

Warning Signs from Potential Clients

Selecting clients is a bit of an art; and I know it takes some experience; sometimes it comes down to a 'feel'. But for the newbie lawyers, newbie solo and such here's a couple of warning signs:

Client does not want to, or refuses to do, what you tell them. Sometimes there's a good reason; but you need to evaluate the reason. Just had potential client in here and one of the things I told him was to report the incident to the local police. He refused; he started complaining about how the local "sheriffs" were unprofessional and then related a story about the local sheriff in Hillsborough County when he reported something.

Now, I mean, yeah, Hillsborough. I hear stories about them. Never encountered them personally but I do hear stuff. I don't know whether they are professional or not personally but you hear stories. Nonetheless, we were not dealing with Hillsborough but Marion and in my experience, Marion is, at least under our current sheriff, pretty dang professional. But he just refused to do so.

"If she gets a letter from a lawyer, she'll change her mind". Usually, not, in my experience; if you really want to bring someone to the table then file suit and serve.

"Can't you just threaten her". Uh, with what? IF he was willing to make a criminal report I could threaten her with a civil action based on the same facts but I'm not about to threaten he with a criminal action; and if he's not willing to make a criminal report I'm not about to sue her or threaten to do so civilly. And the other stuff she's done is not tortious.

Changing facts; he presented the case over the phone one way, when he got here, well, the facts were somewhat different.

Just things to watch out for.

Ronald Jones, Florida

Just had a case I turned away. Potential client filed a copyright lawsuit in federal court pro se (with a lawyer ghostwriting the pleadings, I'm pretty sure), hired a lawyer, then fired him shortly thereafter. If you are lawyer #2 (or 3 or 4) that isn't necessarily a show stopper, but it's definitely a signal to slow down and figure out what's really going on before diving in.

Kevin Grierson, Virginia

Um, I wouldn't need to know much more than you've written to say to myself, Danger Will Robinson! In my practice area (employment law), if a PC like that came to me with multiple red flags, I'd run for the hills.

Eugene Lee, California

I just had a potential client call wanting me to review a letter and respond to it – I gave her my hourly rate and what I wanted for a retainer and her response was “Why would you want a retainer? My boyfriend is a lawyer and I could just have him do the response but he does not do environmental law.” My reply was: “Because I have had people in the past ask me to review things and write a letter or response and I never got paid.” Her response was to say “Oh” and then hang up.

Get the money up front!!

Walter D. James III, Texas

Ditto to James. And, if you tell the PC what it will roughly cost to defend the (obviously frivolous) claim all the way through trial and their response is something like "there's no way this should cost that much" or "there's no way I'd ever pay that much" or "there's no way I can afford to pay that much," take them at their word and pass on the case.

Actually, take pretty much any "there's no way" statement as a major red flag....

Jeremy Vermilyea, Washington

Good points, Ron!

I can add:

PC tells you it is an easy case despite all evidence to the contrary.

PC is uncomfortable talking about the legal fees aspect of representation and balks at the requirement to post a retainer.

PC wants to control everything, and use you to give them legitimacy - they want to draft the letter and have you put it on your letterhead. Um, no.

The best advice I can give is that if a potential client (or current client as well) gives you that uneasy feeling, or asks you to do something that you are not comfortable with, it is time to withdraw or not take on the matter. I don't think I have ever had a situation where I said "Wow, I had bad feeling about this client at first but it's all turned out great!" I have learned to trust that feeling and just say "nope" to that PC.

Caroline A. Edwards, Pennsylvania

The WORST warning sign:

Client's retainer check bounces.

Russ Carmichael, Pennsylvania

On the subject of warning signs for potential clients, people might enjoy my Red Flag Client Bingo card (which circulated here a few years back) at the following link:

<https://drive.google.com/file/d/0B0RvnsbW5iACenZKTU9tUFdrZnM/view?usp=drivesdk>

L. Maxwell Taylor, Vermont

I just had a potential client who urgently needed something done. I prepared an invoice and services agreement requiring payment in full up front, because past experience has taught me once I solve the emergency, I may not get paid. She said can I pay you half in three weeks I said no. She went on about how she was going to need to move money around and it was going to take time. I said no. No, no and no. Multiple times

I have learned, NEVER care more about what a client needs done, than what they are willing to invest in getting it done.

The following day she sent me an email. Well, something happened so I am going to move money tonight because now it really needs to get done. I said no.

Margaret Wadsworth, South Carolina

"I have learned, NEVER care more about what a client needs done, than what they are willing to invest in getting it done."

I have also learned this from experience. So true.

Amy A. Breyer, California

PC tells you that they have done all of the work and you just need to show up for trial.... next week. Oh, and the judge is angry and won't grant "another" continuance even though PC just fired her other lawyer a week before trial. Why did she fire her lawyer after multiple continuances a week before trial? She wants to sue him, too, in a "class action."

She also has no money, which is why she is doing "all" of the work and just needs me to quickly review three years of a litigation file and show up at trial. It wouldn't take much time (she said) because she was organizing everything so well.

That actually happened in January and I felt like I was in the Twilight Zone.

Deena Buchanan, New Mexico

Good for you, Margaret. There are some situations in which one decides to work on the promise of future payment. Sometimes that does not work out and causes one to become hesitant to do so in the future and to be less trusting of the class of humans called potential clients. But sometimes such an accepted but risky engagement becomes a lucrative one or leads to a profitable relationship.

As always, "people will come to you, but you can't help everyone."

Roger M. Rosen, California

I often except half of the payment at the conclusion of the service, but only where the client has skin in the game. They need something from me that they are not going to get unless they pay their balance.

In an extremely rare circumstance I will accept a payment plan, but ONLY if as back up the client signs authorization for the credit card to be billed directly by me if they renege. I have never forged a lucrative relationship with any PC that hasn't paid a deposit of some kind. Nor have I ever gotten a lucrative referral from one. I pay my doctor at the time of service, heck I even pay my vet at time of service. My clients need to pay me at the time of service as well. And if, as in this circumstance, they pretend they can't and then reveal that they can, that is a difficult client I want nothing to do with. So it's not that I "can't" help everyone, it's that I don't want to.

I find myself MUCH happier in my practice now than when i thought I "owed" something to PC's who had paid me nothing.

Margaret Wadsworth

Biggest red flag of all-time is when the client begins their sentence with something like "...see, the last two attorneys I talked to said....." yeah sorry, if 2 other attorneys passed on your case, then chances are all but certain that I should too.

Another sure-fire (and cheap & easy!) signal to reject/decline/bail/abort is a quick search of the online court records. If they are coming to me with a case that requires me to scroll down for 2 minutes before reaching the bottom of the 'case history' window, then I want absolutely nothing to do with it for any amount of money. That is usually a sign if imminent and incalculable pain & torment from which there is no return.

E. Seth Combs, Kentucky

"I read on [insert unreliable Internet source]. . .

Or...

My second cousin's boyfriend's roommate had a case like this and they got [insert way better outcome].

Matt Cree

I would take Seth's a step farther: GOOGLE THEM! Yes, while they are on the phone with me, I get their name and enter it into Facebook, Twitter, Instagram and then run it through Google. See what pops up. Once had a PC talk to me. She had a really interesting case. I probably would have taken it. But when I googled her name, I found a news article that talked about her recent arrest for making terroristic threats on an airplane. Sure, she is innocent until proven guilty, but it was enough of a red flag that I decided to walk away. (She ended up entering a plea deal, which would have killed her PI case.)

Jonathan Stein, California

In addition to googling your PC, if they are not a US citizen, it's a good idea to do an OFAC search to make sure they are not on a sanctions list.

Kevin Grierson

OFAC?

Roger M. Rosen

Office of foreign assets control. They have a searchable database of people on the sanctions list.

Kevin Grierson

Great thread. I've, as probably most, learned the hard way.

"I've researched it on google and they cannot fire me if I am on workers Comp."

"It shouldn't take long to just read the letter and tell me what you think."

RESPONSE - oh I could read the letter in about 5 minutes because I know how to read. But analyzing it, the legal impact, and relying on my years of experience and then exercising my judgement to try to advise you to minimize risk or know your exposure takes just a tad bit longer."

Had a referral who was presented with an employment contract to be executive chef for a new restaurant opening, he said it's only 3 pages, I said I typically do this on a flat fee review consider and meet with the P.C. for \$750.00. My engagement agreement is clear about scope.

The contract was worth over \$300,000.

He said nah I have a friend that is a lawyer who will do it for me..

GOOD RIDDANCE.

Anthony Minchella, Connecticut