

NEW YORK INJURY TIMES

5 THINGS LAWYERS DO THAT DRIVE CLIENTS CRAZY

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5 THINGS LAWYERS DO THAT DRIVE CLIENTS CRAZY

OR, HOW TO LOSE A CLIENT IN 5 EASY WAYS

1. DON'T RETURN YOUR CLIENT'S CALLS

This is the surest way to lose a client's trust and confidence in your abilities. If you don't have the time to return your client's calls, they assume, correctly, that their case is not that important to you. Clients are usually starved for information. Most often they don't hear from their lawyer for weeks or months. They don't know what's going on with their case or what developments have occurred. Failing to return a client's call is simply bad manners. We all get busy during the day, but an attorney should make every effort to call you back within 24 hours of your call.

2. DON'T UPDATE YOUR CLIENT'S ON A REGULAR BASIS



When a client doesn't know what's going on with their case, they get concerned, and worried that the attorney simply isn't doing anything. While this may not be entirely true, communication with the attorney and client is vital. Often a case appears to languish as it makes its way through the Court system. Clients have been known to complain that their attorney "isn't doing anything" with their case. By providing ongoing updates, I'm able to advise my clients what's happening on a regular basis with their case. Also, any time a client has a question about their case, I'm always available to answer their questions.



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3. CO-MINGLE YOUR CLIENT'S MONEY WITH YOUR OWN

If an attorney settles your case, your settlement money must be put into a special attorney trust account, called an escrow account. It is from this account that all of the attorney expenses must be paid, as well as any liens against the proceeds of your case, such as Medicare or Medicaid.

It is unethical and improper for an attorney to mix his own personal money with your settlement money in the special attorney trust account. Your attorney cannot borrow your money to pay his personal or business expenses and then repay the money back into the escrow account. Also, your attorney cannot write a check payable to cash from the attorney trust account. Everything in this account must be detailed in explicit detail. Failure to follow the proper procedures for protecting a client's money in an escrow account will result in disbarment 100% of the time.

4. LIE TO THEM

It is never good for an attorney to lie. Likewise, it is never good for an attorney to lie to his client. If the attorney says that your lawsuit has been started, but it really hasn't, then that constitutes a false statement that could have significant ramifications- especially if the time to start your case has just expired.

5. DON'T TELL THEM THE PITFALLS OF THEIR CASE

It is important in any type of case to let the client know not just the strong points of their case, but also the weaknesses in their case. Only by carefully reviewing both positive and negative aspects of the case can the client become fully informed about the likelihood of success in their case. Beware the lawyer who tells you that you have a 'fantastic case' and 'you have nothing to worry about'.



TRY OUR NEW TRIVIA GAME!

Test your knowledge of medical malpractice and personal injury law. Answers appear at the end of this newsletter.

1. HOW MANY YEARS DO YOU HAVE TO START A LAWSUIT FOR MEDICAL MALPRACTICE IN NEW YORK?

- a. 1 year
- b. 10 years
- c. 2 1/2 years
- d. 3 years

2. WHERE CAN YOU BRING YOUR LAWSUIT IF YOU LIVE IN QUEENS BUT WERE TREATED IN MANHATTAN?

- a. Nassau County
- b. Queens County
- c. Manhattan
- d. Either b or c

3. THE LAWYERS FEE IN A MEDICAL MALPRACTICE CASE IS

- a. 33 1/3 %
- b. 40 %
- c. 25 %
- d. A sliding scale that only starts at 30% and drops by 5% as the client gets more money.

4. "OBJECTION SUSTAINED" MEANS

- a. That the case is over
- b. The witness can answer the question
- c. The witness is not to answer the question

d. The attorney doesn't know how to ask a question

5. IF A FOREIGN OBJECT IS FOUND IN YOUR BODY TODAY, HOW MUCH TIME DO YOU HAVE TO START YOUR LAWSUIT?

- a. 2 1/2 years
- b. 8 years
- c. 1 year from the date of discovery
- d. Your time to start a lawsuit has expired

6. IN ORDER TO BECOME A LAWYER, YOU MUST GO TO LAW SCHOOL FOR HOW MANY YEARS?

- a. 2 years
- b. 3 years
- c. 4 years
- d. Become a politician first

7. THE NEW YORK STATE BAR EXAM is a test to evaluate

- a. How well you drink
- b. How well you can mix drinks
- c. How well you know the law in New York State
- d. Whether you have the mental capacity to practice law

8. A SUBPOENA IS:

- a. Used to arrest a person for criminal acts
- b. A document that compels a person to appear in Court and give testimony
- c. Used to order lunch
- d. Force a guilty party to pay damages

9. IN A WRONGFUL DEATH CASE AN AUTOPSY IS USED TO

- a. Prove the cause of death
- b. Prove that the wrongdoing caused the death
- c. Disprove other potential causes of liability
- d. All of the above

10. WHEN CHOOSING AN ATTORNEY, WHERE IS THE BEST PLACE TO FIND AN ATTORNEY?

- a. Yellow pages
- b. In court
- c. Billboard
- d. Personal referral from someone who recommends the attorney

BONUS QUESTION:

A “Right of Subrogation” is:

- a. An insurance policy
- b. Legal mumbo-jumbo
- c. An insurance company’s ability to insert themselves into a lawsuit to protect their right to recover money that they have paid for your medical expenses.
- d. A get-out-of jail free card

GERRY’S FICTIONAL STORY

Continued...

“Do you two know each other?” Vinny asked.

“You could say that,” answered Jimmy.

They continued to glare at each other. Their chests were raised, ready to pound their fists on their chests, and to yell out a jungle roar. Their backs were rigid and their looks distant and very cold. You could feel the tension in the room.

Jack Daniels directed his comment at Dunlop; “Allright, now. Spill the beans. Let us in on your little secret and let’s get this over with. NOW!” demanded Dr. Daniels.

David Dunlop turned to Dr. Daniels and said, “This son of a bitch sued me 5 years ago for malpractice. And he won a shit-load of money, too. What total bullsh*t that was.”

Jimmy, not one to back down from a verbal assault, launched into his own with a piercing verbal harangue that knocked Dunlop off his lofty perch a few pegs; “I don’t need to remind you Doctorrrr, that even your own expert at trial admitted that you departed from good medical practice and that you failed to timely diagnose your patient’s cancer. As a direct result of that failure to diagnose, your patient’s cancer advanced to Stage IV metastatic cancer, and she died 2 years later. The jury was right to string you up for that case. Even your own insurance company couldn’t wait to get out of that case. Don’t blame me for what you did to your own patient!” retorted Jimmy Changa.

At this point, Dr. Basta stepped in. “All right now, children. Let’s move along and remember Dunlop is here to observe. Nothing more. We’re not going over that history now. We’re about to make new history here Dunlop, so get past what your feelings are for Jimmy and live up to your potential to make history.” Neither shook hands, but both nodded their heads.

A few months later, at Dr. Basta’s urging, Jimmy opened an office to help ‘cure’ cancer patients. He called it the “Gift of Life Foundation” and formed a corporation to make sure he complied with all the proper laws. He was the CEO and President. There were no other officers of the corporation. He realized that he could charge people money to help cure them of their cancer. The question he debated was ‘How much can I ethically charge someone for this service?’ The obvious answer was ‘anything I want’. However, he wanted to be reasonable, and wanted people to be able to afford to have their cancer cured. But what about elderly

people who had no money, or homeless people- how could they pay? Jimmy decided then and there that if a person did not have any assets to pay his fee, then he would provide his service for free. He’d done the same thing as an attorney- and actually felt pretty good about it too. It’s called pro bono work. Give something back to the community for the privilege of having this gift. OK, but getting back now to those who do have money, what should they be charged?

Jimmy realized that he’d have to hire accountants and lawyers and staff to handle all the bookkeeping. He’d have to develop a system where the patient paid prior to their treatment. Otherwise, they’d never pay once they were treated. He also figured that as a measure of good will, he’d have to give these folks some type of money back guarantee, so they’d feel comfortable giving up a sizable portion of their money. “Aha! I’ve got it,” thought Jimmy. “I’m going to charge them 10% of their total net worth. Their lives should be worth much more than 10% of their net worth,” he figured. “But how will I know if they really have those assets, or if they have more, or are hiding assets?” thought Jimmy. “Time to call my accountant,” Jimmy thought.

He dialed his accountant’s number: 1-800-I HIDE \$ FOR YOU. “Hi, this is Jimmy Changa, can I speak to Lawrence Da’Middleman?” “Shure think schweety, von minoot pleeshe,” the secretary said in her best German-Deutsch mangled interpretation of English. “Jimmy, how’s it hanging?” asked Lawrence. “Good,” Jimmy answered. “Listen, I’m setting up a new corporation, and I need a crack accountant to run the staff there. There’s going to be a lot of money coming into the corporation, and I want everything done by the book. I need a crack-head team to track and identify assets of prospective clients to verify their net worth. I need the best and brightest people in the business,” said Jimmy. “OK, I’ll get right on it,” said Lawrence.

“Are you getting into the mortgage or banking business, Jimbo?”

Lawrence inquired. "Something like that," came the reply.

Over the next two months, Jimmy interviewed no less than 17 accountants, lawyers, tax attorneys, and computer wizards. He told them all that this company would be set up to cure people of their serious illnesses- all legitimate. All dealings with him would be totally above-board and on the books. If they came to work for him, they all had to sign agreements not to disclose anything that went on at the company, not names, amounts of money, or even what I do. With perplexed looks on their faces, they didn't know whether to believe this guy, or to get up and leave. Most decided to hear him out. Of those 17 people, he hired five. Each signed the agreement to keep silent. "What do we tell our families about where we work?" they asked collectively. "Tell them you work for someone who makes miracles and helps people in their last days on this earth. They'll think you're a saint. And guess what? You will be. You'll each be paid very well. The better we do at tracking, locating and identifying client assets, the more money you will each earn. You are all getting in on the ground floor. That means that there's going to be a

big learning curve. Mistakes will be made. If you make a mistake, own up to it. Admit it, learn from it, and never, ever make the same mistake again. If you do, you're fired." Said Jimmy.

Jimmy was now building up to a crescendo about what it means working for him. What we are going to do here in this office is to help cure people with cancer. There are no medicines being dispensed here. We do not practice medicine, and technically we do not 'treat' patients. We console them, we hold their hand, we talk to them. Then we show them out the door, and bring the next patient in. That's it.

Before any patient comes in our door, you- my crack team of helpers will determine whether they have money, houses, cars, jewelry, stocks, bonds, boats, offshore accounts, girlfriends, pensions, bank accounts, brokerage accounts. Everything that a person could possibly have that has value, I want to know about. Whatever you need to obtain this information, you will have. Computers, phones, whatever, we'll get it for you, and my friend 'Andy the Computer Geek' will be in charge of purchasing equipment, instal-

lation, and software development. Ultimately, we'll develop our own proprietary software to run this stuff.

Nobody can make an appointment to see me unless they've been referred by a treating cancer specialist. I will not make any exception. When they call to make an appointment, you will not ask them to fill out a form. You will spend as much time as possible getting all of their relevant information to search their assets. You will of course obtain their written consent to do so. You must advise the potential patient that if they hide assets and we find them during our search, we will never see them as a patient. This will give them a greater incentive to tell us everything we want to know. If they say they can't pay, I want proof that they can't pay. If they claim to be poor, and they've transferred assets to a friend or family member recently, and we find out about it, then they will never step into our doors.

Find out what happens to Jimmy next month! Stay tuned.



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ANSWERS TO TRIVIA GAME

1. C, 2. D, 3. D, 4. C, 5. C, 6. B, 7. C, 8. B,
9. D, 10.D, Bonus: C