

## Dealing with Potential Client Who Wants Free Legal Advice

I played in a golf tournament a few months ago with a buddy of mine. I was introduced to my buddy's other friend. We got along well enough.

My buddy's friend recently sent me an email asking me if we could play golf again or have lunch because he wanted me to review some documents. I have no idea what those documents are.

I responded to him saying that lunch would be preferable as I didn't want to have to review documents on a golf course.

A few questions I'm wrestling with:

1. I will be paying for lunch but don't want to give free legal advice as well. Should I just briefly look at the document and tell them for a deeper analysis I'd have to charge them or would you essentially give them a freebie? As always, there's potential that this could be a long-term client but to be frank, I'm not positive that will happen. How would you handle this?
2. What could I do in the future to avoid this awkward situation?

---

Re: #1 - Why are you paying for lunch? The implication from your e-mail is that he was inviting you out, in exchange for you reviewing some paperwork. Let him pay.

Re: #2 - Don't know how to avoid this. Doctors and nurses get asked medical questions. We get asked legal questions. If you want, you can say "oh, I only discuss business matters at the office. Sorry."

I give free consultations, so I'm usually fine reviewing something briefly for someone if it's an area that I am familiar with. Yes, you are being sued by X company for Y dollar amount. You have \_\_\_\_ days to respond. If you would like me to do that, it will be \$\_\_\_\_\_.

Corrine Bielejeski, California

---

To my view, it would be fair to say that you don't review documents on the golf course, or that you don't have time for golf, but would be pleased to schedule an appointment in your office. Same thing for lunch if you choose.

Like many attorneys, I get asked questions all the time when I am out and about. Sometimes I tell them I don't want to discuss it in a public venue. Sometimes I answer a simple question or provide some general guidance with caveats.

I am probably more liberal than most at answering questions, but if I have any concerns, I will tell them to call and schedule an appointment.

Darrell G. Stewart, Texas

---

Kudos to Darrell for being that willing. I used to be, but am not anymore. It's always, "This is a really simple legal question." That may be, but it is likely the answer isn't so simple. And if it's so simple, you can answer it yourself. And because I went to law school, passed a bar exam, have 30 years of experience, and take my fair share of CLEs, I no longer give out free advice. To anyone. Period.

My suggestion to you is to be absolutely honest and upfront. Here are some things to say:

1. I would have to run a conflicts check first before I can offer any legal advice or review documents. Who are the parties that are involved?

[This may alert the person that you are in "business" mode]

2. What are the documents concerning? It may not be in my area of expertise. [Prevents you from giving advice on something that you are not comfortable with. But also clues the person into the fact that lawyers get paid for their expertise, not to be a jack of all trades.]

3. I can review them (after the above two questions are resolved), but I would have to charge a fee. Realize that the time I take to review and analyze these documents and provide you with some answer(s) is time that I could be doing paid work for another client.

4. I can offer you a discount because you are a friend, but it would only be [whatever discount you want to offer if any].

You have to make sure that everyone knows you don't give free legal advice. Because once you do it for someone, they will blab it to everyone they know and pretty soon (and I speak from a LOT of experience on this) every Tom, Dick, Harry, Susan, Mary, Jane, Uncle Al, Fifth cousin removed three times Lucy, and Bob the dirtbag from high school will call you or sent you emails expecting (not asking, EXPECTING) free legal

advice. You'll spend more time turning them down than you will finding potential paying clients.

Trust me.

Robert Thurston, New Jersey

---

I'm like Darrell in that I'm more liberal in answering questions than most lawyers. I admit, though, that that's because I'm nosy and want to see what kinds of problems other people have to deal with.

I have found that most people don't purposely want free advice. Some do, but those are the types who will meet with 4 lawyers in a row so they can get 2 hours of free consultation, for instance. A lot of lay people simply don't understand the complexities behind what they are asking about.

I got a website inquiry from a lady this morning, for instance, asking what I would charge for a "very basic" will, trust, and durable power of attorney. I wrote her back and said I don't know what very basic means because (1) she may think that her situation is basic when in reality it actually isn't, or (2) she may not have thought of a lot of the 'rubber meets the road' types of problems for when you actually have to use a will, trust, etc. when the person actually dies.

Last week, I ran in to a guy outside my office in Modesto who was asking about how to deal with a failure to appear because he forgot to go to his criminal court date. First, he couldn't tell me what the court date was for which made it hard to help him. He was asking about what sentence he was facing, but when I asked what priors he had, he couldn't remember all the ones he had, much less what they were for, how they were disposed of, etc.

This type of "responding to a question with a question" method tends to shut most free advice seekers down that I run into. For document reviews, a lot of lay people think they can just ask a lawyer 'Is this document ok?' and that's it. Obviously, there's no way for any lawyer to tell you if a document is ok without knowing the precise details of the situation in which the document will be used, what risks you want the document to protect you from, etc. You could ask enough questions about any documents you would be presented with at this lunch to, hopefully, drive home the point that this "simple" document review really isn't.

of course, this doesn't work if this potential client you're meeting with is an idiot and doesn't grasp the complexities you're asking him/her about.

Lastly, I would not factor in the potential for future referrals in deciding how to deal with this potential client. The referrals may never come. If they do come, they could be garbage. I did that once with a lady who I thought could refer me lots of stuff. She did end up making lots of referrals, but they were somehow all for small claims cases.

Andy Chen, California

---

I will talk to people most anytime, anywhere about legal issues, but I generally limit my analysis to something along the lines of "this sounds/looks like something I would be interested in looking into some more" or "that isn't something I would be able to help with, but you should talk to xxxxxxxx or go do xxxxxxxx."

FWIW, I have received a number of referrals from people who I didn't even "help" (but referred to another lawyer or sent them another direction) but then later sent a friend to me because they appreciated that I at least took the time to listen to them. Also, not that online reviews are the be all, end all, but I have helped hundreds of clients (while spending many hours on their cases), and I had a total of 5 reviews on my Google page; today I spent less than 10 minutes on the phone with a guy and told him he should take his case to small claims court and told him where to get the complaint template and what info he needed about the defendant and he thanked me by immediately leaving a glowing online review.

Ryan A. Ballard, Idaho

---

I'm not necessarily disagreeing with the advice and statements about clients seeking free legal advice; nonetheless, remember, it's your meeting; you control the terms of the meeting; you run the meeting as you see fit. Don't let potential client control the meeting; you control the meeting. You don't have to give any advice you don't want to.

The reason that is significant is, I see initial client contact as a sales meeting. Period. I'm trying to sell client on my services. Sometimes it works, sometimes it doesn't but I am laser focused (never quite understood that metaphor, lasers are pretty much always focused, but anyway) on getting the client to say yes and give me a retainer. Client may think going into the meeting that I'm reviewing the case (and I am, to an

extent) but this is for my benefit to see if I can get client to hire me and what I can realistically charge. You know the old saying I just made up, unless you're paying for it, you're what is being sold (to).

So, I'll meet with potential client. Depending on what is involved, I may be able to tell from quick review of docs what is going on; if docs are complaint in lawsuit, I can tell they're being sued and probably tell if I'm at all interested in taking it. If so, then I'll try to sell them. If, on the other hand, it's 200-page lease and they want me to review it; I'm going to tell them to set an appointment and I'll charge them a couple of hours to read and review it with them. IF they are willing to pay, great; if not, then no.

Also, remember; and I see a LOT of lawyers fail on this; "I don't Know" is a perfectly acceptable answer under some circumstances; You hand me a 60 paragraph complaint with a number of issues; and ask me detailed questions; or you hand me a 300 page document and ask me questions, or client is seeking quick, definitive, categorical answer to a very complex set of questions; I don't know is (from my perspective) a perfectly acceptable answer followed by if you want me to research it I'll need \$XXXX to figure it out. I see too many lawyers spend too much time trying to answer complex questions in a free consult; it's a sales meeting for gawds sake, not a "I'm going to solve your legal problems when we first meet" meeting.

As far as the "I don't know, it's complicated" answer; if you can explain why it's complicated and why you need to look into it further, frequently clients will in fact retain you; which may seem nonsensical but you're emphasizing to client that is is in fact, WAY more complicated than what they thought and that they need to hire you to handle it. Some people will get bent out of shape by this, they were seeking cheap, or free, simple answers; they'll get mad and say "oh, you must not be a very good lawyer if you can't answer my questions" at which point I say "Oh, I guess not, I can't help you, goodbye". And end the interview.

Look, not every sales meeting is going to result in a sale, but if you don't go into the meeting with the mindset that this is a sales meeting, you are not likely to make the sale anyway.

Ronald Jones, Florida

---

The least the guy can do is buy lunch.

I'm assuming if the guy can afford to golf he can really afford a lawyer.

Review some documents? How many? How long?

Instead of being a lawyer you're a car mechanic. Someone pulls in and ask does my engine sound funny. You listen and open the hood and reattach a spark plug wire.

Or you might explain that by saying anything that might subject you to a malpractice claim your carrier wants you to have a fee agreement in place before you say boo.

John Davidson, Pennsylvania

---

This situation just happened to me as well. Someone read about my consulting work around outsourcing. He emailed me to ask if he could 'pick my brain' about a few questions like how to analyze his business and create a outsourcing plan. Eh, that's what I do for a living, hello.

I gave him a hybrid response. I pointed out two questions he needed to answer before getting to structure & pricing and gave him the link to my private paid consulting saying I'd be happy to meet with him.

No word yet. I take it as a compliment that people see out my work but I have to remind them that my advice and insights gathered through years of study and experience aren't free.

Dina Eisenberg

---

I would meet the guy for lunch -- I'm a big fan of lunch -- and take a look at the documents then. If they're complicated, say "these are too complicated for me to review at lunch -- let's make an appointment at my office," and then get back to enjoying the chitchat and burgers. Or maybe it's an issue outside your area of expertise, and you give him a referral to someone else, and that's it.

I doubt he expects you to provide an in-depth analysis over lunch, especially without having seen the documents previously. I find it weird to ask someone to review documents on the golf course. Maybe it's a very easy question and he just wants an excuse to hang out again, but lacks the social skills to say that without somehow pretending it's a business thing?

Another question: Is this someone you \*want\* to have lunch with? If you liked him, go for it. If he's a jerk and you're dreading sitting across the table from him for an

hour, then don't do any of it -- ask him what the issue is, and refer him to someone else straight away.

Katie Burghardt Kramer, Vermont

---

"I'd like to pick your brain" is one of the most offensive things those arrogant louts who're looking for free advice can utter. At least for me, it conjures up someone rooting around and pawing through the stuff that fills my cranium, and that could be painful. Just hearing that phrase sets me off, making me want to inflict great bodily harm on the speaker. I have to force myself to realize that the speaker no doubt is so ignorant that he or she actually believes the phrase is a compliment.

jennifer rose, Mexico

---

Reminds me of an old saying – “You can pick your friends and you can pick your nose – but you cannot pick your friend’s nose . . . “

Walter D. James III, Texas

---

One of the many reasons I am no longer on FB. My phone battery life is worth more than these arrogant louts, LOL.

John Kang, Nevada

---

Wow, I never thought of "pick your brain" as offensive. Most of my friends and I use it, back and forth with each other (and by friends, I generally mean 'friends who are also solo attorneys in the same or different fields of practice').

Personally, I \*do\* take it as a mild compliment, so I guess that makes me "so ignorant." My experience is that people who ask to "pick my brain" generally recognize that I have more knowledge or experience than they do, in a given field. I remember when I was working as a law clerk ('career' clerk for 17 years), when local attorneys started calling me with questions about obscure areas of civil procedure, I began to realize that I had actually had experiences with many things that might come across an attorney's desk once every 20 years, and I pretty much knew the NY CPLR back and front, including all the nooks and crannies. Now, I usually get it from local

colleagues who seem to view me as having a bit of know-how in the areas I handle, and in which they are not very comfortable.

Conversely, I will occasionally 'pick the brain' of one or two of my buddies who are more well-versed in family law, real estate law, or litigation.

My usual response to "can I pick your brain?" is "what's left of it!" or "sure, but you might only find some lint and floor sweepings!"

Cynthia Hannah-White, Hawaii

---

"Just say no." Nancy Reagan.

The first problem we had in first year legal research and writing in law school concerned the potential liability of a lawyer who gave off-the-cuff advice at a social gathering, and whether there was a "lawyer-client" relationship. I assume that this problem was given to us to caution us not to consider doing what is contemplated here.

So,

1. I have a rule. I only give advice after I do a conflicts check.
2. I have a second rule. I only give advice after considering the matter for as long as I feel is appropriate, which may require me to do research, even think about things over time.
3. I have a third rule. Since the only asset I have is my time, I have to charge for my time. I have to pay rent, etc.

Roger Rosen, California

---

Who knew Lincoln was paraphrasing Roger? ;)

"A lawyer's time and advice are his stock in trade." Abraham Lincoln.

This is our struggle, because unlike car mechanics, we can't withhold the car until we are paid in full.

Robert Thurston



