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## The Care and Feeding of Clients: An Owner's Guide

Clients are valuable people, indeed, but they are hard to acquire and easy to lose, so, we try to take care of them. They need to know we appreciate their business and their confidence.

By **Marc Garfinkle** | December 18, 2020



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The *sine qua non* for lawyers is clients. Almost every practice depends on a regular flow of paying clients. Without them, there would be little for lawyers to do, and getting paid would be harder than it already is. Even government lawyers and corporate house counsel depend on clients—or a client—to bring them work and to pay for their services. The symbiosis between lawyers and clients is close to perfect. Still, few professions suffer more unflattering jokes and comments from their clients, and few lawyers have never noted how much more enjoyable the practice would be without clients. A perfect marriage.

And, as with marriage, we work hard to build and retain our clienteles, and we cherish our clients for the importance they have in our lives. They are the source of our wealth and provide the substance of our daily toil. Clients are valuable people, indeed, but they are hard to acquire and easy to lose, so, we try to take care of them. They need to know we appreciate their business and their confidence. They need to understand that we really do not take them for granted.

Before email blasts and tweets became the personal touch of a practice, we sent hand-written cards to all our clients at this time of year; we even sent gifts to the best ones. Some clients would even bring or send gifts to us. The giving has largely disappeared, but the need for happy clients has not.

It is interesting to note how possessive we are of our clients. Perhaps as an extension of our acquisitive culture, we seem to have developed a proprietary interest in our clients. We sometimes forget that the client has free will in these matters, that the client may choose the lawyer, not vice-versa. More than a few lawyers have asked me about which attorney gets to “keep a client” in a break-up, or what to do about a former associate who “stole” the firm’s biggest client. Clients have a right to counsel; counsel does not have a right to a client.

Criminal defense lawyers take stronger linguistic possession of their clients, referring to them as “my guy” and “my gal.” For example, lawyers often crow that, “I got my guy off” after a two-week trial (but you won’t hear her say, “I got my guy convicted”). Estate lawyers take this possessory notion a step further. They become upset when their long-time client, the testator in a will they had drawn, dies—distraught not so much by his passing, but that his daughter/executrix brought the probate to a different lawyer. Unfortunately, client loyalty is not passed on genetically.

Matrimonial attorneys are unique. Most of their clients are “one-and done,” as the fairest divorces seem to be those where the two clients are equally dissatisfied with the outcome and with their attorneys. But these lawyers should be particularly circumspect, too. No practice seems to attract more grievances from clients and ex-clients than a divorce practice. Oddly, these lawyers are at risk of harm from *prospective* clients as well. Divorce lawyers have become pawns in a strategy of sniping wars, where one spouse, anticipating divorce, interviews prominent local matrimonial attorneys, providing enough information to pre-emptively “conflict them out,” should the other spouse later desire to retain that firm. Only in America.

Although it has not always been this complicated, the relationship between attorney and client dates to the first lawyer. This relationship has generally been good for both, but because of its enormity, importance, sensitivity and complexity, the world of attorney-client relationships requires regulation. Accordingly, the Rules and the RPCs single out these interactions for special treatment, putting limitations and guidelines on these relationships that are generally unknown to other professionals. They tell us how our present, former, and even prospective clients must be treated. They circumscribe what we may say about a client and when we can say it. They tell us how we may find our clients, how we must reduce our retention agreements to writing, and how we must treat client assets entrusted to us. They set forth the terms of so-called “attorney-client privilege,” which is really the “client privilege,” since only the client may invoke it and only the client may waive it.

Attorneys need to better understand this rule. Some attorneys erroneously think that any client confidence may be shared with other lawyers or staff in the firm, and that there is a “famous client” exception, allowing us to name-drop our best-known clients, even if they would have objected to the revelation. One attorney called me with a troubling request—he wanted to tweet the non-confidential litigation result he had achieved for a famous client in a matter where the client had consistently emphasized her desire to avoid publicity and divert public attention from the matter. Be smarter than that. Attorneys must always place their clients’ interests ahead of their own. Any acts that undermine this objective will meet stiff resistance from the OAE, which tries to ensure good relationships between lawyers and clients.

We can learn much about client satisfaction by observing chiropractors. Most chiropractors—even the ones who are turning bulging discs into frank herniations by inappropriate manipulation—do not worry about the threat of malpractice suits. They are more comfortable than lawyers in their relationships with clients. They usually know their clients better than we do. When we visit chiropractors, they do not start by looking at the clock; instead, they ask about our family, our interests and hobbies, our plans for the holiday. They seem to care. As a result, their patients generally will not sue them or report them to the Board, even after a mistake.

Clients want to be happy with their attorneys. They want us to care for them and their affairs, and to be reasonable, competent, responsive and loyal. It is that simple. Attorneys want clients who follow our advice, pay their bills on time, and call us before a problem becomes a crisis. When they are satisfied with our service, we would like our clients to refer their friends, family and colleagues to us. We can make this happen; we just need to show that we care.

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