

Meeting the Challenges of Client Dissatisfaction

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The client/lawyer relationship is a complex one; often fraught with problems and rarely without incident. In America, client dissatisfaction with the legal profession looks like reaching an all time record, with client complaints on the increase and job dissatisfaction amongst lawyers rising.

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Over the next few weeks, *Balance* will be serialising her article and inviting practitioners to comment on whether the situation in America is becoming all too apparent here right here in our own backyards.

Introduction

On July 1, 1993, there were tragic killings in San Francisco, California. The deaths of eight people did not take place in the street because of a gang fight or robbery- the murders took place in a conference room at the Pettit & Martin law firm.

The gunman, Gian Luigi Ferri, was a mortgage broker who had previously used the legal services of Pettit & Martin. The deaths, which included three lawyers, a legal secretary, and a law student, were the result of client dissatisfaction. An angry letter which lashed out at lawyers and the judicial system was found on the disgruntled client's body after he killed himself. Although this is not a common occurrence, one can not ignore the growing distrust and dissatisfaction with the legal profession and the dangers it presents to members of the profession.

The following article discusses the rising trend of client dissatisfaction with the legal profession. It focuses in the main on the legal profession in the United States. Much of the dissatisfaction referred to in America is because of

poor quality legal services, in which lawyers have failed to keep their clients informed about progress in the lawsuit, have failed to show interest or concern about their client's problems, and have failed to explain the issues involved in understandable terms.

Moreover, basic courtesy is often lacking in client counselling (for example, lawyers may fail to promptly return phone calls and have poor working habits) and these and other causes of poor quality representation by lawyers will also be addressed in the article. Furthermore, the article will discuss job dissatisfaction among lawyers as arguably the fundamental basis that leads to client dissatisfaction.

"The first thing we do, let's kill all the lawyers."

Shakespeare, II Henry VI, sc. ii, 1.70.

As a result of client dissatisfaction, the public distrusts the legal profession. This distrust is further exacerbated by prominent members of society and the media. Consequently, distrust has created a synergy in the legal profession that has left both the attorney and client dissatisfied with the attorney-client relationship.

So ultimately, the purpose of this article is not only to identify some of the problems inherent in the client/lawyer relationship, but also to offer solutions which may decrease client dissatisfaction.

The Source of the Dissatisfaction

Much client dissatisfaction is not based on lawyers' lack of technical legal skills but on lawyers' lack of basic courtesy or "people skills." The problem is that lawyers are not trained in law school on "how to deal with people".

Malpractice suits and bar complaints have skyrocketed in America, particularly those concerning the failure of attorneys to communicate properly with their clients.

American Bar Association President Michael McWilliams noted that one area that needs major improvement is client

relations. The legal profession could improve its practice by treating clients with decency and effective counselling. But as Beth Healy points out:

"No improvement of desk-side manner can eliminate the fact that attorneys are like morticians...only around when something negative is going on"

Widespread anti-lawyer sentiment stems from such common complaints as unreturned phone calls, high fees and impolite attorneys, along with complaints of being cheated because the attorneys did not take the time to explain the legal process. (Samborn 1993)

Complaints levelled at lawyers are based on simple communications gaffes. Dissatisfied clients say their telephone calls were not returned; that they did not understand the fees they were charged, and thus felt cheated and that their lawyers were impolite.

What the legal professional has failed to realize is that business profitability is directly associated with consumers' perception of quality of service. Clients need to feel that their attorney is responsive to their concerns; the trivial, as well as the important ones. Fifty percent of all disciplinary cases in Arizona Supreme Court are the result of poor client communication. Ironically, most of the issues involved in the New York disciplinary guidelines, as well as the causes of dissatisfaction within the public, are not embodied in the rules of conduct.

Enhanced client communication is not only compatible with efficient business practices but will actually enhance business and decrease malpractice complaints. Consequently, malpractice claims will decrease if attorneys remedy the common complaints. Lawyers should, argues Solomon*, send clients copies of letters and documents, return phone calls the same day, use written fee agreements, and train staff in proper client communication.

The results of a national survey to identify "Valued Attorney Attributes"* found that attributes relating to client services were rated the highest. The

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ability to thoroughly understand the client's needs was considered almost unanimously (98%), as very important. Other very important attributes are; lawyers responsiveness to phone calls (86% rated this as very important), the ability to keep the client informed of progress in a matter, the ability to show interest in or concern about the client's problems, and the ability to explain the issues involved in understandable terms. Interestingly, those who were surveyed cared little about the academic qualifications of their legal counsel. Not a single respondent rated it as very important.

The Power of the Media

Media images have played an influential part in shaping the public's view of the legal profession. Justice Burger* expressed his concern to the American Bar Association regarding the public's negative perceptions and distrust of the legal profession. Justice Burger noted that much of the negative public perception of lawyers stems from the "unsavory advertising and frivolous litigation practices of some of its members."

Additionally, Harvey I. Saferstein, President of the California State Bar Association, categorized "lawyer jokes" as a form of hate speech against lawyers and blamed the jokes for the increasing anti-lawyer sentiment. Saferstein claimed that this form of "lawyer bashing" could lead to the same violence that took place in San Francisco.

Former President George Bush and Vice President Dan Quayle contributed to the already poor images of lawyers by blaming attorneys for many of the problems America has encountered while competing in the global economy. Indeed, former Vice President Quayle depicted attorneys as

*"sharp lawyers in tasselled loafers who file crazy lawsuits and wreck the American economy."*⁸

Circuit Judge Harry T. Edwards of the United States Court of Appeal for the District of Columbia found that the public's perception of lawyers is heavily influenced by lawyers' lurid advertising. However, he counters

"while offensive advertising gives the impression lawyers will do anything

to make a buck, tastefully presented information can help demystify the profession and notify those traditionally outside the system of their rights" (Edwards 1986).

Unfortunately, because of a handful of "sharp" attorneys, lawyers are seen by the public as greedy, as encouraging useless litigation, and as professionals who act primarily for their own financial gain.

Question: *What do you call 1,000 lawyers chained together at the bottom of the ocean?*

Answer: *A good Start (source??)*

Lawyers are seen as encouraging litigiousness in order to feather their own nests, oblivious to the resulting increases in cases filed, clogged courts, and frustrating delays that threaten to topple the system. (Edwards 1986)

Lawyer advertising has not been the only culprit in affecting the public's view of attorneys. The legal profession's poor image has been capitalized upon, and exacerbated by, the media.

"It used to be that law was an honourable profession, but as with most everything in life you can measure the change in public opinion through the eyes of Hollywood." Newmeyer (1994.) Could it be that movies are depicting lawyers in the light in which the public has been viewing them, as "soulless, money-grabbing ambulance chasers" who twist the truth to suit their case. The media has listened to the public outcries and tapped into a market that plays on criticism about the legal profession.

A recent television beer commercial on American television in which a "fat wealthy tax lawyer" is lassoed by a rodeo rider is evidence of such criticism.

A popular television series, "L.A. Law," which broadcasts to millions of people, may be the single, most important influence on the popular conception of lawyers' work and ethics.

A Reebok advertisement has also teased that, "on a perfect planet" there would be no lawyers. In a popular film, "The Firm," a large law firm was involved with organized crime and was filled with greedy and corrupt lawyers who laundered money. Media influ-

ences have become even more graphic a hungry dinosaur devours a lawyer in the movie "Jurassic Park" and viewers cheer.

Lawyers, it appears, are being criticized for the perceived defects in the system of justice. Common sense dictates that such "lawyer bashing" in advertising and in the media can affect individuals' views of lawyers.

In response to the public's basic distrust of attorneys, the American Bar Association has recently approved the allocation of approximately \$800,000 in order to implement portions of a wide-ranging "communications plan" to educate people about the justice system and the role of lawyers.

The ABA has also asked its members to be conscious of their clients needs by returning phone calls and being courteous. ABA president J. Michael McWilliams has acknowledged, however, that one must take into consideration that there will always be some degree of animosity towards lawyers. As Samborn (1994) argues:

"There is always going to be some criticism of lawyers as long as there are rotten apples in the barrels and losers to law suits. But when criticism of lawyers reaches the point where it becomes a demonstrative symptom of public dissatisfaction and frustration with the system of justice, then we need to pay close attention to and reach out to those who are critical..."

The ABA is working on changing the popular perception that lawyers are motivated solely by billable hours. Associate programs are being created to establish a user-friendly, client-complaint procedure that will allow individuals to communicate and resolve dissatisfaction about lawyers in a timely and effective manner.

The ABA is also working to demonstrate that lawyer advertising can be effective without resorting to demeaning late-night television advertisement. Attorney General Janet Reno urged lawyers to "reconnect with communities by each lawyer adopting a school, a city block, or a family."

Lawyers must recognize that to destroy the public's faith in lawyers is to destroy their faith in the legal system.