

EXPLAINING TO CLIENTS THAT THE LEGAL PROCESS ALWAYS TAKES LONGER THAN EXPECTED...

Dear List,

I am looking for some guidance on how to explain to (existing) clients that there are so many things that can happen in a case that can prolong a case, sometimes longer than necessary.

When I first talk to a potential client, I now go through the whole deal about how it may take longer due to things beyond my control, and the length of the case also varies on how amenable the parties, opposing counsel are, etc. I even have a small statement written to that effect in my engagement agreement. I do this now to prep my clients that even something that seems simple may take a lot longer than either of us anticipated.

While most clients understand, what do you do about the 1 or 2 clients that just don't get it, even though you've explained it to them?! I hate this, when they don't really understand (or care) about all of the work, drafting, scheduling, etc. that we do behind the scenes, and the fact they aren't the only client.

I call them and keep them informed of dates, information, issues, but I have a difficult time calling them every week to let them know...."still nothing, OC still has xx days to respond, so I can't do anything about it yet." I would love to send those clients a list of all of the behind the scenes outlines and email correspondence to/from opposing counsel to show there are things being done, but some things are out of my control, and I just can't run to the judge every time there is a delay. But I also don't want them to think nothing is being done.

Any input is much appreciated!

Just keep explaining it to them as often as they inquire. Also, bill them for the time you spend explaining it to them. If they are willing to pay you to explain the same thing over and over again; why should you complain about more billable hours? Most of the time, I think they just feel helpless and don't like feeling that way. They figure if they make noise that somehow it will make you do a better job for them. If they need handholding, hold their hand; but bill them for it.

D.A. "Duke" Drouillard, Nebraska

You could cite examples like the Anna Nicole Smith case and also explain the phases of a civil case, discovery cutoff, time needed for msjs, trial date(s), etc. Why can't you send them copies of the correspondence with oc?

Craig McLaughlin, California

You should DEFINITELY copy your client on all correspondence with opposing counsel. There are different opinions about how that should be done in the context of e-mail (you don't want the client to "reply all" and inadvertently send a copy to opposing counsel, so I think that unless you are SURE your client will not do that, you should send a copy to the client separately from the message to OC). Among other things, that helps the client understand that things are going on "beneath the surface" and lets the client understand some of the charges on the invoice better.

-Brian

Brian H. Cole, California

I deal with this regularly defending immigrants with criminal matters. A lot of the time it's a lack of understanding - be it the language or their educational background, or the culture differences and our legal system which rarely follows common sense. Then again a lot of times it's fear - that they're not important, fear in the unknown outcome, you name it. Finally, sometimes it's just that you're client is an asshole. They're out there in the wild and breeding, and they really just want to see if they can control you and their case. These are the same people who torture anyone that is perceived as subordinate to them like waitstaff in a restaurant or a store clerk. They push because they think they can get away with it, and it's an attempt to mask insecurity.

Recently I had a high school classmate approach me about handling his divorce. He was an ass in school and little had changed. He went on and on about how loaded he was - how he was "killing it". Then he'd ask for free advice and follow what little I gave him with something about the other lawyer he had talked to saying something different, or if he hired me I'd have to be able to do A,B, or C for him, etc. After a while I cut him off and told him that he called me, and that if he wanted me to beg for the gig it wouldn't happen, and that if I decided to take his case this is how it would go. He was outraged that I had the nerve to inform him that I chose my clients, and hung up. He's called twice since then. I guess his other lawyer wised up too.

All rambling aside, field their questions as best your patience can tolerate. Most times it's not a lack of understanding, but fear driving the client to drive you nuts. These are the ones I try to update more frequently than others. Sure you can't do it every day, but the trick is to call them before they call you. This shows you're working on their case without them asking you. I'd be surprised if the calls didnt slow down when you start doing this.

Another option is to simply pinpoint their fear and address it rather than waste time answering the same question for the 100th time. Just last week I was retained by an immigrant to handle a criminal matter. He was obsessed with getting some property back the cops had taken in a seizure. I was also trying to get his roommates out of jail as well, so we had to do a lot of back and forth calling. He'd ask about his cell phone. I'd say I'm working on it. Ten minutes later I'd call about the case with the latest news I had. He'd ask again about the cell phone. I finally told him that he'd hired me to solve a problem, and that the cell phone was part of that problem, and that he didn't need to worry about it just like he didn't need to worry about the surgeon sewing him back up after appendix surgery. He laughed and got the message. It was fear that he wasn't being taken care of that was at issue, not my abilities. Since then he calls once a week rather than five times a day, and has already sent a new client my way.

When all else fails compare yourself to a doctor. Those folks don't get half the second guessing or demands we do!

Clark V. Stewart, Alabama

"What we got here is a failure to communicate."

--Captain (Strother Martin), *_Cool Hand Luke_*

(Sorry, couldn't resist.)

James S. Tyre, California

I also tell my clients the cost and of length time for a legal matter is out of our control. It's depends on how big a pain in the ass the other guy is

--

{John}

John A. Davidson, Pennsylvania

>>"and the fact they aren't the only client"<<

Why should your client care that you have other clients? Unless you are [in court/at a depo/at a closing] for another client, which makes you physically unavailable, I would not advise using this particular reason for whether or not a client's case is progressing. I don't want to give a client the idea that anyone else is more important or that I am too busy to care for his/her file. The other advice you have received is better - especially the part

about keeping clients apprised of all the work you are doing (on their file), and helping them see how diligent you are on THEIR matter(s). :>

Stephanie Hill

I can tell you from client's viewpoint that when you begin a world-changer like a dissolution with kids, your head is not focused on the lawyer's job but on your spinning little planet. As the attorney, I'm not always focused on the client's spinning planet either. That's why I have this roadmap so the client can look at it before calling me once a week.

Most of my clients (family law) have never enjoyed participating in the legal system. Their experience is one-hour episodes where one character commits a crime and is sentenced in the same hour, or is vindicated in one hour. Nobody ever takes the camera into, e.g., the "physical plant" where all working machinery resides -- the front desk where calls come in, route to the attorney's paralegal, blah, blah; paralegal reviewing docs and prioritizing them; delivering and explaining as necessary to attorney; attorney reviewing and deciding whether to take the case An event happens and, snap, it's resolved.

It's kind of like somebody filing and serving on the unsuspecting person an "A Must-Go Invitation to Hinterland to change our lives forever. You have 20 days to find and pay a guide to take you through the process, learn all about Hinterland, learn the language, learn about the geography and the culture, get in shape, select proper clothing, get on the train, and be at the destination in 20 days. Have a nice day." After being poll-axed like that, you're a bit mazed. You need someone to reassure you when the train seems to be rocketing out of control, stalled on the tracks, or leaving the tracks and is poised at the chasm's edge.

To the client a favor. Create a map. Write it down. Print it on colored paper and tell client to put it as Page 1 of client's file. Use outline form or bullets to separate each leg of the trip. Let client know about how long each leg takes, e.g., We file, They have 20 days to answer after They are served. We file the Motion for Temp Parenting. They have 10 days from date of service to file a response. Then This might happen, in which case This Other will happen.

I can tell you from client's viewpoint that when you begin a world-changer like a dissolution with kids, your head is not focused on the lawyer's job but on your little planet spinning out of control. As the attorney, I'm not always focused on the client's spinning planet either. That's why I have this roadmap so the client can look at it before calling me every day to find out if I have a response to the petition.

C.J. Stevens, Montana
