

Following Up with Cancellations or No Shows

Do you follow up with your appointment cancellations or no shows? How?

Just a quick call? I'm wondering if I should reach out more to these folks or just let them go.

As a quick aside, bankruptcy clients do tend to have real things come up that they cannot control, like not getting time off work or not being able to get a babysitter.

I understand stuff happens. That said were these people raised by wolves?

John Davidson, Pennsylvania

Now that I have a part-time assistant, one of the goals is to make a confirmation call for all appointments the day prior.

I do, however, have a form letter I send to no-shows, tweaking as appropriate based on the nature of the matter and the appointment:

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I had you scheduled for an appointment on DATE , and I was disappointed that you didn't show up. I realize there are many reasons why people miss appointments: illness, scheduling conflicts, etc. I also realize that you may have also been inquiring of other attorneys who might be able to help you, or you may have already resolved your problem.

If the reason for missing the appointment was an oversight, please call my office to reschedule.

If you have decided to pursue your matter with another attorney or through other avenues (such as an internal grievance process), I respect that, and I don't take it personally. I would appreciate knowing that you no longer require my assistance, so that I may mark your file closed. If I don't hear from you within ten days of sending this letter, I will assume you no longer intend to use my services, and I will mark your file closed.

If you decided not to come to the appointment because of something about the firm, such as the fee or something you heard from someone else, I would be most grateful to hear from you. I take great pride in the service I offer, and I want to resolve issues before they become problems. I can't fix things if I don't know they're broken!

The Rules of Professional Conduct for lawyers require that I notify you that information you shared with me or my staff in any prior conversations remains confidential, but that I am not your attorney in this matter or any other matter unless and until we have reached an agreement on fees, and have signed a Fee Agreement.

In any case, I wish you well, and I hope you have found a satisfactory resolution to the matter that brought you to me in the first place. I hope you will keep me in mind in the future if I may be of other assistance to you. If you have any questions or concerns, please call me. You may also feel free to submit an e-mail via the link on my web site.

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Thus, especially where we may have had some preliminary conversations, it doubles as a disengagement letter.

Richard J. Rutledge, Jr., North Carolina

In all due respect, sending a notice to a no-show is a complete waste of time and postage. Some of them make the appointment with no intention of showing up. I have found that if it is a legal issue important to the person, they will eventually call back to reschedule.

I might call a canceled prospect to reschedule, but on a case by case basis.

In 2015, I have automated text appointment reminders and so far I am at zero. A prospect receives a text confirmation after making the appointment, the day before, and 2 hours before the appointment with an option to text back "yes" to confirm and "no" to cancel. If the prospect is not there 1 hour before his/her appointment, on a case by case basis, I will place a call to ascertain what happened.

Rod Alcidonis, Pennsylvania

I see more than enough value for the 3 minutes it takes and the postage in the CYA of the disengagement aspect of the letter.

I have perhaps a 25-30% reschedule rate for those who get the letter, generally having forgotten the appointment, made on relatively short notice. No shows who don't get the follow up? Well, I've had perhaps one call sua sponte to reschedule in 7 years.

To be sure, it depends on where you're getting the calls from, and whether you've spent time with them prior to the appointment. (Not having had an assistant until recently, most of them had 10-20 minutes of "free consult" on the phone before making the appointment so, to me, the disengagement had value.) With more sophisticated clients referred by other lawyers, the no-show rate is already low, so the need for CYA is much lower. Remember that the standard (here at least) for when you're "their lawyer" is pretty much their least common denominator belief that you're representing them.

Richard J. Rutledge, Jr.

I used to get upset when people didn't keep their appointments when I worked in the civil law clinic in law school/ As the clinician pointed out. Clients aren't the most responsible types. If they were they wouldn't need lawyers.

John Davidson

Rick, which of the "Rules of Professional Conduct for lawyers require" you to "notify" a no-show prospective client "that information you shared with me or my staff in any prior conversations remains confidential, but that I am not your attorney in this matter or any other matter unless and until we have reached an agreement on fees, and have signed a Fee Agreement"?

Steven Finell, California

I'm not a true solo, and have a receptionist and other staff which makes things easier.

My receptionist calls 10 minutes after the scheduled appointment time if they aren't there yet. Sometimes they are running late, sometimes folks completely forgot, sometimes people decided they don't need an appointment any more and didn't bother to show up or cancel. If we can take them later or they are almost there, then we just move the appointment back, and if not, then we reschedule.

I've had some great clients who are retirees who forget about appointments sometimes. One of my favorite clients is > 1 hour away and is frequently

late but always calls once that becomes clear.

If the cancellation says that they can't make it and will reschedule, then we follow up to reschedule if we don't hear from them in a week.

If you keep your calendar in a practice management system and it really bothers you, consider creating a contact category for appointment no-shows or cancellations without notice. That way if they call back insisting they need to speak with you for an urgent matter in the future, you'll know whether this is a pattern.

Cynthia V. Hall, Florida

The RPC does not strictly require me to notify specifically about ongoing confidentiality, but it does require me to maintain confidentiality of a prospective client. Because I do employment law and some civil rights claims, I get my share of very unsophisticated clients and potential clients. Some, by my perception, may implicate RULE 1.14 (Client with Diminished Capacity).

RULE 1.4 (Communication) provides that "[a] lawyer shall ... promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required ... [and] keep the client reasonably informed about the status of the matter ... A lawyer shall explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." The notes add that "The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation."

Our notes to RULE 1.9 (Duties to Former Clients) include: "Although a lawyer asks a prospective client to sign a form stating that no client-lawyer relationship will be created by reason of a free consultation with the lawyer, the lawyer may not subsequently disclaim the creation of a client-lawyer relationship..."

RULE 1.16 (Declining or Terminating Representation) states in part that "[u]pon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.:

RULE 1.18 (Duties to a Prospective Client) states in part that "[e]ven when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client." A note goes on to add, in part, that "prospective clients should receive some but not all of the protection afforded clients."

The disengagement letter generally is not a matter of an RPC requirement, but a strong recommendation from my malpractice carrier. See, for example:

<http://www.lawyersmutualinc.com/blog/proper-documentation-can-prevent-malpractice>

Thus, taking all of these considerations together, I arrived at that wording because I have actually had numerous clients over the years call me back minutes or hours after an initial screening call and express concern that, because they elected not to make an appointment for a consultation, the basic information they'd shared with me might not be confidential because they didn't engage, and if "I wasn't their lawyer" (i.e., I wasn't representing them) that no attorney-client privilege existed. That statement wasn't in the original version of the letter I drafted. The wording could probably use some tweaking, as I'd not edited it in a while, but I think it accomplishes my basic goal, and does so in a way that reassures [unsophisticated] clients.

Richard J. Rutledge, Jr.

What is this "I have automated text appointment reminders" of which you speak? Please share! inquiring minds want to know.

Thanks!

Laura S. Mann, New Jersey

I ditched Practicemaster and I am now on a force.com platform for practice management solution. I might be able to stop the snow in as little as 5-30 minutes of programming if I wanted to using my practice management solution (smile). I am using Twilio as a gateway provider that is finely integrated into my practice management. When a consult is scheduled, without me doing anything, the system knows to send the three text messages to the prospect seeking confirmation. If a confirmation is received, I now have to go in and delete the appointment but when I have some more time to program, I will have the system delete the appointment automatically. If it is 1 hour away from the appointment and all three text messages went unanswered, a scheduled task pop-ups on my screen reminding me to call the prospect to see if they are on their way. If I call the prospect and I don't receive a response, I then know to do something else with my time. My unconfirmed no-show is thus now at zero.

Also, when an appointment is scheduled, the system assigns a "probability of showing up" number to the prospect based on a number of factors I have programmed -- such as whether the person is making an appointment for someone else, whether this is a rescheduling, hesitation about consultation fee, hesitation about distance to the office, specific referral, Google search, etc. If that number is below 50 percent, I know to schedule contingent work as the person is not likely to show up. However, if it is above 50 percent, there is a strong probability that the person will show up. It's not science of course -- I just programmed my experience into the system so it does it automatically.

Beyond your question, I am working on a set of factors for doing initial assessment of cases, too. My goal is to get it where it tells me based on a client's profile, whether I should settle a case or file it, or file it to go to trial. All doable. I only enter the data and the system uses it intelligently to help me manage my practice.

Rod Alcidonis

When a potential client does not show up, and does not call within an hour to apologize, that is the end of our relationship. When a potential client who failed to show up for an appointment s/he scheduled calls a week later to reschedule, I tell the person s/he must consult someone who is not me.

What those people have already disclosed to you by such behavior (barring an extraordinary event) is that the rules which govern civilized interactions do not apply to them, and that they are entitled to play

by their own rules. This is valuable information to have about someone before meeting them. It is a bright red flag.

L. Maxwell Taylor, Vermont

I'm with Max. Unless they tell me someone had to go to the hospital, I have a very low tolerance for no-shows. I also have a low tolerance for last-minute cancellations, especially if it appears that whatever the issue is was not a last-minute thing. I will fire them if they pull that more than once.

If nothing else, it trains them that our time has value. I have had colleagues thank me when the client finally got around to hiring someone to do the work. Generally they tell them that I fired them for being too disorganized and that they will be much better so they will not get fired by the next lawyer. Too bad more of my colleagues weren't training them. I wouldn't mind getting some clients who had been trained by my competition.

Michelle Kainen, Vermont

You mean like the young lady who called me on Monday, desperate to talk to me right away, but who couldn't meet me until today at 1130 at a Target Store 14 miles away, but then didn't show, didn't call, and still hasn't called?

Why on earth would I waste my time following up with her? If she still needs me, fine. If not, her loss.

(It was a very nice Target store, with a Starbucks and everything!)

Barry Kaufman, Florida

Well...unless they are retirees (at least retirees living in Florida) coming in for some estate planning. I can't tell you how many times folks have forgotten an appointment with my office because they just forgot and aren't used to looking at their calendar to remind them what they have to do every day any more. Not enough times for us to do reminders for all appointments, but enough times to not be at all surprised with no shows when we call and hear, "Oh, I forgot, I'll be right over." or "Today is Tuesday?!?" or "Oh, I forgot, we're at the beach now, can we reschedule?" If we didn't call, I'm not sure if some of these folks wouldn't be too embarrassed to call and try to reschedule. Us calling them takes a bit of that away. And often if that happens once we flag them to schedule a reminder call next time.

Then again, most things are a bit more relaxed in this part of Florida.

Cynthia V. Hall
