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Oregon State Bar Bulletin JULY 2008

Managing Your Practice

Make the Right Match

What If You Only Represented Clients You Liked?

By Beverly Michaelis



"It's better to not do the work and not get paid than to do the work and not get paid."

—Jay Foonberg

Representing clients you like: Is it realistic or just a pipe dream? If you are struggling in your practice or just starting out, practicing "door law" is very tempting. Before you succumb to the pressure of taking any client who crosses your threshold, stop and make an honest assessment. Are the client and the case a good match for you? If not, you may be taking on a future collection problem or potential legal malpractice claim.

There is no worse feeling than being stuck with a client you find distasteful or can't trust who also happens to owe you money. The best advice I ever received in my career came from my first employer. "Don't represent people you dislike or don't believe in. The jury will always pick up on how you feel, no matter how hard you try to hide it, and it will hurt the

client's case. If you don't like or believe in your client, why should they?"

I only ignored this sage advice once. It was my last pro bono case before joining the Professional Liability Fund, and I agreed to represent someone who was difficult to communicate with and had unrealistic ideas about how his complaints should be resolved. I felt committed and stuck it out, but both the client and the case took a toll. So, take it from someone who knows: don't ignore this advice. Reduce the stress in your life and in your practice.

Evaluate potential cases and clients with these factors in mind:

Who Referred the Client?

The referral source can speak volumes. Was it your best client, whom you'd love to clone? Or did the referral come from the client from hell? Always ask who made the referral or how the potential client found you. If nothing else, it's helpful to know which referral and advertising sources pay off and which don't.

Friends and Family

Are you taking the case simply because the potential client is or knows a friend or relative of yours? Avoid these cases unless you are confident you can handle the case and have a good feeling about the potential client. Even then, you may find it difficult to be objective or exercise client control. Ask yourself whether you would take the matter if the client walked in off the street. If the answer is no, the case is not for you. Help your friend or relative by referring them to another practitioner who is better suited to address their legal problem.

Are You Overlooking a Potential Conflict?

Always check for conflicts when a potential client first contacts you. A preliminary check of the potential client's name allows you to decline further discussion, preventing a crucial divulgence of confidential information. After the initial interview, you will have the names of other parties connected with the case. Run a second, more thorough conflict check to be certain you still have the "green light" to proceed with representation.

Casemaker™
User Guide (PDF)
Casemaker™ EULA (PDF)

Career Center

Forms Library

Judicial Vacancies

Member Fee FAQ

Online Fee Payment

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OSB Group Listings

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Program

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LRAP FAQ

LRAP Policies
and Guidelines

Oregon Law Foundation

My Momma Told Me I Better Shop Around

Document hosted at JDSUPRA™

<http://www.jdsupra.com/post/documentViewer.aspx?fid=3c613c1a-0c24-4678-8409-8efeecebcc5c>

How many lawyers has your potential new client talked to about his or her case? Clients who "shop around" without justification should send your red flag to full staff. Does the client have a lousy case other lawyers won't touch? Is he or she perpetually dissatisfied or unwilling to pay a reasonable fee? Perhaps the client is attempting to meet with multiple attorneys to try to create conflicts for the opposing party? Practice "BOLO." Be on the lookout for the client who constantly changes lawyers or whose case has already been rejected by one or more lawyers. Unless there is a reasonable explanation, pass on the client's case.

First, Let's Kill All the Lawyers

What is the client's attitude toward lawyers or other professionals such as doctors, accountants, bankers or lenders? Anger and frustration can be quite understandable in the right circumstances, but proceed cautiously if the client's feelings seem disproportionate to the problem or situation. A client who sees conspiracies around every corner will be very difficult to work with.

It's the Principle!

Sometimes it's not the client's attitude toward professionals but toward the case that raises concern. If you take on a client who wishes to proceed because of principle and regardless of cost, you may find yourself pressed to pursue a case that you do not believe in or, worse, find offensive.

The Expert

Clients who consider themselves experts on a matter will have difficulty understanding why you must spend time and money doing factual or legal research. They may be unwilling to hear what you have to say, may not follow your advice, and could be among the first to complain when the outcome isn't what they hoped (even though you warned them of the potential or likely results). Working with such a client is challenging to say the least. Don't take on "the expert" unless you are up to it and feel confident you can exert proper client control.

The "Done Deal"

How many times have you heard the words, "Just look over the contract and tell me if it's okay." How can you possibly judge whether the contract is "okay" without researching the underlying transaction? Yet that is exactly what the "done deal" client is asking you to do. If you choose to take on such a task, document what you have been asked to do — and what you have not been asked to do — in a letter or e-mail to the client. If the transaction goes sour, you will be able to prove the limited scope of your engagement.

Keep It Simple

"Keep it simple" is a close cousin to "done deal." The "keep it simple" client ties your hands by not wanting you to "complicate the matter" by anticipating and planning for problems. He or she just wants (and often will only pay for) limited services. If you can educate this client, and he or she agrees to pay your fee to do the job right, go forward with representation. If not, proceed at your own peril and thoroughly document the scope of your representation.

My Hearing Is Tomorrow!

The client who waits to consult with you until a deadline is looming or who has an emergency of his or her own creation requires special handling. Do you have the necessary expertise? Can you complete the task accurately and timely? A last-minute court filing can lead to mistakes, especially if you are relying on information given to you by the client and have no time to verify the client's version of events. You should also keep in mind that accommodating an emergency usually means pushing aside the work of existing (and hopefully paying) clients. Sometimes this is acceptable; sometimes it's not.

The Forgetful Client

If a client fails to bring critical documents to your appointment, is he or she merely forgetful, or is this a sign of things to come? The discovery process requires timely cooperation from clients, with the possibility of sanctions when deadlines aren't met. Even when the matter does not involve litigation, a client who procrastinates or is forgetful or disorganized makes the staff and lawyer's job more difficult. Will you have the time and energy to give this client the extra hand-holding he or she needs?

Great Expectations

Clients who are only out for revenge, expect a miracle, or believe they have a million dollar case (when they don't)

Local Bars/Legal Orgs

- Legal Orgs Home
- Local Bars List
- Local Bar Calendar
- Specialty Organizations (XCL)

Oregon New Lawyers Division

- ONLD Home
- Brown Bag CLEs
- Job Resources
- Law Students
- Mentor Program
- Subcommittees
- Upcoming Events

Section Information

- Section Info/Websites
- Joining Sections
- Section CLE Guide
- Treasurers Tools

Volunteer Opportunities

- Brochure and Form

Client Services

- Client Assistance Office
- Client Security Fund
- Fee Arbitration
- Fees for Public Records
- Lawyer Referral Service
- Military Assistance Panel

OSB Center

- About the Bar
- Contact Us
- Directions to the Bar
- Meeting Room Rentals
- OSB Job Opportunities
- Staff Roster

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