Oct. 2008

Professionalism Committee

Lori Vitale, Chair

Getting Back On Track With A Client

[Editors' Note: This article is a collaborative effort of the Professionalism Committee's Articles Subcommittee. It is the second in a series of articles on attorney-client relations written with the understanding that even though most clients are good clients, we all can use some tips on maintaining good client relations. None of the contributors to this article is a licensed mental health professional.]

This summer, some members of the Professionalism Committee met and had a lively discussion on how to repair a client relationship that had veered off track. We discovered that no matter what type of law we practice, we all deal in relationships, we have all had difficult clients, and we have all experienced a strain on the attorney-client relationship during our career. The strain of a relationship going "off track" can affect the quality of the attorney's life and the quality of the client's representation. If you have a client whose calls or e-mails you dread returning, and whose file you put on the far corner of your desk, you too have experienced the struggle. You may also recognize that as you move that file to the far reaches of your desk, you may not be doing the most professional work for that client.

During the course of our discussion, the members agreed that a strained client relationship does not have to stay this way. The relationship does not necessarily have to end in dissatisfaction or termination. Putting forth some effort as difficulties arise with a client may prevent a relationship from souring. Our collective experience as practitioners has shown that there are ways to salvage an attorney-client relationship that has gone off track.

The burden of repairing the relationship begins with the lawyer. The lawyer has more experience in these matters than most clients and should be the person who is most familiar with how the attorney-client relationship works when it is healthy.

Not surprisingly, the solution to a relationship that has gotten off track is more often than not to better communicate with the client. Communicating is not always easy. However, it is essential. Communicating with your client has the benefit of letting you know the image or "vibe" you are presenting to the client. It also has the benefit of clearing up any misunderstandings that either you or the client may have. For example, you may be aware that there have been several small important victories in an on-going case. Does the client understand that things are going well? Or, does the client only know that the case is taking a long time and costing a lot of money? On the other hand, the communication of additional delays, bad news, or poor results should not be put off because you ***assume*** that the client will be upset (especially if that client has been somewhat difficult to deal with already).

Communication gives you a method to check your assumptions about the client. A client who appears to be impatient and tense on the telephone may in fact be perfectly satisfied. In the alternative, the client's needs or goals may have changed during the course of representation.

Here are some pointers for communicating with clients about the future of your relationship:

Timing – Communication should only take place when you are in a cool and patient state of mind. If you need a cooling off period before speaking with your client, then take it. You are expected to be (and always should be) the professional. If you are unsure of the best way to react, seek the guidance of a mentor or colleague.

Location – Pick the setting that is best for your client. Some clients prefer face-to-face communication, while others prefer to talk on the phone. Determine which format works best. In any event, electronic mail alone is not good enough.

Discussion – Let your client talk. We lawyers typically love to do all the talking. The client wants to and needs to be heard. If you disagree with what they are saying, then politely state that you disagree and give a brief explanation, if it would be appropriate or useful to clear up any misunderstandings.

Game plan – Know your goals going into the meeting. Do you want to salvage a previously good relationship? Do you want to set some parameters on the form and frequency of communication? The purpose of the telephone call or meeting is to discuss where the relationship is going. This is a chance to re-set expectations and goals and to improve the relationship.

Flexibility – You may discover something in the course of your discussion that will change your game plan. Perhaps you discover something that requires you to withdraw from the case. Maybe you will be willing to restructure or reduce fees as a result of the conversation. Be willing to be flexible to the extent your own finances, firm and personal circumstances will allow.

Opening the lines of communication clearly will take time and effort, but it can reestablish trust, set ground rules for the continued representation, and preserve a relationship that is worth saving.

We'd like to hear from you. What has worked for you to salvage a rocky attorney-client relationship? What advice would you give to other members of our bar? Send your comments to Tom Kilpatrick at Kilpatrick@manningfulton.com.