

COMMUNICATION CLUES

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by **Dominique Snyder**

Webster's Dictionary defines the word "clue" as "something that guides through an intricate procedure or maze of difficulties." This perfectly describes the process by which attorneys interview prospective clients. This information will be useful for creating more successful relationships with clients and avoiding the most common ethical and malpractice pitfalls.

1. This is probably the client's only case.

Clients often say that they never felt their case was important to the lawyer. They were treated like just another widget by the attorney and the office staff. While this is one of many cases you are handling, this matter is probably the focal point of your client's life in which they're investing time, energy and money. It is important to convey your interest in the client's case while keeping it in perspective for the client as well.

2. Clients are vulnerable.

Attorneys often fail to appreciate the important part they play in the lives of their clients. Clients are not just buying a product – they are coming to you to solve a problem. Sometimes that problem is highly personal and emotional; at other times it may even affect their livelihood or their personal freedom if they face a criminal charge. No other service giver, except perhaps a psychotherapist, deal so intimately with a person's vulnerabilities. This fact should never be ignored.

3. Legal competency is not enough.

Lawyers should remember that law is a service business and good public relations are an important part of the package. It's doubtful you would tolerate rude treatment by a waiter in a restaurant or a salesperson in a department store. You probably wouldn't hesitate to complain if you were treated badly while spending your hard earned money. Your clients feel no differently. While you need to be competent, competency alone is not enough to create a successful relationship with your client. Clients will consider your representation a failure if you do not also live up to their expectations, even if you achieve a good result.

4. Don't talk, just listen.

What is the best way to approach the person who is considering hiring you to represent him or her? **Be patient and listen.** You will certainly miss something if you are too busy talking. Remember that no one enjoys exposing details of their personal life to someone they hardly know. This clue may help when you become frustrated because the client seems less than candid or forthcoming.

5. Don't be rushed. Allow enough time for the interview.

Allowing sufficient time for the initial meeting permits the client to tell the story their way. Nothing is more frustrating than trying to tell someone about a problem when that person is watching the clock.

6. Pretend this is the attorney's only case.

Avoid taking calls or dealing with other matters during the initial interview. If you have ever tried to get a point across in the face of constant interruption, you will understand. This will also go a long way toward impressing on the client that whatever problem they have is important to you.

7. Don't browbeat the client.

Clients want to feel that you recognize their concerns, even when they are having difficulty enunciating them to you. In some cases it may help to ask questions if the client appears to be having serious difficulty getting the story out. Perhaps you can approach the prospective client as you would a witness from whom you are eliciting direct testimony. Phrases like "why did you come to see me?" "and then what happened?" can be very useful. It permits the client to give the history while conveying your interest at the same time. But refrain from using cross-examination techniques, since that method is more appropriate for opposing counsel – not – the attorney being hired to protect them.

8. There is more than one way to communicate.

Different people process information differently. What works for one person may not work for someone else. Because of this it is wise to use more than one method of communication. While you may wish to discuss significant developments in a case with your client, you should also outline the information in a letter. Although you give clients a copy of the written retainer agreement and even require them to read it, you should also discuss its terms, particularly because they may be reading some provision without comprehending its meaning. You won't know whether they have any misconceptions unless you try to find out what they're thinking.

9. People are often intimidated by lawyers.

If you have no prior relationship with the client, he or she may be intimidated and feel reluctant to tell you their greatest concerns. Frequently clients are afraid to ask questions of an attorney, perhaps because they want to appear more knowledgeable than they really are. Obviously it would avoid many misunderstandings if the client could simply enunciate their concerns but the task of uncovering the client's expectations will fall to you. In some cases, you may be the only contact they have ever had with the legal profession.

10. Don't avoid dealing with the tough issues.

Misunderstandings are common between an attorney and client. However, no problem gets better ignoring it. It is best to confront any issue sooner rather than later, whether it is nonpayment of fees or the client's credibility. Don't put off having that candid conversation with the client because it is unpleasant. Misunderstandings which go on too long have a tendency to become larger and more difficult to handle. Your professional reputation can also suffer if you overlook problems with your case only to have them pointed out by your opposition.

TEN DO'S AND DON'T'S FOR PRACTICING ATTORNEYS

DO'S

1. Carefully interview clients
2. Listen
3. Specify scope of employment
4. Document, document, document
5. Decline to represent the potential client in writing.
6. View every client as a permanent relationship
7. View every prospective client as a potential for future employment
8. Carefully consider your ability to undertake the client's matter
9. Perform a conflict check before taking the case
10. Discuss potential problem areas

DONT'S

1. Ignore warning signs
2. Refuse to answer questions
3. Assume anything
4. Operate unnecessarily on verbal agreements
5. Specify a specific Statute of Limitations.
6. Undertake a case believing you can withdraw later
7. Be shortsighted
8. Take on more than you can handle
9. Assume a problem will never materialize
10. Avoid discussing the difficult issues