
CLIENT SELECTION

Measure Your Practice's Quality by the Quality of Your Clients

By Mark Powers, Shawn McNalis & Ed Kainen

In an earlier article, we addressed an insidious problem experienced by most family law attorneys at some point in their career: a failure to be selective in choosing which clients to work with and who to turn away.

We call the problem insidious because it may start out innocently enough. You see someone who needs help and you provide it. But if things do not go well, you end up with an upset client, collections problems, a beleaguered staff and tremendous personal stress. The impact of working with C and D level clients affects your ability to manage your time profitably in a big way.

If you suspect you are too lax in your standards and are suffering these consequences, you can take the following steps to clean up your caseload.

You'll be surprised at how energizing it is to take control of your practice in this way.

- Go through your case list and rank your current clients A, B, C or D. Note the A and B clients (these will rank highest in terms of bringing you the type of work you prefer to do, the reasonableness of their expectations, their ability to cooperate, their ability to take direction, and their ability and willingness to pay. Each type of practice will have their own criteria, but these are the basic requirements). Using this system, determine which clients qualify as A and B level, then identify the lower level C and D clients.
- If you think any of your borderline C clients can be rehabilitated and upgraded to a B level, sit down and have a very straight conversation with them about what they are doing that is problematic (i.e., need to bring payments current, need to start producing documentation that is needed, need to be on time or stop canceling meetings, etc.). Some will respond positively to this approach; some will not. Take the rest of your C clients and refer them to another attorney if their issues are *personality-*

based, not *payment-based*. Avoid sending clients who won't pay to another attorney.

- Take your D clients and let them go. **Yes, fire them!** Let them know in a compassionate, ethical way that you can no longer work with them. Whether you do it in person or phone them, follow-up with a letter. Check local rules to be sure you follow the proper protocol. Bar associations usually have sample disengagement letters that can be used. Disengagement and non-engagement letters are especially critical when a lawyer decides not to continue past a specific stage in the case.

Fire with a Plan

If you decide to let the client go in a face-to-face exchange, you need to have a plan.¹ Take the following steps and document the conversation after the meeting. Your local bar rules will supersede any advice given here, so be sure to check them in advance.

- Set an appointment with the client and plan to have a witness in the room with you if you feel the client is irrational or likely to accuse you of misconduct later. Document your meeting by summarizing the discussion in a letter and sending a copy to the client. Put a copy in your own file to protect yourself in case of a complaint.

Try to fairly prepare the client for the firing conversation and begin to limit their reaction by saying: *"You may not like what I am going to tell you, but I can no longer represent you (or work with you) due to..."*

- Give the client the context for your decision so they will not think it is arbitrary. Link your decision to their attitudes and/or behaviors. Give *specific* examples of where the client's communication broke-down, where they were

uncooperative, where they were rude or abusive to you or your staff, or where they failed to pay.

- Explain why these behaviors and/or attitudes make it uncomfortable, unethical or inappropriate for you to continue representing them. Be factual and objective.
- Give the client an opportunity to respond, ask questions or express their anger. You can acknowledge their perspective without wavering about your decision to end the relationship. Resist being pulled into a discussion that escalates into a fight. Stay in control of the conversation by managing your own emotions.

If appropriate, act as a resource for the client and make recommendations as to how they should proceed. You may recommend counseling, a legal service agency or the names of other attorneys.

Remember to be incredibly careful when referring unstable personalities and non-paying clients to your colleagues. Call and discuss the situation beforehand to be certain the attorney wants to take them on.

Why Score Prospective Clients?

The quality of your practice is determined largely by the quality of your clients. Imagine how different your stress level would be if you worked with nothing but A and B level clients, and the pro bono clients of your choosing (rather than the clients who become pro bono cases by default). You might actually look forward to going into the office in the morning!

Just keep in mind that these A and B level clients tend to get taken for granted and lost in the shuffle as you scramble to handle the constant neediness and demands of your C and D clients. For every negative characteristic you can attach to a client, you can be sure that you spend more time with that client persuading them to trust you, calming them down or trying to get paid.

Carefully selecting clients, not only helps protect you against malpractice claims, it saves time, improves office morale, minimizes collections problems, and restores peace in an otherwise crisis-driven practice. To better manage your time, develop your client selection skills. The impact on your peace of mind will be significant.

¹ Sanford M. Portnoy, *The Family Lawyer's Guide to Building Successful Client Relationships* (Chicago: American Bar Association, 2000) *Frayed Rope*, Utah State Bar Journal, August/September 2003



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