

BEST PRACTICES: CLIENT RELATIONSHIP MANAGEMENT

by Greg Monforton and Brad Robitaille

Introduction

A lawyer's most important skill is the ability to engender client confidence.

Why do so many lawyers succeed in spite of a seeming lack of essential client communication and management skills? Perhaps it is because lawyers compete only with other lawyers and thus are infrequently called out on their disinterest in client communication.

Despite this, in our experience success in the practice of law is directly proportional to enhanced management of client relationships.

Simply put, the better you manage your relationships with your clients, the more successful you will be.

Luckily, the skills needed to engender client confidence have little to do with "charisma" or "winning the case". Rather, it has more to do with internalizing a few basic attitudes, beliefs and principles which, if consistently applied, will win the trust and appreciation of your clients.

Our interest in and passion for representing injured persons is piqued by the fact that in 28 years of practice, no two cases have ever presented identical facts or challenges. Every client is unique. So are the circumstances giving rise to each client's injuries. Despite the unique facts, circumstances and challenges of each individual case, our overriding goals for each of our clients

are always the same: achieving the best possible result and winning each and every client's trust and heartfelt appreciation.

Some Common Mistakes

1. CHOOSING THE WRONG CLIENT

We have met very few "perfect" clients over the years. If perfection is your standard, your work life will likely be very lonely and your practice will sink very quickly.

We have every right and indeed are obligated to carefully choose whom we decide to represent. We are duty-bound to ensure that a prospective client is made aware of any and all circumstances bearing upon the urgency of their need for legal help and we must direct them to an alternate source for assistance. However, we cannot and should not take on every prospective client who seeks our help.

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In any case, the factors compelling us to be careful in this regard are many:

- Even if you have the requisite legal skills, knowledge and experience required by the

requested task at hand, you may simply not feel that the person in question will fulfill his or her side of the solicitor/client relationship.

- The client may present as a person who will simply not be willing to accept or follow your advice or counsel.
- The volume of your current caseload may simply be too high to enable you to give this person the time and attention his or her plight demands.

Whatever the reason, you have every right to choose the type of person and type of case you wish to assume. And perhaps somewhat ironically, doing so will over the fullness of time probably result in freeing up additional time for you to take on the occasional client for purely compassionate reasons.

2. FOCUSING ON US INSTEAD OF THEM

One of the common mistakes lawyers make in their quest to win client trust is to keep the focus on themselves. We tend to think that we will best win client trust by impressing them with our intelligence and accomplishments. We naively think that people willingly place their affairs in our hands if we can convince them of our technical skill and prior successes.

In our experience, this is a major mistake. We say this because the

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confidence of our clients, just like the confidence of anyone we come into contact with in any context, must be *earned* and *deserved*. To earn your client's confidence, you need to park your ego, and be genuinely helpful and genuinely interested in their welfare and the protection of their best interests.

3. FAILING TO DETERMINE THE CLIENT'S RISK TOLERANCE LEVEL AND DEGREE OF PATIENCE

We all appreciate the absolute need to refuse consideration of settlement prior to the client receiving a clear prognosis with respect to his or her injuries and their resulting functional restrictions. Also always required is a comprehensive

quantification of the present value of the anticipated economic after-effects thereof. All of this is trite, but we must also be mindful of two important things: Firstly, most clients want their files closed someday within their lifetime, and secondly, every client's ability and willingness to sustain the adverse impact of failure at trial is uniquely personal to that particular client.

Accordingly, it behooves us all to find out how long each client is willing and able to wait for resolution, and how willing they are to risk the adverse consequences of possible defeat. Most importantly, all of this needs to be reduced in writing to the client at the outset of file development.

4. AVOIDING CONFRONTATION OR THE BEARING OF BAD NEWS

We may want ice cream, but we need vegetables. Similarly, clients want only to be told good news...but they need also be told the bad news. They need the truth. And they need it sooner than later.

While advocating for our clients in any form of public forum (whether it be a court room, administrative tribunal, a mediation or in the media), we owe them the most intense and effective degree and form of advocacy we are able to deliver. But when counseling our clients (whether it be in the privacy of our office or of their home), we owe them an objective, measured explanation and analysis of both the good and the bad. They must know the strengths as well as the weaknesses of their case so that they can decide which of the options/outcomes open to them are worthy of pursuit.


5. FAILING TO CONFIRM IT IN WRITING

People tend to remember good news over bad. Similarly, when quoting a range of anticipated fees or disbursements, clients tend to remember the lower figure. In order to both protect yourself and afford your client the clearest possible understanding of where you stand with respect to all key issues as their case progresses, always be sure to confirm your advice and assessments in writing.

Also, when obtaining settlement instructions, ensure not only that they are in writing, but whenever possible include therein the greatest detail possible regarding the sum of money the client can expect to receive after the deduction of all legal fees, GST, disbursements, and where applicable, the retirement of any subrogated interests or assignments. I promise you that if a dispute with your client subsequently arises, you will pat yourself on the back a hundred times for having done so!

6. ACCEPTING ABUSIVE CLIENT BEHAVIOUR

Compassionate, empathetic and patient service to your clients should be the "law of the land". But servitude should not be. Both you and your colleagues



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are entitled to be treated by your clients with a reasonable and appropriate level of respect and consideration.

Regardless of how careful you are during your initial client selection process, you will occasionally encounter clients who are simply impossible to please; people who were apparently never taught anything even remotely resembling good manners when they were growing up. People like this need to be read the Riot Act in a firm but polite manner and given a chance to change.

We say this for two reasons:

- A. life is simply far too short to spend time representing people whose sole purpose in life seems to be to make yours miserable; and
- B. representing such clients is simply bad business, the inevitable result being a disgruntled client determined to disparage your reputation.

So if the client's behavior does not change, then you need to part company (either on a consensual basis or through an Order of the Court) at the earliest possible time and in the most magnanimous manner possible.

All this being said, and despite your best efforts and those of your staff, every so often something will fall through the cracks. A client's telephone calls will not be promptly returned. A less than ideal decision regarding a client's file will be made. Something will be forgotten. Perhaps something even worse. And a client will have a legitimate complaint.

The key thing to bear in mind here is that when a client is complaining it is important to not automatically assume that the client is wrong. We believe that in both life and in the practice of

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law there are many matters of differing shades of grey rather than black and white. And your client might just have a point. So give that person a chance to express his or her disappointment or frustration, and if you feel that the complaint has some merit, be prepared to say so and to ask how you can make it right. And even if you conclude that your client's complaint is largely groundless, nevertheless give the client the chance to express it. The mere process of doing so will in a large number of situations make the client feel better, deflate the tension and hopefully enable the client to move forward with a more open and reasonable mind.

Moving Beyond the Avoidance of Mistakes

Of course, the effective management of your relationships with your clients involves a great deal more than simply avoiding certain behavior and attitudes. It also requires the adoption of a number of specific values and principles and bringing them to life in all that you say and do. Those which most firmly resonate with us include the following:

1. ALWAYS BEGIN WITH THE END IN MIND

Every time we take on a new case, we try to imagine the meeting which will take place years from now when we last meet with our client and present the proceeds of settlement or judgment.

As we stated in the introduction, our goals are always the same: to achieve the best possible result in the circumstances and to face a client who has been genuinely blown away by the understanding and concern they

have encountered by everyone they have dealt with at our firm. And so we imagine a meeting in which the client will be intensely grateful and determined to tell everyone they know about the wonderful job we did for them and how their friends, if the need were to arise, should seek our help.

Since the majority of readers work in an office environment with multiple colleagues, it is also worth emphasizing that the attitudes and principles we are espousing in this article need to be communicated to and engendered not only in ourselves but in each and every person with whom you work, who will be coming into any form of contact with your clients. As you read this article you may recall former staff members of yours whose temperament and behavior was generally not, to be gentle, particularly client-centric or empathetic. Simply put, that will not do, and must not be allowed to continue.

If you want to properly manage your relationship with your clients, you need to be completely intolerant of any firm colleague who is either unwilling or unable to consistently treat your clients with genuine respect and concern.

2. DON'T FORGET THE SMALL STUFF

The good news is that effective management of client relationships is simple! But "simple" doesn't necessarily equal "easy". There is no great mystery or technique. Rather, in the absence of a constant client-centered mindset the pressures and daily demands of practicing law can relegate the managing of your relationship with your clients to the bottom of the "to do" list.

In fact, this task should constantly remain at the absolute top of your “to do” list!

The other good news is that the trust of our clients can be earned by the simplest of gestures:

- By calling a client the day after meeting with him or her simply to follow up to ensure they understood everything that had been discussed.
- By asking if they have any further questions or concerns.
- By being willing to hold a meeting at their home instead of your office.
- By offering referrals or suggestions to other professionals (legal or otherwise) when the need arises.

There is no end or limit to the number or type of small gestures that can be employed to garner the respect and appreciation of our clients. Keep this in mind, and you will more quickly than you believe find yourself enjoying a reputation for being a genuinely caring lawyer.

3. ALWAYS PROVIDE CLARITY AND TRUTH

Professional services firm guru David Maister* has likened the difference between a meaningful professional-client relationship and simply “getting the case” to be akin to the difference between a long-term romantic relationship and a one-night stand. The two are very different, and, to put it politely, require different skill sets. Our clients don’t want or need *razzle-dazzle*. Rather, they need and want the truth, conveyed to them in the clearest, most direct and empathetic manner possible. Just like in any other important long-term relationship.

4. UNDERSTAND THE CLIENT’S PERSPECTIVE

Just as one of the first rules of effective public speaking is to know your audience, so is the first rule of managing your relationship with your client to understand his or her plight, needs and wants. So, three things:

- A. We are retained to protect the futures of people whose lives have been utterly turned upside down by injury. They are in great pain. They are often out of work and under great financial stress. As a result, their relationships with those closest to them are often

in jeopardy. And they are very often terribly close to their breaking point. As such, we need to be mindful that we are not seeing our clients at their best or even anywhere remotely close to it. This is no reason to be expected to adopt an attitude of servitude, but it is a reason to be as understanding and patient as possible;

- B. More often than not our clients do not appreciate or understand the process their case will be required to follow, or the challenges to their integrity and honesty that they will be forced to endure throughout the entire litigation process; and
- C. Thirdly, our clients would like everything finalized in the shortest time possible.

Your appreciation of these facts should inform everything you do for and say to your clients.

5. AVOID “ONE SIZE FITS ALL” / FIND OUT WHAT THE CLIENT WANTS

When we started practicing law in the 1980’s, the universally-expressed mantra was that clients wanted to know what was being done for them. As such, article after article advocated copying our clients with every single piece of paper either produced or received in the course of their file. But as we came to learn over time, *some* clients greatly appreciate being copied with all correspondence and documentation. Others, however, hate it!

Find out what each of your clients wants. And give them *that*.

6. UNDER-PROMISE AND OVER-DELIVER
This one is a no-brainer (both in life

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and the law). It's been lamented that the road to hell is paved with good intentions. Good intentions are all well and good, but it is constructive and prompt action which resonates with clients. And so always strive to do a little more for your clients than you told them you would. And wherever possible, do it a little more quickly than promised. Do this consistently, and you will truly be thought of as a "one in a million" lawyer; a lawyer about whom clients will take great pleasure in bragging to their friends and neighbours.


Conclusion

We have tried in this article to implicitly stress the idea that effective management of your relationship with your clients is not so much a matter of

tactics (or techniques or practices) as a matter of *principles* and *values*. As David Maister points out in his excellent book *True Professionalism*¹, when something is presented as a management *tactic*, it is easy to contest its validity. But it is far harder to argue with a matter of *principle*.

Maister goes on to argue that principles (or values) are the most effective management tools a firm can use. Successful firms are differentiated not by their different goals, clever strategies or beautifully written precedent letters and forms. Successful firms are clearly differentiated by a strict adherence to values.

One of the most important values you can choose to anchor your practice is

the importance of effectively managing your relationship with each and every one of your clients. We hope this article will help to galvanize your imagination as you ponder the innumerable means at your disposal to do so. 

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NOTES

¹ Maister, David H. *True Professionalism: The Courage to Care About Your People, Your Clients, and Your Career* (New York: Simon & Schuster 1997) at p. 1 to 2

SEXUAL ASSAULT CASE?

Sexual Assault cases aren't like other personal injury lawsuits.
The law is unique. Clients require special care. And the defendants are unpredictable.



Simona Jellinek

“ I regularly refer clients who are survivors of sexual assault to Simona Jellinek. In my opinion, Simona is one of Ontario's leading lawyers in helping sexual assault survivors obtain proper compensation. ”

Robert B. Munroe
OTLA Past President
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