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Law

Making the Cut: Being choosy about which clients you should keep

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Every year, lawyer Sonya Smith-Valentine fires a client, sometimes two or three.

The Greenbelt solo practitioner sits down with her case files and asks herself what each client adds to her practice. She considers whether clients are playing it straight with her, paying their bills when they're due and staying in contact (but not too much contact).

In a profession obsessed with marketing, networking and retaining clients — and especially in an economic downturn, when lawyers in some practice areas are scrambling for clients — firing one can seem like heresy.

Lawyers and experts say, though, that culling clients who are more trouble than they're worth is essential to maintaining a healthy practice.

"I think even more so now is when people should take a critical look at, Is this person going to end up hurting my firm more than helping it?" Smith-Valentine said.

Smith-Valentine said culling is especially important for solos, who don't have the resources to handle every case that comes their way, but the managing partner of a midsized Baltimore firm said he too makes a point of weeding out clients.

Robert T. Franklin of Franklin & Prokopik P.C. said he started culling after he and other lawyers at the firm heard experts talk up the practice. He said it's difficult for some lawyers, especially the "old guard," to get past the Depression-era mentality that leads them to accept and keep all clients.

Doing that won't lead a firm to ruin, he said, but culling can make it "a lot healthier and happier."

"We all must come to the realization that there is such a thing as bad work," Franklin said.

Not financially compatible

The top reason for getting rid of a client is the most obvious: nonpayment. Smith-Valentine said she tells clients who are slow on payment to imagine they worked all week, only to have the boss tell them Friday that they wouldn't get a paycheck. That's what stiffing your lawyer is like, she tells them. Lawyers need to have the confidence to refuse to work for no money, she said.

"I would rather sit out and read a book than work and I'm not getting paid," Smith-Valentine said.

A client doesn't have to be a deadbeat to be financially harmful to a lawyer or firm.



Franklin said his firm negotiated discounted rates for a major client several years ago. When the firm proposed hiking its rates to cover rising overhead, it was “ignored and stonewalled,” Franklin said.

After repeatedly getting no reply, the firm sent a letter to the company declining new assignments. That got the client’s attention.

When the client called, Franklin explained that even though the company had been sending a lot of legal work his way, the firm needed to have rates that made sense.

“If you’re losing per unit, you don’t make it up in volume,” he said.

Now that they’ve ended Franklin & Prokopik’s relationship with the client, he and the other lawyer who handled that client’s work can spend their time on matters that will bring in more money, he said.

Consultant Charles A. “Biff” Maddock said firms could benefit from shedding “legacy clients,” those who have been with the firm for a long time. A small client who signed on when the firm had 30 lawyers and is still there now that it’s at 300 might not be profitable for the firm, he said.

Maddock, a principal at Altman Weil Inc., added that the company is likely not getting the personal attention it wants from the now-larger firm and might be better off referred elsewhere.

Robert R. Bowie, founder of Bowie & Jensen LLC, offered a caveat for firms looking to cull small clients. Noting his own firm’s representation of medium-sized companies, Bowie said that one firm’s not-worth-it client is another’s ideal.

“Each firm has its own definition of what is the cream and what is the milk and I think people will cull out the more anemic stuff, but it’s very easy to carve yourself out of a lucrative market if you’re not too careful,” he said.

It’s not you, it’s me

Sometimes, the decision to get rid of a client isn’t related to what that individual client pays. Maddock said firms end client relationships when they decide to get out of a particular practice area. For example, he said, many firms are backing out of insurance defense work, so dismissing insurance clients is part of a business strategy.

It’s “not that the client was bad,” Maddock said. “It’s just we can’t afford to work for your category of client anymore.”

For solos, Smith-Valentine said that discovering a case is more complicated than originally thought is a good reason to get rid of the client.

“That’s how you stay out of trouble,” she said.

Solos don’t have the support system of lawyers at big firms, she said. They have to rely on their own expertise. Keeping a case that’s above your head is a recipe for a malpractice claim, Smith-Valentine said.

Bel Air solo Neil Helfrich said the ability to know what you can’t handle comes with experience.

“You come out of law school with a very altruistic approach to how you’re going to practice law, and at some point you realize that you can’t be all things to all people,” he said.

On second thought, maybe it is you

Sometimes, a client is just too much of a pain to keep around.

David Kaufman, a Fairfax, Va., solo practitioner who is admitted and practices in Maryland, talked about a client he represented in a lawsuit accusing the client of not paying his bill to a construction company. The client told Kaufman he had documentation that the construction company did not live up to its end of the contract, so Kaufman told him to send it.

After weeks went by and Kaufman had reminded the client over and over to send the papers, a box arrived in the mail. It was full of loose papers in no discernible order.

Kaufman told him, “It looks like you just threw them in a box.”

"I did," replied the client.

"Well, how am I supposed to figure it out?" Kaufman said he asked. "I said, 'I'll need your help.' He says, 'I don't have time for this.' 'OK, I'm outta here. OK, if that's how you feel, I don't think I can represent you anymore. Here's your file back.'"

Unhelpful clients may be paying clients, but the money's not the issue, Kaufman said.

"If you wake up at 3 o'clock in the morning sweating because you know you have a meeting with Mr. and Ms. Problem Client, is it really worth it?" said Kaufman, who has fired clients regularly but not "nearly as often as I should."

Just as unresponsive clients should be dropped, those who won't leave their lawyers alone are candidates for culling.

"If you're talking to the client a lot that you don't think is necessary, sort of hand-holding, it gets to be very expensive for the client, and that's not a good thing for you as the attorney," Helfrich said. "Either they're paying more than they should or you're undercutting what you should be getting. Someone's not going to be happy."

Some clients cross the line from mere pains to liars. They deserve to be fired, Smith-Valentine said.

One client Smith-Valentine represented in a debt-collection harassment case swore to her that the debt in question was a personal one, since someone harassed because of a business debt cannot sue under debtor-protection laws. Smith-Valentine filed the suit, but some of the documents the client gave her to use in the suit indicated that it was a business debt. She dismissed the case and ended the relationship with the client.

Making a clean break

The best way to dump a client is directly, lawyers and experts say.

Helfrich said that if the problem is that the client has been unresponsive, he sends a resignation letter saying that he has done everything he can for the client but doesn't seem to be getting anywhere. Otherwise, he asks the client to come to his office for The Talk. He generally gives fired clients a list of three or four other attorneys who might be able to help.

When the problem is an unpaid bill, Smith-Valentine said she tries to approach the client sympathetically. She asks if there is a reason for the missed payment; if the client says that he or she can't afford to pay, she suggests that it "may be not the best time for [the case]."

Maddock said there's always the technique he's seen some firms use for "pain-in-the-butt" clients: referring them to "a firm you don't like very much either."

Firing a client means the lawyer probably won't see the money the client owes, Kaufman said.

"You have to do it face-to-face and you have to be prepared to write off whatever your bill is at that point," Kaufman said.

The suffering economy may make it seem like a bad time for lawyers to get rid of clients, but they need to do it now more than ever, Smith-Valentine said. She said that when lawyers are worried about where their next check is coming from, they tend to take cases they can't handle.

"A lot of good judgment is going to be tossed out the window when any money is good money," said Maddock.