

## Dealing with Unhappy Clients

Hello everyone,

I have a few cases lately in which the clients are not getting what they want, and they have turned to blaming me, even for decisions they made in the past or for decisions made by other people (judges, trustees, creditors, etc.). I'm really down about it. How do I discuss these issues with them without coming off too defensive, and yet not taking the blame for things that are out of my control?

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Tell them their chances of winning are 50/50 and you make no guarantee.

When my clients are unhappy, I just let them know that there are many many lawyers available for hire and they should open the yellow pages and find one that will help them. I have gone mean on some of my clients, they usually beg for me to keep them after that, so I am not hesitant to tell them exactly what I think.

Michael A. Huerta, New York

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FIRST, LOOK BACKWARD: Did you query about their expectations when you did the intake? Did you document it? Did you parrot it back, either in the intake meeting or the engagement letter? I have had clients balk at a settlement offer because, for instance, in a Title VII action, they saw the demands in the Complaint which asked for the full measure of damages maxed out for a violation (say, \$300,000), and their expectations grew, despite being warned repeatedly, "This is not the value of your case, it's a talking point." I was able to go back to meeting notes, and say, "On April 7 of this year, when we first met, you told me you would be ecstatic if we got you a year of salary and credit toward your pension. They have just offered 18 months' salary, and credit for a year on the pension."

Did you talk to them about how the case would progress? The ups and downs, the back and forth, and the roller coaster ride that is litigation? Did you discuss the weaknesses in their case/claim, what would sink you, what would save you, and what was out of your control? The judge? The jury? The climate in your jurisdiction for that kind of matter?

The best way to avoid seeming defensive is to proactively schedule a status meeting or call to discuss where you are, where's left to go, objectively discuss what's gone wrong (and if there are remedies, what they are, what evidence would be required, and costs), what's in your favor, etc. Don't respond to the complaint at the time they're complaining, if you can help it; just set a scheduled sit-down to go over the big picture. Details and complaints will surely come up there, but now you've put them in context, and can point to prior conversations and correspondence, etc.

THEN, LOOK FORWARD: Does your intake ask about expected or desired outcomes? If it doesn't, add it to your forms/routine. I like to ask for that on the intake forms if applicable, and then I have a "we haven't discussed value yet" figure from them. In intake, I will pin them down on expectations, to ferret out pie-in-the-sky expectations. People want to avoid giving you a figure, for fear it's "too low," and will hem and haw, and go on about the principle, or "making them hurt," or "getting what I deserve." If a client tells me that they've not given any thought to the value of their case, I'll tell them point blank I don't believe them; they must have put some value on it in order to decide to see an attorney. Perhaps a friend said, "Oh, I got..." or "My aunt had that happen, and she got..." That gives me a point of reference for discussing valuation, and an anchor point for setting realistic expectations. (And, of course, that

leads into a discussion of what it'll take to get their - your fee, your contingency, your retainer, costs, etc.)

THE BEST DEFENSE IS A GOOD OFFENSE: If you have shared these things (preferably in writing) before they happen, there's little risk of you being seen as defensive; you just point back to the conversations you've already had.

I had a client once who, at intake, said he wouldn't settle for less than \$4M. I brought him back down to Earth and at least got him in the range of the right number of potential digits. I thought the case was worth low six-figures, and it was holding up pretty well. I had braced him for 18 months of litigation, and he was gung-ho at the outset. When we went into mediation a little over a year in, he settled for relatively low five-figures, because he was just over it and wanted to be done; he was emotionally exhausted.

-Rick

Richard J. Rutledge, Jr., North Carolina

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You can't because no matter what the client will still blame you because your the one person they can blame.

It is not the judge's fault, because you should have argued better, found some trick and so on.

This is really an issue where either the client wasn't prepared for the

possible outcome or was prepared and refused to believe this outcome was a possibility.

If it is the first, then you need to work on better preparing your clients on the possible outcomes.

If it is the 2nd there is nothing you really can do if the client does not respond to your attempts to temper their expectations.

One thing I always stressed to clients was that ANYTHING can happen in front of a judge or jury and that they need to weigh that risk versus their other options.

Some just refuse to see their case or cause as anything other than slam dunk and them getting exactly what they want. And from that position, the only way they lose is that you screwed up. Not that their case wasn't that strong, not that their decisions caused problem, not that they were untruthful or withheld information and so forth

Erin Schmidt, Ohio

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Sara, the first thing you should do is stop and take a breath. Because when clients come to you unhappy, it's usually not for something in particular that you have done or not gave done. And, unfortunately, some clients will take you to that dark place that you normally don't want to go to in terms of responding to them. Everyone has given you some great advice so there's not much more I can offer but I will try to share something. Remember, your documentation and your communications are your allies. If you have been

providing written documentation in terms of letters and emails as well as active phone calls common use those prior communications as an opportunity to remind the client how you been doing what you're supposed to do. Also, when you're talking to your clients just remember this phrase I told me when I was in law school, " you are not a bus". In other words, you don't have to give everybody a ride on your vehicle. As stated above, they can easily go spend time with another attorney you probably will not be as patient and understanding as you have been up to this point. When in doubt, the bar rules are sometimes your best friend. If their expectations are unreasonable and you can't bring them back to a level of reasonableness, you can get out. If they are not happy with the work you're doing for them, you are in conflict.. I say these things to let you know that you have a lot of ammunition on your side so don't let your unhappy client beat you up. You probably done more for your clients and others have done and you probably done it at a cheaper rate as well.

Anthony Reeves

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1. Prep the client for varied outcomes.
  2. Prep yourself too.
  3. Sometimes you can go through the best possible outcome and worst possible outcome with them. Sometimes you can do a range.
  4. Remind them that no result is guaranteed, especially in litigation.
- Develop or adopt war stories to illustrate.

Darrell G. Stewart, Texas

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It also seems like clients come in waves, or it may be that they are always there, but our willingness to take them on comes in waves. I know that with the challenged economy I have taken more unpleasant people than I have before.

Michelle Kainen, Vermont

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Casey Stengel once said, "They don't pay me to win them all. They pay me win 2 out of 3". And that's when the the Yankees had a lock on baseball talent. Why do you think you can do better?

To paraphrase Don Rumsfeld, You go to trial with the client and facts you have not the ones you want.

I think of being someone's lawyer is like being a head coach. You're going to lose and most the time it's not your fault. However you will be blamed. Heck I had a client who was charged with 50+ counts of child pornography. After a year of haggling I got my client a deal where all he did was 10 months of county time. Mostly because he shot his mouth off to the police. He stiffed me and then wrote a scathing review on some site.

I could get upset but after 9 years of this I got the hide of a rhinoceros. That said you have to think like a corner back. You have to remember how you were beat so it doesn't happen again. You just can't remember them to beat yourself up.

Move on.

John Davidson, Pennsylvania

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Rick is right on. CLIENT CONTROL--especially expectations--from the beginning and reaffirmed at every contact. (How has your view of the case changed?)

Hard for them to complain about things they have agreed to. Keep them at arms length. Ball always in their court.

John Page, Florida

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