

How to Respond to Client's Request for Digital Editable Drafts to Complete Themselves

Hello all:

Prepared draft estate planning documents for client. Sent them drafts, all with a watermark indicating "DRAFT" across the document. In response received the following request:

"Can you please send all the editable digital files that have been drafted so we can finalize. We will complete from here."

I do not think I should be sending them documents to edit and complete themselves - mainly for malpractice reasons. How would you respond?

Just. Say. No.

Not in a million years would I do this. I would, and have, told clients that it would be unethical for me to do so because I have an obligation to them as clients and to the courts/legal system to see that the docs are properly completed.

Meg Tebo, Illinois

Ditto. And it happens more and more. "Have computer, can practice law without a license."

Not with my work.

Reta McKannan, Alabama

I would not. People doing such things always make me think the unsaid rest of the sentence is, "and provide them to our friends as forms". Unless you signed up to provide "fill-in-the-blank" forms, you can bet that any problems that come up will be claimed to be your fault.

Veronica M. Schnidrig, Oregon

100% agree with Veronica and Meg. Even if the clients don't provide the digital copies as forms to their friends (which they will), you can bet that they will do all future updates themselves. Especially when unexpected things come up and they don't want to pay a lawyer for, say, providing for a child with special needs or a burning desire to plan for future generations that won't even be born for 22 years after anyone else alive now...

Amy A. Breyer, California

"I'm sorry, that is not a service that we provide."

Erik Hammarlund, Massachusetts

Erik and others who responded. Thank you.

This response is a WINNER!!! I think I will respond:

"I'm sorry, for malpractice reasons, that is not a service that this firm provides."

Evelyn Zawatsky, Rhode Island

Why not just pin it on your carrier straight up? It won't mind. "I'm sorry. I would, but my malpractice carrier doesn't permit it."

Amy A. Breyer

This made me laugh. Besides all the malpractice "stuff," clients don't dictate how I run my practice.

Additionally, I really disagree with blaming or pinning this on your malpractice carrier. It makes you appear as if your standards are governed by something else, and it's (hopefully) untrue. I don't give half-completed legal documents that I prepared to a non-attorney to complete (standards), and I wouldn't do it even if my malpractice carrier was silent on it (the "untrue" part).

Does your representation letter explain how things happen ("I will prepare X documents for you...")? With some unbundled services I provide, I'll assist a client with document prep but the parameters of my representation are very clear from the start.

Julie Mills

Did you get paid in full up front?

If they're really committed, they can retype them themselves.

David A. Shulman, Florida

My response would be: "I am sorry, but I cannot comply with your request.

Final documents must originate here, including supervision of signing process."

Darrell G. Stewart, Texas

Thank you to everyone who responded. I like this language even better.

To answer other questions, I submitted a bill with drafts. Generally, I request a retainer before I do any work. I believe their dissatisfaction comes from the fact that when they failed to pay my bill in 30 days, I sent a past due bill with interest charges "per my engagement agreement." They sent me a copy of my original bill and said they were mailing me a check for the original amount. They can't seem to fathom why there is a late charge.

And yes, my engagement agreement does review procedure. To summarize, it indicates that I will send drafts, client will review and let me know if they have questions or changes; we will have another meeting to sign; and then if funding is

necessary - I provide written advice on how to do it and am available (if you want to pay my hourly rate) to assist with the funding.

This is the first time I have been asked (in 31 years of practice) to send digital, editable documents. And I agree with Julie, that I am uncomfortable blaming my unwillingness to comply with their request on my malpractice carrier.

And, I'm not sending them any response until I receive and deposit their payment; and it has cleared my bank. While I will address their past due bill in my response, these people (who have tons of money, of course), decided to do simple wills with no tax planning . . . and they will never pay the \$20+ late fee.

Thanks again.

Evelyn W. Zawatsky

To follow up on my earlier question, here's how I replied to my client:

"As to your request for editable digital files, I am sorry, but I cannot comply with your request. Final documents must originate here, including supervision of the signing process."

To which they responded with:

"Upon review of the invoice, the telephone calls with the [local] food bank and a [charitable] foundation was something we discussed and agreed that we would pursue on our own and my wife did spend time doing this. There should have been no charges for that as we did not request your services in that regard. Appreciate if you could make the appropriate billing adjustments.

The language that you included does not reflect our intentions that we relayed to you in that regard.

While we appreciated your guidance and efforts, overall we both felt the process was inefficient and led to unnecessary expense. A simple form could have been completed by us prior to the meeting rather than billing us to verbally provide you the information, billing us for you to write it down on a pad and then billing us to type in into a computer document.

"For these reasons, we again respectfully request you provide us with the documents we paid you to prepare as we will no longer be needing your services."

My proposed response is:

By this e-mail I am officially withdrawing my representation of you as your attorney.

In light of the professional, ethical and malpractice rules governing attorneys and the practice of law, I cannot and will not, in good faith, provide you with the editable, digital documents you have requested.

You paid for, and I provided you with drafts of your documents. I do not owe you any additional legal work at this time; and decline to provide you with any further legal representation.

Best wishes.

Does anyone think I should address their request for a refund, or their criticisms about the way I practice law. I contacted the food bank, for example, to clarify their intended bequest because they advised me that they wanted to leave their clothing and furniture to the local food bank.

I spoke with my contact at the food bank who advised me they would not accept such a bequest - and we agreed that it would be better for the Executor to sell these items and give the food bank the net proceeds.

My thoughts are that addressing these items will only serve to invite further argument, and no good can come out of explaining the practice of law to these type of clients.

I'd love your feedback. And thanks!!

Evelyn W. Zawatsky

I often think of this story:

Henry Ford once balked at paying \$10,000 to General Electric for work done troubleshooting a generator, and asked for an itemized bill. The engineer who performed the work, Charles Steinmetz, sent this: "Making chalk mark on generator, \$1. Knowing where to make mark, \$9,999." Ford paid the bill.

I think that people just don't understand what we do, but just compare it to what doctors do. At some point, you are paying the doctor to write down your prescription

in chicken scratch, then a pharmacist to type that into legible text. But really, there's more going on there.

John Strong

I agree with your response.

Another point: this is a good example of why, for estate planning services, I always quote a flat fee up front, rather than going hourly.

Some clients are all sorts of trouble, and I would have to send them itemized bills showing *n* number of tweaks, modifications, phone calls, and visits, which gives them ammo to complain. Others are easy. The flat fee I quote is designed (N.B.: I'm not claiming *well* designed, but it works okay for me) to average that out.

Michael A. Koenecke, Texas

I like your draft response.

As for addressing their request for a refund, I think you need to balance multiple factors: (a) how much was your total charge, (b) if you were to remove from the bill *all* the charges about which they complain, how much would that be, and (c) is there any sort of fee dispute mediation process that you can or must use in your jurisdiction (here in California, attorneys are obligated to use fee mediation if requested by the client).

In essence, I would consider the opportunity costs of ignoring their request. If it's easy to file a fee mediation, they might do that (as opposed to having to file a lawsuit). If the amount they complain about is relatively small, it may make more sense to refund that amount and hope that satisfies them. Arguing against that are the facts that some people are never satisfied (so offering \$XXX may cause them to demand twice that amount, believing that you have shown weakness). It may be better, as a result, to hold back and see what they do/say. You have good arguments for why you did what you did, and you may want to just hold those to see what happens.

In the final analysis, every response is risky. Even if you give them a full refund, they may complain about you (for instance, on social media) and use as evidence the fact that you gave a refund.

I wish it were easier.

Good luck!

Brian H. Cole, California

I would strongly suggest you resist the temptation to defend yourself as to any of the specifics. They are nitpickers, and will challenge anything you say.

It is worth your time to try to justify how much time you spent = how much you charged, and why you agreed to reduce it, so be it. But that is an admission that you are inefficient and/or you did spend too much time and/or you are right and they are wrong about your marching orders. If not clear cut, and it is a continuing client, you might simply offer an arbitrary reduction. If not, my policy is to effectively tell them to pay what they think is appropriate and take their business elsewhere. I have language to that effect that I have used a few times over the years, if you would like me to send it to you. It has always resulted in a client paying most, if not all, of what they owed. Long run it has never felt like it was worth it to do battle. Wash your hands of them, and whatever they pay is found money.

Henry R. Reckler, Colorado

Were it here, I would consider saying something like "I regret that you are expressing dissatisfaction. I strive to be clear in service provision and cost. I have previously provided you document drafts and billing detail demonstrating work to date. I have previously informed you that final documents must be prepared and signed in my office. You are requesting no further work be done on your behalf. Accordingly, this concludes representation and no further work will be done. Thank you for your professional consideration."

Bill reduction or other issues would depend on analysis.

Darrell G. Stewart

I would go with Darrel's suggestion. Don't be on the defensive. Don't respond to all of the allegations in their e-mail. You can if you want to, but here's what they want:- -

-A lower bill

- The documents you prepared, in an editable format.

If you aren't prepared to give them either of those things, then a simple, nice, "thank you for raising your concerns, I'm sorry you weren't happy with the draft I prepared for you, I'm withdrawing" e-mail is the way to go.

Assume anything you write could end up in front of a judge or on the internet.

Corrine Bielejeski, California
