

FOR MANY PEOPLE, THE PROCESS OF HIRING a lawyer is fairly straightforward. The client in need of legal services identifies a selection of qualified attorneys, interviews several of those, and selects the one who appears best suited to undertake the case. In a perfect world, the most qualified attorney also possesses those essential qualities—integrity, diligence, and skill—which further support the client’s final selection. The fact is that we don’t live in a perfect world, and despite the efforts of clients to hire the best lawyer for the job, every attorney-client relationship is not a “love connection.” Unfortunately, clients often fail to appreciate what is expected of them in the attorney-client relationship: choosing instead to believe that if things did not work out as expected, it was entirely the lawyer’s fault. While all such relationships may not be salvageable, a better understanding of what is expected on the part of both lawyer and client can often help enhance the professional relationship and lead to a better outcome. The focus of this article is not on how to fire your lawyer—although that topic is addressed as a last resort. Rather, this article focuses on what is expected of both lawyer and client in order to make the relationship work best.

The quality of the working attorney-client relationship is vital to the success of the case. Clients and lawyers who work well together dramatically increase the likelihood of obtaining a favorable result. Conversely, lawyers and clients who display all the symptoms of a dysfunctional relationship tend to take it out on the case. Changing lawyers mid-stream—putting aside the increased cost and stress which often accompany such a change—tends to transmit a clear signal to the opposing side that “problems exist.” While these problems may have absolutely nothing to do with the underlying case, the oppos-

ing side may misinterpret the cause of the break-up and conclude that the case is in trouble, leading to lower settlement offers. In short, attempts to salvage the attorney-client relationship are well worth the effort.

RULE 1: Check your cynicism at the door.

Lawyers are highly committed to achieving their client’s goals. Unfortunately, client cynicism can impair the attorney-client relationship early on, leaving clients questioning their lawyer’s dedication, when mutual trust should be established

How to Avoid Firing Your Lawyer

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instead. A lawyer I worked with for many years had a wonderful saying: Never trust anyone who doesn’t trust you. To be honest, the saying made little sense to me when I first heard it, but over time, the wisdom became evident. Professionals who feel distrusted by their clients tend to withdraw from the relationship in subtle ways. Calls from clients often go unanswered or take longer to return; attorneys parse their words more carefully and speak in measured sentences. Perhaps most significantly, candor is lost and clients receive less accurate information from the attorney than would otherwise be communicated. It may require a leap of faith, but by replacing cynicism with trust at the earliest stages of the relationship, clients can effectively improve the chances of developing a stronger attorney-client relationship and achieving the desired objectives.

RULE 2: Maintain reasonable expectations.

There is perhaps no greater challenge for a

lawyer than the management of unreasonable client expectations. Whether the case involves a serious, traumatically-induced injury such as complex regional pain syndrome (CRPS), or the purchase of a new home, a lawyer cannot be expected to deliver a result that is completely unreasonable. Clients often value their own cases well above the range typically paid by insurance companies or juries. The reason for this is obvious: clients live with the enormous pain and physical limitations imposed by their injuries, and insurance companies do not. It is also important to recognize that lawyers have no reason to under-value a case. Since most personal injury-related cases are handled on a contingent fee basis (typically one third of the gross amount recovered plus case expenses) plaintiff’s counsel has every motive to obtain the very best result possible.

RULE 3: Give it time.

Like it or not, litigation takes time—and a lot of it! A typical personal injury case can take from one to three years to complete, depending upon the complexity of the case and the extent of the damages. The best way to devalue a case is to prematurely push for settlement. Cases prepared for trial usually settle, whereas cases prepared for settlement usually go to trial. The reason for this is clear—insurance companies perceive aggressive efforts to settle cases as strong indications that the plaintiff is uncomfortable having their case tried before a jury. If true, the insurance companies believe they can resolve the case for lower values than would otherwise be acceptable if the client were committed to trial. Therefore, allowing the case to “mature” can greatly enhance the overall value of the settlement.

RULE 4: Be direct.

I have a phrase I use to (affectionately) describe a certain category of clients: I

call them “after thinkers.” After thinkers are clients who nod their heads up and down during client conferences only to telephone me later with a variety of questions and concerns that could have been addressed during the conference. I suspect that a major cause of “after thinking” is awkwardness. Clients often feel uncomfortable challenging a lawyer’s opinions in real time. Unfortunately, delaying important questions or concerns tends to lead attorneys to conclude that there is consensus between lawyer and client, when in fact such is not the case. If you have concerns about any aspect of your case—ask. If you do not understand the case plan your lawyer has developed, ask for an explanation. If you still do not understand the case plan, ask until you do understand it.

RULE 5: Too many cooks spoil the soup—and the case.

If you find yourself losing confidence in your attorney, make an appointment to meet in person and address your concerns face to face. Too often, dissatisfied clients tend to seek out the opinions of other lawyers, who have little or no familiarity with the particular facts and circumstances surrounding the client’s case. This results in greater confusion on the part of the client. Don’t expect a lawyer who has not had the benefit of working on your case to have the answers. It’s unreasonable and self-defeating. Instead, advise your lawyer that you have concerns and insist on answers that help you to resolve them.

A brief word about Workers’ Compensation cases

The two most common scenarios where people find themselves injured and subsequently seeking compensation involve injuries suffered at work and outside of

work. If an injury occurs during your employment, odds are that you will be filing a “Workers’ Compensation” (WC) claim. You may also have a direct claim against the responsible party, known as a “Third Party Claim.” Clients with WC claims often find themselves frustrated with “the system,” due in large part to the added level of bureaucracy inherent in the WC System in most states. Unlike direct actions, such as non-work-related car accidents, persons injured at work are entitled

before the case is jeopardized. In most states, when a client retains a lawyer in connection with a personal injury case, the client signs what is known as a Contingent Fee Agreement. According to the terms of the agreement, the attorney’s compensation depends on the attorney’s ability to obtain an economic recovery on behalf of the client. However, most contingent fee agreements also state that the attorney has a duty to take all reasonable and necessary steps to obtain a recovery on behalf of the

client, and his obligation to return calls and respond to reasonable requests for case updates is implicit. If the attorney breaches the agreement, the client may discharge the attorney “for cause.” The attorney may attempt to seek compensation from the client based on the number of hours devoted to the case, but these claims are difficult for attorneys to enforce, particularly if they have failed to live up to their

end of the deal.

The Bottom Line

Preserving a relationship with your attorney is generally preferable to discharging your attorney. Clients who understand their role in the attorney-client relationship tend to enhance the value of their case and reduce instances of client dissatisfaction. If the relationship cannot be saved—do not sit on your hands—move on.

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to immediate reimbursement for medical expenses and lost earnings. However, insurance companies tend to question many of the claimant’s bills and other submissions. These denials are a common source of frustration for injured workers, and often result increased frustration with the claimant’s lawyer. Before assuming that your lawyer is responsible for the delay in payment for lost wages or outstanding medical bills, ask your lawyer why things are taking so long.

What can I do when all else fails?

Although I tend to be an optimist, believing that most troubled attorney-client relationships can be saved, clearly some cannot. Lawyers who fail to return client telephone calls promptly, or ignore repeated requests for updates on cases, or are generally unavailable to their clients, must take responsibility for the failure of the relationship, and should be discharged