

Fired Client

I recently ended my representation of a client. I had "nicely" reminded her twice previously (and in my engagement letter) that all communication to opposing counsel is done by/through me. She is an anxious and high-strung person, very nice, but I'm seeing that she's very impulsive.

OC and I were mid-settlement negotiations when my client emailed OC twice in one afternoon with demands I had never heard of her wanting, and making accusations that were a little "off balanced" (she has a son with severe issues who is the subject of the complaint, and she is losing patience).

I can't work that way--engaging in reasonable negotiations with OC where he is agreeing to several of our requests, only to have my client fire off emails on topics and terms new to me, making demands and accusing OC's client of everything imaginable.

Now that I sent (and she received) my disengagement letter, I get 3-5 emails a day where she forwards me emails she is sending to OC despite me asking her to stop since we have no legal arrangement. She's not copying me, where he sees my email. Still, I want no further ties or any sort of liability.

Wait her out, or do something else like block her (or other suggestions)?

This must be something I'm doing since I had a client situation similar to this 3 years ago.

Is OC aware that you have withdrawn from representing her? Otherwise, silence is golden. Ignore her emails and don't accept phone calls from her.

Duke Drouillard, Nebraska

Thanks Duke. Yes, she signed for certified letter and we discussed via email when she nicely emailed after cert letter that she understands, she'll "keep me updated." I replied that I no longer represent her and to not keep me updated or to email unless it concerns questions about the info in the cert letter.

I can do "silence."

Julie Mills, Ohio

I would take it one more step then ignoring her. Set up a rule that all of her emails go into a folder in your email called "Ms Smith." Just let them stack up there. Then you don't have to even see them or read them.

Jonathan Stein, California

You might want to follow-up with another letter stating that you are no longer representing her, and her emails will be ignored. I would snail mail it so she cannot easily respond.

Adam Sherwin, Massachusetts

A former client is distinguishable from a stranger, because we have duties to former clients. For example, former client may ask for the file in the matter to be released to him or her, or to successor counsel. A rule which relegates all e-correspondence from former client to a folder unread may cause lawyer to miss communications requesting the file, or implicating other duties lawyer owes to former client. So I would not counsel lawyer to do that. I think lawyer at least needs to skim communications from former client to ascertain that those communications do not ask lawyer to do something which he or she has a duty to do.

L. Maxwell Taylor, Vermont

Maybe you are wording your disengagements too nicely?

Send another e-mail and letter reminding her that effective ____ you do not represent her, that you will not be reviewing incoming correspondence, stating that she has the full copy of the file and all originals (assuming she does, otherwise arrange for pickup), and encourage her to get counsel to assist her in the matter. Close with "it has been a pleasure representing you, and I wish you luck in this matter" or something else nice and final.

I would also send a letter or e-mail to OC letting OC know that effective _____ you don't represent her.

Then, I would do the e-mail re-route thing, but check it weekly to make sure you aren't missing anything like "OC says he sent a letter on 11/14, but it's not in my file." Someone on SoloSez said they started sending the same e-mail in reply every time they received something. It was along the lines of "I am not your attorney. Do not e-mail me. If you have legal questions, you should retain an attorney to assist you."

Good luck!

Corrine Bielejeski, California

If silence is difficult, you can build a generic response repeating that you no longer represent her and asking her to stop sending or forwarding email on the topic. You could even put it as an automatic response every time you get a message.

If for some reason I feel it necessary to respond, I have drafted a generic response before (I did not automate it). With some frequency, either with each message or once a day, I would cut and paste the generic response.

Darrell G. Stewart, Texas

Thanks everyone. I am taking much of your advice.

Original Poster

You might want to consider sending a preemptive notice to your grievance system about the former client in case she files a grievance. That indicates that your squirrely client meter is functioning.

Consider not using her name, rather initials.

That does not mean a filed grievance can be ignored but when you file your response the letter would be attachment/exhibit number one.

I am doubting 'they' the bar grievance staff will jump in and offer advice or respond.

Anyone have comments about this idea, suggestions, etc.?

By the way, I just remembered this. Years ago, I am thinking back to the late 80s early 90s. Two family law clients filed grievances against me. Both were unfounded. I responded with details in both cases. There was so much detail it upset my secretary. I add, each client received good service and in one of the cases had received a refund of unused fee deposit.

WAIVER OF ATTORNEY-CLIENT PRIVILEGE. Anyhow, I made a recommendation to the State Bar of Texas grievance shop back then that the forms made available to the filers contain a waiver that the filing of a grievance authorizes the attorney to fully respond, which might include disclosures previously considered confidential. This is a thorny point because one can conclude that the authorization discourages grievance filing. On the other hand, in order to comprehensively respond, the attorney must be able to use information he/she obtained in the representation, whether orally, in writing, in documents (medical records being a biggie), or from witnesses, etc.

I paste here the URL for the State Bar of Texas grievance filing form. The waiver paragraph is at the end, which I also paste here. The form does advise that the grievance is 'confidential.' (I do not have my hands on my old files. I do not know if the extant waiver pasted here is verbatim from years ago.)

https://www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=31835

OFFICE OF THE CHIEF DISCIPLINARY
COUNSEL<https://www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=31835>

www.texasbar.com

0617 1 office of the chief disciplinary counsel. s. tate . b. ar of . t. exas. g. rievance . f. orm. online filing available at . <http://cdc.texasbar.com>. i. general ...

VI. ATTORNEY-CLIENT PRIVILEGE WAIVER

I hereby expressly waive any attorney-client privilege as to the attorney, the subject of this grievance, and authorize such attorney to reveal any information in the professional relationship to the Office of Chief Disciplinary Counsel of the State Bar of Texas.

I understand that the Office of Chief Disciplinary Counsel maintains as confidential the processing of Grievances.

I hereby swear and affirm that I am the person named in Section II, Question 1 of this form (the Complainant) and that the information provided in this complaint is true and correct to the best of my knowledge.

Signature: _____ Date:

TO ENSURE PROMPT ATTENTION, THE GRIEVANCE SHOULD BE MAILED TO:

THE OFFICE OF CHIEF DISCIPLINARY COUNSEL P.O. Box 13287 Austin, TX 78711 Fax: (512) 427-4169

Happy holidays to all.

Rob V. Robertson, Texas

I will add one thought into everyone else's thoughts. Remind the client that you are not their lawyer and that anything that is sent to you after the date that you terminated your relationship is *not* privileged. It can be subpoenaed and it can be used by the other side.

It may be the only way to get rid of them.

Good luck,

Frank J. Kautz, II, Massachusetts

I'd send one more letter as suggested, indicating that despite the withdrawal letter and subsequent discussion, the CL continues to copy you on emails. Remind CL that you are not representing them and that the emails will not be reviewed, and to stop copying you. One more letter to CYA don't just ignore.

P. Jayson Thibodaux, Washington

I disagree that the communication is not privileged. It depends on the client's mindset when sending it.

Nonetheless, even suggesting something of the sort could lead client (former client) to think that other communications may not be privileged and open a "can of worms."

I think a periodic reminder (prepare a form email) that your representation ceased and that the communications by email may not be read and that you will not be taking any action on client's behalf.

At that point I would monitor the emails for anything that you may need to know to defend any claims, but other than that file them away. Create a filter to direct them out of the in box.

Often saying less is best.

Phil A. Taylor, Massachusetts

Depending on the sophistication of your email system, you may be able to customize an autoresponder to reply each time.

Erik Hammarlund, Massachusetts

I would try to preempt any grievance with the Bar by explaining the situation to your state bar org, get their opinion on the matter, and write a memo to your file. CYA with the Bar.

Bob Arnold
