

4 Ways To Avoid An Attorney-Client Communication Disaster

By **Brandon Lowrey**

Law360, Los Angeles (September 2, 2016, 3:09 PM ET) -- There's much ado about how trial lawyers should present a case to judges and jurors. But there's an equally important part of the job that's often overlooked: establishing good and healthy communication with clients.

Here, top trial attorneys discuss how they set themselves up for success from the very moment they accept a case.

Be a Straight Shooter

Being a straight shooter from the get-go, rather than being a salesperson and a cheerleader, will save an attorney a lot of grief, according to veteran antitrust plaintiffs attorney Francis Scarpulla.

Lawyers should communicate with their clients early and often to foster trust and develop good rapport. Everything else stems from that, he said.

"The most important thing is you always must be completely aboveboard and honest with your client about the merits of the case," he said. "A lot of lawyers, to get a case, they'll give some client a bunch of fish market conversation to get that client to sign on the dotted line. If that's the way you're approaching these kind of cases, that's a formula for disaster."

Clients who trust their attorneys will put more faith in them and be less likely to go against their recommendations.

If the trust goes both ways, these relationships can prove useful when things get tough during trial, Scarpulla said. Honest communication means clients will rarely hide or omit facts that may come out and prove ruinous in court.

Realize It's Not Your Case

Attorneys tend to take ownership over the cases they're working on. That can sometimes be a bad thing, said Robert M. Horkovich, managing shareholder of Anderson Kill PC.

Make no mistake, he said: The case doesn't belong to the lawyer, it belongs to the client.

Some lawyers "mistakenly believe that because of their closeness to the facts and the law, that they

have some superior knowledge and ownership of the case," he said. "They view the client as someone they are burdened with having to answer to or explain things to. That interferes with communications severely."

Horkovich said attorneys must consistently recognize that their clients' interests in cases are superior to their own. Realizing and acting on this will naturally improve client communications, he said.

Just Say No

It's critical for attorneys to sometimes say no to clients who seem to be demanding too much or trying to push their cases too far.

While clients know the facts of their cases better than attorneys, they might not have a clear-eyed view of the bigger picture.

"A lot of individual clients, for example, they have a different perspective as to what occurs in a trial and in a court of law," he said. "I mean their expectations are not always grounded in the legal proceedings or in case law precedent."

A new business owner who was driven into ruin by unfair competition might think he has a huge blockbuster of a case worth many millions of dollars. However, case law dictates that it isn't very likely that a brand-new business will be able to project profits into the future without a significant history of earnings, Scarpulla said.

Scarpulla said he's clear from the start with clients about the prospects of their cases, even if his clients seem unwilling or unable to accept legal realities or are intent on pressuring him to do things he doesn't believe should be done.

"Suggest that the client should go elsewhere," he said. "Even if that means losing all your time."

Respond Promptly and Update Often

Clients have a lot invested in their cases. Their livelihoods may be on the line, so they want to be up-to-date on their legal battles, according to William Jeffress, a veteran trial lawyer and partner at Baker Botts LLP.

Jeffress said he tries to respond to emails as quickly as possible and doesn't let a call go unreturned for a full day. But he usually goes above and beyond those basic communication courtesies by sending his clients weekly updates — even if it's just to say that there's no news.

"I think the clients get upset more than anything about lack of communication with their lawyers," he said.

Jeffress said any time spent calming a client's nerves and explaining the details of the case is time well-spent, so long as it doesn't eat into critical trial preparation time — and it often takes just a few minutes to summarize things for anxious clients.

"These emails I send out, they take 10 minutes — all you've got to do is give them a summary," he said. "I'll bet if you spend a half-hour a week just on client communication, it is well worth the time."

--Editing by Katherine Rautenberg and Kelly Duncan.

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