

Tips on managing clients from the get-go

Ed note: *As well as discussing the changing nature of family law practice, our family law panel provided practical tips on retainers and other aspects of practice.*

LAWPRO: *On a more practical level, can you tell us how you deal with client expectations, and how you use retainers in your practice?*

Mary: I do have a one-page written retainer letter that sets out hourly rates and what the client can expect in terms of accounts and the types of charges that are involved. As part of the initial assessment of the problem, I discuss the cost of getting the job done. I do ask for a financial retainer. I'll explain what the client might be expected to spend if any one of a number of different scenarios unfold. I reserve the right to review or change the manner in which I deal with cases. I ensure the client gets copies of virtually everything.

I tend to be a straight shooter, and I expect the same from my clients. If there is a problem, we talk about it. The best way to deal with a problem is to resolve it when it arises. If there are concerns or questions, I like to be the first person to know not the last person.

It's also important to manage expectations, and help the client understand what may be financially manageable or not manageable. The client has a right to know that in some instances it is not financially feasible to pursue certain aspects of their case. If the client believes in principles and wants to fight on principles, the client needs to know that principles have a cost.

Daniel: Our retainer is almost one and a half pages of 8.5 x 14. Reviewing it is the first thing that we do in our first client meeting because it is important to set that stage. We've also implemented a system – a form that clients sign – that lets us take retainers from their credit card account on an ongoing basis. We call to let them know we are going to debit their credit card

account, and to let us know if they have a problem with that. We also have instituted a policy of billing monthly on every file because then there is none of that “oh boy, it has been three months and now there is a \$10,000 bill going through my account” which will raise all sorts of issues.

We provide clients with a retainer agreement, at our first meeting, and then we do a standard “file opening” letter which reflects what happened in the meeting. The third thing is an administrative memo that talks about how we operate as a law firm within the family law group. It deals with topics such as law clerks and their roles and costs, as they are on the retainer; it outlines who to contact with questions. It's quite a useful document because it ensures that the client understands how and why certain charges were billed. For example, if the client talked to the secretary for half an hour, it's important to know that they will receive a bill for the secretary's time.

Heather: I am very proud of our intake system, which I helped develop when I was with York Region Mediation. I also had a psychologist help us fine-tune the process, so it is built on a lot of insights. One of these is that people don't mind paying for legal services; what they don't like is the sense that you have some sort of leverage over them because you can give them a bill at any time and for any amount. So, having detailed dockets, regular accounts and work approved in advance can be very important.

As a result, we have changed our retainer. It is about five or six pages. It sets out who works here, what they do and what their hourly rate is; it explains the office

mission statement, the approach that we take, our communications policy, it provides tips on how to minimize your legal fees, there is a section for limitation periods, the need to do a new will, and an acknowledgement and signature section.

In terms of client meetings: I treat the first meeting as a legal information session, so it is booked for an hour and a half and charged at a reduced rate. I have mixed feelings on this approach because I find those first meetings very draining and much harder than regular file work.

I encourage people to bring their support people or a scribe with them, and I try to provide an overview of general information, some specifics as are appropriate, what concerns have to be prioritized and process choices. In this way, the client gets all the pieces they need to start considering their options. Sometimes, it is two or three years before the person retains us because they need to organize parts of their life, or they want to try to make the marriage work. Other times, they are at the front counter the next morning, signed retainer in hand.

I discourage on-the-spot retainers because I want them to go home, read through the package which now contains a copy of *Divorce Magazine* (which is just a fabulous resource for clients), a matrimonial information sheet, a blank financial statement and an outline on how to fill it out, a list of community resources, and of course the retainer. People get the information they need to reduce the uncertainty, and hopefully make a good decision. They can decide if they have a comfort level with us, and frankly, we get to decide if this is someone we wish to work for.

Once the client decides to move forward, we have a retainer meeting, where we review the terms of the retainer again, identify goals and actually put the money on the table. The list of goals goes in the back of the file and we bring them out every couple of months to take a look at it and check on our progress.

Lawrence: My initial retainer is only one page because I give clients a manual from the beginning. In the manual there are articles about how to keep their fees down, how to read an account, which is not that easy at times, and how we set fees. After that first meeting, I like to provide an initial letter to confirm what I have advised them, what they have to do, and what I will be doing; in that letter you can also provide more detail on some issues that you may have glossed over when speaking to them, such as their house and joint tenancy, beneficiaries and their will, and change of designations.

Because there is so much information that gets gathered over the course of a file, I provide clients with a binder. The manual and everything else goes into the binder. If we go into litigation, the client is provided with Volume II of the manual, which includes

articles on the different stages including case conferencing, information such as how to prepare, what to wear, what to expect, and so on. I three-hole punch all my letters to clients, so that they can go in the binder under “letters from me” in tab 1 and “letters from the other lawyer” in tab 2 and so on.

This is how my communication with the client is based, by providing them with copies of everything and a system with which they can organize this information. Giving the client written material is also helpful because when you are talking to them, some of what you have to say goes in one ear and out the other. There are so many things to deal with that if you don't write it down or provide them with some written information, it will be forgotten. My Web site (www.thepascoedifference.com) also has a lot of information for clients.

I have found that if you provide clients with a package, you can keep your costs down; they read documents that I have provided before they ask me any questions. I also try to limit the length of printed materials to one or two pages, otherwise they will not read them all.

Kristen: Our package is similar to what's been described by others. As well as outlining billing procedures and requiring a written retainer, I provide two memos that are an overview of separation and divorce, and explain the importance of financial disclosure in family matters. These memos help clients better understand the process – because inevitably they are emotional at that first meeting and unlikely to remember everything that was said. I also provide a simple questionnaire for them to complete which asks basic information and is usually easier for them to complete than providing a financial statement. In other words, I get the same information but in a format that is less overwhelming.

Finally I explain what kind of lawyer I am, that I can be adversarial if need be but that I've found the results are more satisfying for my clients if we can achieve a negotiated settlement.

As well, I make the client a larger part of the process. I want them to understand the law and how it applies in their situation, and the process involved. As lawyers we are so accustomed to the system that we often forget that a divorce or separation may be the client's first contact with the judicial system, and it's incumbent on us to explain the process to them so they know what to expect.

**For sample retainer precedents,
see www.practicepro.ca/retainers.**