



# ETHICS HOTLINER

▪ KEEPING AN EYE ON ETHICS ▪

## Good Client Relations

*by David Bell, Director, Professional Responsibility*

Since beginning employment at the State Bar in 1985, I have spoken with well over 10,000 lawyers regarding their ethical questions and their professional responsibilities. Based on this experience, I believe that the vast majority of ethical problems encountered by attorneys can be avoided or mitigated through improved client relations. Specifically, I believe that applying some rather simple law practice management techniques can result in greatly improved client relations—and less calls into the State Bar from irate clients.

What are "good client relations"? Good client relations, as a term of art, means nothing more than a productive working relationship with your client. I believe that a good client relationship is best achieved where both you and your client have realistic expectations regarding the desired outcome of the representation and your mutual responsibilities involved in the representation. Attorney-client relationships sour when unrealistic, and usually unexpressed, expectations run counter to reality. I therefore recommend that you explore and address joint expectations with your client *at the beginning* of the attorney-client relationship. The following are some examples of "good client relations."

"Good client relations" means examining and discussing fully your client's legal objectives and the merits of your client's case or matter. Is the client being realistic about what he or she wants from the representation? Are you being asked to file a frivolous suit or pursue an illegal or unethical course of conduct on behalf of this person? Does this person understand what you can and cannot do? Before accepting representation of any client, find out what the potential client wants from the representation and, if necessary, provide this person with a reality check. After discussion, you may decide that it is in your best interests to decline representation.

"Good client relations" mean discussing and agreeing with your client on how you will communicate with each other during representation. Define when you will be available to talk personally with the client. Some clients need more hand-holding than others—find out what your client expects from you. If you are only available at certain times, let your client know who else the client can talk to in your office and make sure your client agrees to the arrangements. Conversely, make sure that your client understands the client's responsibility to be available to you. Obtain as many current client addresses and telephone numbers as possible. Get the name, address and telephone numbers of a friend or relative of your client who can help you reach your client.

"Good client relations" means reaching a clear agreement with your client regarding your fees and costs. Be aware that most attorney-client fee agreements must be in writing pursuant to Business and Professions Code sections 6147-6148; consult these sections for specifics.

However, I recommend that you go beyond minimum statutory requirements. Make sure that your client understands the difference between fees and costs. Reach agreement regarding your client's responsibility for, and method of payment. Explain where client advances for fees and costs will be held. Address how fee disputes will be handled. Remember, where money is concerned, neither clients nor attorneys like surprises.

"Good client relations" means delineating clearly both your and your client's respective responsibilities to the representation. Your client must be made aware that legal representation is a team effort. As such, define and agree upon the specific responsibilities of *each* team member. For example, if the case will require extensive production of documents pursuant to discovery, define your client's duty not to thwart discovery. To the extent possible, try to reduce our client's duties to a signed writing. This writing will help you "remind" your client what he or she has agreed to do and can support your decision to withdraw where your client renders it unreasonably difficult for you to carry out your employment effectively. (See California Rule of Professional Conduct 3-700(C).)

"Good client relations" means defining the scope of your representation and addressing termination of employment issues. Your employment agreement should specify how and when your representation will conclude and address contingencies if either you or your client terminates your attorney-client relationship prematurely. For example, how will the client file be handled? Who will be responsible for copying costs? How will judgment or settlement funds be handled? How will remaining client trust account funds be handled? Do you and your client agree that any malpractice claims or fee disputes will be resolved through arbitration? Many attorneys find these issues difficult to discuss with clients, but in my experience, attorneys find themselves in far worse shape as a result of not discussing such matters.

In the final analysis, "good client relations" is a moving target. It is never fully achieved or realized; rather it is a goal to aspire to and strive towards *with each client*. It requires the exercise of experience, foresight and up-front client communication. It is, in my belief, not just a necessary ingredient, but the essential ingredient to a productive attorney-client relationship. Attorneys who pursue good client relations do themselves, their clients and the legal profession a great service.

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(Article taken from Vol. 2, No.1; Summer 1994 *Ethics Hotliner*)

**A PUBLICATION OF  
THE STATE BAR OF CALIFORNIA  
ETHICS HOTLINE**



**ETHICS HOTLINER**

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