

## What Do You Do When a Client is Unreasonable During Negotiations?

I'm sure I'm not the only one who's been in this situation. 😊

If you're negotiating for a client to avoid a really bad outcome, and they push back against every suggestion you make, what do you do?

Any tips to salvage the relationship? Or do you just suggest they work with someone else going forward?

Eager to hear your thoughts.

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Are they paying you an hourly rate? Or is this something like a contingency fee personal injury matter?

I just try to explain to them the risks going forward, including my fees. I tell them that the judge could easily rule against them and it's iffy going forward. In the end, I tell them that I am not going to shove it down their throats, but I do explain what the risks are and what they will need to pay me to pursue the case going forward. Sometimes I tell them something like, look, I really believe in your case, I'm on your side, but the judge isn't. He's too conservative and he just tends to favor the other side in these kinds of cases so you really need to keep that in mind.

In the end, I let the client make the decision. As long as their fully informed that's the only thing that really matters. But I do hourly rate work and my clients pay me.

If this were a criminal matter, well then, they really need to listen carefully. But in the end, it's their life, not yours.

Sterling L. DeRamus, Alabama

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Hear every suggestion they make. See if there's any middle ground.

Without knowing the particulars, it's hard to tell what to do, but sometimes negotiations just fail, and you have to go back to litigation.

Art Macomber, Idaho

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If you are going to stick around, make sure you take a fat retainer to be compensated for all the complications their unreasonableness is about to cause.

I have found this to speak convincingly to clients who are unreasonable in negotiations.

Val Loumber, California

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Hell no, run very far away and run as fast as you can ... you will be the one they sue for malpractice when the end result is not what they want either.

Peter Clark, Massachusetts

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Reading between the lines here: recognizing as early as possible clients that don't respect your input/contribution/time and ending the relationship as soon as ethically possible will save you headaches in the long run.

Jarrett Silver

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Yes, obviously, we would like for the clients to respect, accept, and act on our advice. And, figuring out if they will not early is often the best.

But, as I understand the situation, you are at loggerheads with your own client at a critical moment in the case and the direction chosen may have negative consequences on your client's position - but they won't budge.

This is what I do in these situations: (1) first, recognize and internalize

- this is not my case, my life or my outcome. My role is help the client achieve their desired outcome (which may not be the outcome I would personally choose); (2) second, ask the client directly - why - and listen

- and keep asking why until the conversation reaches a conclusion - maybe I will better understand my client's position or maybe they will better understand their position, and (3) if still at odds, write a letter to the client outlining (a) my advice and recommendations, (b) recommending against their chosen course of action and why, and (c) continuing down their chosen path is against my recommendations and advice. I go over the letter with client and have client sign acknowledging reading, understanding, and receipt.

If the client still wants to go forward and the matter is not illegal, immoral, or otherwise sanctionable, do your best for your client - which may, but not always, include withdrawing your representation.

Loyd J. Bourgeois, Jr., Louisiana

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I do exactly what Loyd does - if needed, write a CYA letter for the client to sign then, if legal, do it the client's way (or resign if it's too repugnant tho I'm not sure that's ever been the case) - but I didn't have the time to be as well-worded as Loyd.

Amy Breyer, California

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No details are given as to where the client matter is in the process. In my practice, there are items that are client decisions and items that are an attorney decision. I set that up in the beginning. A decision about a discovery extension is an attorney decision. A decision about settlement is a client decision. Many of the client expectations can be addressed from the beginning. I also make sure that I remain objective and evaluative throughout the process in trying to address a client matter. You do need to do your best to understand where a client is coming from or their decision-making process, which I generally get a grasp on early.

Criminal defense lawyers try to build enough of a relationship that their advice is trusted generally, then put it in writing and do what the client directs within reason. If the accused is too off the wall, sometimes a request for mental health evaluation is made. On appointed matters, I am told that some actually prefer a client that won't talk to them, as it makes the defense simpler from the lawyer side. All of the foregoing is anecdotal, since I practice no criminal law.

In civil litigation, sometimes a client or its representative have unrealistic expectations from the process. Again, I tend to manage those from the beginning, and if the position is too far outside of the ballpark of reason, I don't take the client. I start talking about the end goals of the process and the likelihood that some compromise will occur prior to a jury rendering a verdict in the first meeting.

If I cannot or will not proceed as a client wants, or if the relationship sours too much on a civil matter, I send the client down the road to another lawyer. Sometimes the source of conflict is situational and a surprise. Other times you can see it coming.

I have fired clients for being abusive to staff, unrelated to any other matter, for example, when I would not have expected the conduct. On other occasions, the client keeps locking back into a pre-conceived idea of how their case should progress, but in a way that is distanced from reality. If you can get them out of that rut, the matter can proceed to conclusion, but otherwise you are riding a train that is going to derail.

I can also say that in over 28 years, I don't regret the clients I have fired. Generally speaking, my only regret is that I did not address the situation sooner.

Darrell G. Stewart, Texas

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I'm happy for Deep Blue and the google-bot that won the go tournament, but I'm yet disinclined to think we will "algorithm" the nuances of purview. I'll take Darrell's method, thanks, and announce the boundary clearly, just the once at the beginning, never repeat it, don't "enforce it", just act on it.

After the initial announcement any repetition of the boundary, that is, any verbal/written re-saying or restating or repeating of "the boundary" is likely to provoke challenge, where, in contrast, the boundary having been fairly announced at the engagement stage, acting on it in the spirit of calm routine is on par with progressing through a four way stop when one actually has the right of way, and is about as interesting or controversial.

(I don't, of course, presume to speak for Darrell above, just to nod in violent agreement with the parts I think I follow!)

Robert Thomas Hayes Link, California

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Thank you all so much for your helpful advice! I really appreciate it.

The Original Poster