attorney-client relationship. I'm not about to fire my client just because we became friends.

John Mitchell, Washington, D.F.

My quick advice, don't do biz with friends/relatives. BUT I DO IT OFTEN. Including recent assist to ex-wife--where we have almost no contact and that is strained--yet, when she got in mega will contest re estate of my successor as spouse. She came to me and I got it solved.

I think it depends on the expectations of friends/relatives. For me, I think I enjoy trust even of those who don't like me. But, THEY ALL, know that they can expect brutal honesty. Does not mean I volunteer criticism, but if asked or in appropriate circumstances, I will give it with the bark off.

If you can operate that way, and others will understand, it may work.

John Page, Florida

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As first stated by [original poster], going into business with friends I think a pretty iffy situation and I've actually never really seen it come out pretty. That being said, taking on friends as clients seems to be different and in fact those were some of the first clients that I took on. I think there's also a difference in what your practice area is and in particular whether it is litigation. The contracts I've worked on for friends and the trademark and copyright registration I've done leaves little room for any kind of fall out or dispute. I feel like this would be a completely different story when representing friends in the context of litigation. It seems as if there would certainly be many things that can "go wrong" or disputes that can arise.

All in all, if your friends don't make good clients, maybe their friends will at least! Friends have been probably the best form of referral for me.

Joshua M. Biletsky, California

I used to turn away friends and relatives initially when I started and realized that people did not like it. I do not turn away friends anymore and have had mixed experience. I think it is best to set clear rules to avoid any unpleasantness because most relatives and many friends will tend to forget that you are running the show as a lawyer not they. At times when I had failed to set these rules upfront but noticed that client expectations are going too high, I initiate a detailed conversation with them and that pretty much takes care of it. But I agree, that you are kept on your toes all the time by these special people.

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Sincerely,

Lalita Haran

I think that as long as you make clear and observe the boundaries, and have a good engagement/fee agreement, then of course you serve friends and families, except those you know will be trouble. When I first opened my own practice, a good friend went to someone else for her legal services [in my area of practice]. When I found out, I asked her why. She said she didn't want to interfere with our friendship. My observation over 36 years in practice is that, at least back then, the male partners and associates

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built their practices on friends, families, and the people they referred, plus other contacts. Who would you go to other than friends? Enemies? I *was* offended that she didn't even offer or ask me about a referral. She was quite aware of the fact that I was trying to build my practice at the time and that I had 9 years of good experience by then.

Miriam Jacobson, Pennsylvania

Sometimes clients need to be educated. Generally, they have absolutely no idea what value to place on legal services.

Rather than get in a huff about it, one should anticipate that and make clear to them in advance what a favor you are doing. Of course, if you have already done that, I would be upset too.

I had two prospective clients in that past ten days. One is a longtime friend (20 years) in a real jam. I took him through what I normally charge, how it was a tough case but one I thought we had a chance, what deal I was going to provide for him in terms of a low commitment fee and the big contingent fee I would get based on how much (or how little) we could recover for him. He is thrilled. He really had no idea what it would cost and I could have charged more, so he is very happy.

The other is a long distance matter from the US. I always insist on an upfront fee for consultation in such cases, since invariably I never get paid otherwise. Client was "shocked" at my quote, so I offered a discount for limited consultation. IOW, taking pieces out of value. Still shocked, so I withdrew the discount offer. I can do without such clients.

The cost of practice in Japan is extraordinary. Some of you know that my mandatory bar registration here (not counting my US memberships) is over \$300 a month -- and that is just a start on costs here. <g>

Norm Solberg, Japan

For me this is kind of easy. I think some of the characteristics of a friend is that he/she: is not an ass; likes and cares about me; and trusts me. That would ordinarily seem to be a dream client. I've represented friends, and can't recall a bad experience. If it's a minor thing that won't take much of my time, I won't think about payment. Almost invariably, the friend will give me a token of appreciation, which is wonderful. If it's going to take some time, I'll sit down with them and talk about a fee.

The problem may arise when representing "acquaintances" -- maybe a neighbor who you're friendly with but don't really *know*

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As a flip side, one of the duties of friendship from the lawyer side is getting the friend to someone else if you're not the best person to handle it. That may be due to a lack of relevant experience, or because the matter would involve you in details of your friend's life that it is better you stay away from.

Patrick W. Begos, Connecticut

I tried working with and representing friends, all attempts were disasters.
I will never do it again.

Paula J. McGill, New York

Agreed.

One of the additions I add to my "friends and family discount" is that I may do the work for free or only a filing fee; however the caveat is that if they end up not taking my legal advice or backing out after I've done the work, they pay my full bill.

Rick Bryan, New York

If a friend has a need that I can help them with, I prefer to do it myself because I want them to be well taken care of. It is also easier to have frank conversation about fees early and as often as necessary than with non-friends. But I would not take on something that is outside of my area of practice or I thought someone else could do a better job for them, unless I was doing it without fee or low-bono. My concern with my friends and family is to get them the best representation at an affordable price. That may be me, or it may not.

Stephanie J. Hill

I tend to agree with Patricia. Though by that same token I'm also a hypocrite on the subject, because I've represented a dozen or so of my friends now in litigation with only one not-quite-horror story among them (a family law case I'm still resolving).

For those rare occasions where it's a friend on the other side of the desk, I try to mitigate the risk of things going south by being overly thorough with everything -- payment up front, deadlines carved in stone, getting all the expectations out on the table, etc. I've also made clear that if they decide to hire me I'm "lawyer first, friend last". Things seem to have worked out OK with that approach so far.

T. Greg Doucette, North Carolina

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I'm with Cynthia. Friends make good clients and better referral sources, but firm boundaries are required.

Wendell Finner, Florida
