

Communicating with Lay Clients

By Justine Borer

It is axiomatic that a chief goal of communications with clients is managing expectations. To that end, I make the following recommendation: communicate with lay clients as you would with a jealous ex-spouse.

I'm biased. I'm a matrimonial layer. But the wisdom I've gleaned in my practice about client communications can be applied to interactions with lay clients in all practice areas. What do I mean by treating clients like jealous ex-spouses?

Return client phone calls and e-mails promptly

Timely communication is the key to effective communication (and effective representation).

Be nice

Managing expectations is one thing. Being nasty is another. When a client wants relief that the law won't provide, break the news gently. A tip I've picked up: rather than saying "That's against the law," which can cause a vulnerable lay client to feel foolish and respond aggressively, I say, "What you're asking for may follow the law in some jurisdictions, but it does not follow the law in New York State." Attribute the gap between what your client wants and what she can actually get to the law, not to your client's unreasonableness or lack of expertise.

Be crystal clear about billing

Estimate in advance how much time you will need to spend on big tasks, and communicate those estimates to your client *suasponte*. Put yourself in your lay client's shoes and try to anticipate when a charge might surprise her, and inform her in advance that she will incur the charge. Your client may not ask for these warnings, but trust me that she will appreciate them (especially when writing a check to cover your fees). Discussing bills with clients is skill worth cultivating. These discussions are anything but a waste of your time. Honest discussions about billing engender client good will; both the attorney client relationship and your advocacy will benefit.

Define your terms

Lawyers forget that many lay clients, even sophisticated ones, are not familiar with legal terminology. Define important terms for your clients. In my practice, I explain to clients the meaning of terms like "pendente lite," "Child Support Standards Act," and "uncontested divorce" (hint: you can fight and still have an uncontested divorce!). A less confused client is a happier client who is more receptive to honest communication.

Explain the concept of a cost-benefit analysis

The cost-benefit analysis, so familiar to lawyers, is foreign to many lay clients. Introduce your client to the term "cost-benefit analysis" and refer to the term explicitly, by name, throughout your attorney-client relationship. When lay clients hear the term for the first time, they may believe it simply involves money. Disabuse them of this misperception. Explain that, in the context of a legal dispute, cost-benefit analyses involve weighing competing interests,

monetary or not. For example, I might tell a client, “You must do a cost-benefit analysis. Is it worth litigating your ex-husband’s demand that your daughter take gymnastics lessons twice a week instead of four times?” (Sometimes the client’s answer is yes!) Of course, it is our job as lawyers to be brave, and to encourage timid or fearful clients to allow us to advocate zealously for them. We should not avoid legal intervention simply because our client is frightened or weary. At the same time, using the language of cost-benefit analyses can help clients think about their cases in more realistic ways.