

Top Ten Mistakes Attorneys Make When Dealing With Their Clients

Richard I. Dreitzer, Esq., Fox Rothschild, LLP

1. Not finding out everything.
 - How can you help them if you don't know all there is to know?
 - Ask your client to tell you the "good," the "bad" and the "ugly."
 - Tell the client "when in doubt, point it out." Ask the client for everything they know about the subject of your representation, even if they think it might not help.
2. Not getting everything.
 - How can you help them if you don't have all there is to have?
 - A client needs to turn over everything even remotely related to a case you've been asked to work on (or tell you where it is to go get it.)
 - The client shouldn't assume some piece of evidence isn't important. You need to decide that.
3. Not providing clear, usable advice.
 - The client is paying for it. Make sure they understand it and are likely to follow it.
 - Ask the client if something you've advised isn't making sense, or sounds like it's not a good option for them. If you receive this type of feedback, then adjust or explain as necessary.
4. Not documenting communications with your client as they happen.
 - Memories fade, contemporaneous notes don't.
 - If your writing is tough to read (as mine is), type rather than write.
 - Even if it is an email to yourself, remember to document what was agreed upon and when.
5. Not communicating with your client.
 - Be clear about the basics of the attorney / client relationship: hourly rate, fee agreement, retainer, scope of representation, billing procedures, etc. and, most importantly, get the signed fee agreement.
 - No matter the type of communication you receive (telephone call, e-mail, personal visit), be sure to get back to your client within 24 hours, or less.
 - Don't stick your head in the sand. If the news is bad for a client, think through their options and break the news ASAP, but be sure to couple their bad news with their options (i.e., where do we go from here?)
 - Encourage your client to involve you in the process as early as possible (i.e., before they do something of consequence). The earlier they involve you, the better off the client will be.

6. Not setting reasonable deadlines/expectations for the work you've been asked to do.
 - Most attorneys are busy enough to be juggling dozens of things at the same time.
 - Unless there is a firm date coming up (a statute is about to run, etc.), we get to things as we can. Clients need to know and understand this.
 - If the client needs something quickly, you need to know this.
 - Keep a tight grip on your calendar. Don't let deadlines pile up and control you; you need to control them. If you see that a certain date is too full, deal with that fact well in advance.
 - Make realistic time commitments. Don't promise something you know you won't be able to deliver.

7. Not preserving evidence.
 - Copy documents received from clients and return originals to them ASAP.
 - Explain to your client that if a document is even remotely related to a case you've been asked to work on, they must not discard it.
 - Remind your client that talk is cheap, but e-mail is forever. Attorneys are obligated to turn over everything pertinent to a case – this includes e-mail, where there is no privilege.

8. Forgetting that your client came to you because they have a problem.
 - Try to treat your clients like your friends. Very often, they are.
 - If a client hires you, it's because they trust your judgment. Be worthy of that trust.
 - Remember: If things are tense between you and a client, it usually springs from inadequate communication between you and them, the client's fear of the unknown, or a combination of the two.

9. Not reminding your client that the 'attorney client privilege' applies to discussions between attorneys and clients (not to discussions between them and third parties, the government, the debtor, the court system, etc.).
 - The attorney client privilege means what it says.
 - Discussions between attorneys and their clients are privileged.
 - Very few exceptions: future crime, fraud, imminent harm.
 - Discussions between attorney and others at the client's direction: privileged.
 - Discussions between the client and others on their legal problems: not privileged.

10. Ignoring the cues from your client.
 - If something changes between you and a client, find out if you've done something which irritated them. It may have been inadvertent.
 - Remember: We are a customer-service driven profession.

- No attorney likes to lose clients, get a bar complaint or get sued.
- If you've done something to upset the client and they have a point, make an effort to work with the client and apologize, if applicable.
- Make sure your client understands that attorneys are not mind readers. They need to tell you what they want so you can try to make it happen.