

# Letting a Client Go

*An April 2011 discussion on SoloSez, the email listserv for general practice, solo and small firm lawyers*

I have a difficult decision to make regarding a divorce client. I believe that her needs will be best served by someone else. At this point in her divorce, she would not be prejudiced by my withdrawal. The problem is that she is overly emotionally needy. I spent 45 minutes with her on the phone on Saturday not about her legal issues but "counseling" her about her husband leaving her. (She got my cell number and blows it up daily) She called this morning at 7:30 a.m.

I am not a social worker or a therapist. To be honest, if you really knew me as a person, you wouldn't want me to be either. It's not that I don't care, I really do, probably more than most. I'm just the sort of person who gets really tired of belly-aching without solutions and can get quite "blunt". I know that "counselor at law" often means providing a certain amount of emotional support to a client, but not this much. She has a therapist, who evidently isn't getting through to her.

If I don't withdraw, I know that I need to set boundaries with her....at a minimum! Does anyone have any advice on how they would approach this?

I am in a process too of trying to do this as I feel that I will never meet the client's expectations in the divorce (of course, every client gets advice from everyone in a matrimonial and expects to get what their friend's, etc. got) and that no matter what, there will be some problem down the road. I have even gotten "hate mail" from some clients in matrimonials because the truth is no one is ever satisfied in a divorce.

I have suggested a new attorney, referred this client to another attorney and advised the client that I will refund all fees collected: some cases are just not worth it.

Jon Michael Probst

Let me say first of all that I am not a touchy-feely type, so take what I say accordingly.

I'd let her go. She can get someone else and maybe the shock of your disengagement will make her come to her senses somewhat.

From your standpoint and perhaps hers as well, it is not a good fit. Life is too short for what amounts to abusing your role as counsel.

Norm Solberg, Japan

When I have found myself in this situation in the past, I think of the ability to let a client go one of the best benefits of being solo because no one can \*force\* you to take a case/client (except the court if you do appointed work). One of the best pieces of advice I received when I was younger was "if you are having second thoughts, it's probably not a good idea." In other words, if you are having second thoughts about continuing representation, I'd discharge the client.

Sincerely, Nicholas B. Proy, Maryland

Setting boundaries can be the hardest part with clients. It may one of many cases that you have, but it is, usually, the only case the client has. So they obsess about it and want to talk to you about it constantly.

My clients have my cell number because it is my office number. However, I treat it just like an office phone. That means no return calls outside of office hours. Nor do I answer it if I don't recognize the number after hours. Same with emails. Just because a client emails me at 10 at night does not mean I have to respond. I also charge the client for all the emails and phone calls. Between being clear about my availability and the bill, they get a clue pretty fast.

Elizabeth Pugliese

Been there and it's one of the reasons why I quit doing family law a while ago.

First, a techie issue. You need a way to call clients without revealing your cell number. I use Skype on my iPhone. The caller ID is set to show my direct dial office number. They know it's me calling, but they don't know it's my cell phone. There are other ways to get to the same place -- Google voice comes to mind.

Second, you're right about setting limits. I recommend you talk to her about your fee structure and the calls. If you took this on as a fixed fee case and she's burning up your time with calls outside that structure, it's time to renegotiate the fee. You're doing more work; she needs to pay for that. You want to be more expensive than the alternatives.

Third, if she's not deterred by fees, then give her a pool of minutes and fixed times to call. Not before X not after Y. No weekends. No nights. If she still persists, then do everything in writing.

Fourth, if none of this works the problem isn't legal, it's emotional perhaps to the degree that there should be concerns with her mental health. Punt to the experts in that field.

I hope this helps. Best wishes, Jeff Who only touches family law when it's an appeal.

Jeffrey M. Summers, Virginia

I recently "fired" a problem client for the first time. Setting boundaries is the key. I know many attorneys who charge a premium rate for after hours calls, etc. We did a post on this subject called "Breaking Up is Hard to Do. Firing that Problem Client" I wish you the best.

Adrian

Attorney Adrian Mark Baron, Connecticut

Withdraw.

Thank You

Maurleen W. Cobb

Whitney, Nick's right. OTOH, I certainly hope you're billing by-the-hour, and that you charge double for non-emergency calls during non working hours, or repeat non-emergency calls during working hours. If you are billing hourly, \*immediately\* send out (email/FAX is best) an "interim" or "special" bill after inappropriate calls (and I mean the same day!). If the client doesn't pay right away, decline any more calls on the basis of the outstanding bill. Even if you aren't currently hourly billing, or don't have the premium for non-working hours, you can switch to it as a condition of further representation, and limit telephone calls to one non-emergency call per day (for 10 mins). In my experience, the first time she gets a bill for \$500 for a one-hour Saturday phone call, or for \$100 for a 10-minute second daily call, and you demand immediate payment, those calls will cease. If they don't at least you'll be making some \*serious\* money in return for the agita! Good luck.

Russ Carmichael

What Maurleen said. You cannot make clients like this happy and when you fail to do so, you run the risk of a bar complaint, malpractice suit, etc. Let another lawyer become frustrated because she cannot meet the client's needs. Life is too short. Think of what your hourly rate is dropping down to because you are being a cheap shrink.

Craig A. Stokes, Texas

I agree with Maurleen and Craig.

Also, remember that when clients talk to and confide in you as if you're just a couple of girlfriends having a gossip/advice/whatever session about the soon to be ex, they're more likely to feel entitled to argue, fuss and squabble with you as if you're girlfriends and not attorney and client. Eventually when you draw that attorney/client line, there could be some very bitter feelings that pour over into what Craig mentioned, in the form of a bar complaint, malpractice suit, and all kinds of other trouble.

Withdrawing seems to be the wisest move.

Erin K. Russell, Illinois

I try to make sure that none of my clients have my cell number.

As a family lawyer you either deal with the emotions or find some other practice area.

Normally I adjust the call times based on a signal to noise ratio. However, if you whine there is no adjustment. After you get the first bill if you don't realize that calling a shrink would be cheaper

-- {John}

John A. Davidson, Pennsylvania

I think the nearly universal advice will be to withdraw. I think that advice might be particularly advisable for you, since your boundaries are already violated at this point.

When things like this happen (and they invariably do), I do a fish diagram to change my practices and policies. For example, a couple years ago, I had one of these clients and she was HORRIBLE! I tried to save the representation, and she stopped calling me every day. That was probably because she was calling the new attorney on the case. I wasn't sad to see that case go.

So, I figured out all the things that attracted her to my practice, and changed every one of them, right down to the person who referred her to me.

The other lesson I learned is that if I try to save the representation, it might stick. Most likely, it won't. There's a reason they aren't happy and I'm not happy.

Most of my clients are fairly low maintenance these days. I'm grateful for that.

On another note, I have noticed that some of the more successful attorneys in our field are brusque, no-nonsense types who you wouldn't want to use as a therapist.

Jennifer Moore, Minnesota

Part of your case management job is to educate the client. Part of the education is setting the boundaries.

Yes, you need to set boundaries ... with yourself. You can't set the client boundaries until you've established your own. Your boundaries should apply to all clients, and they should be made public immediately upon partnering up. They should be written so the client doesn't misunderstand or forget. Create a client information sheet for the client to put in the front of her file -- office hours, office closed on certain holidays, etc.

Part of the information sheet could touch on family law matters sometimes being emotional. "If you're having some difficulty coping, I'm not a therapist, call a therapist for help," etc.

I advise clients to keep a journal. Not only does it record details that might turn into a pattern of opposing party's bad behavior, it lets the client vent without racking up fees and making you crazy. If s/he continues to call, I lay it on the line -- money -- and tell them that they're going to deplete the retainer very quickly if they don't use their journals.

If you can, assign a distinctive ring tone to clients so you know not to even reach for the phone outside business hours.

cj

Carolyn J. Stevens, Montana