Three Ways to Avoiding Complaints

by
Megan Prebelich, Assistant Director
Minnesota Office of Lawyers Professional Responsibility

Reprinted from *Minnesota Lawyer* (October 5, 2009)

Since starting my position as an assistant director with the Office of Lawyers Professional Responsibility in December 2007, one of my tasks has been to review the complaints that come in each day to determine whether they should be investigated. Based upon this experience, here are three things that I've learned that I didn't fully appreciate previously.

One thing that has surprised me is the number of problems between attorneys and clients that stem from basic communication issues. Good communication is a key element in representing a client effectively.

Rule 1.4(a)(3) of the Minnesota Rules of Professional Conduct is an important section that is often glossed over by attorneys. It states that "[a] lawyer shall keep the client reasonably informed about the status of the matter."

Attorneys should know to inform a client when a vital document or letter is received about the client's case or to promptly respond to specific requests for information from a client. Keeping the client "reasonably informed about the status of the matter" may seem slightly vague, however. "Reasonable" means different things to different people, and, as evidenced by the complaints this office receives from clients, the meaning can be viewed very differently by the attorney and the client.

To clients, even if nothing is currently going on with their cases, not hearing from their attorney for a month or two can be tremendously stressful. Attorneys, on the other hand, may be trying to keep the costs down for their clients, which is an admirable aspiration. But good communication should not be the item that is trimmed. It is very valuable for a law office to develop a cost-effective system for sending out occasional status updates to clients.

A second thing that has surprised me is that many attorneys fail to have their clients sign retainer agreements.

At the beginning of most attorney-client relationships, everything usually goes smoothly. But as most attorneys know, problems can arise. Oftentimes, not having a written retainer agreement that outlines the scope of representation and the billing policies and procedures only exacerbates an already complicated attorney-client relationship.

By having clients sign a written retainer agreement at the very beginning of the relationship, lawyers are potentially saving several headaches down the road. Plus, the retainer agreement can be a starting point for

an invaluable discussion between the lawyer and the client about what is expected of both parties signing the agreement.

Lastly, too many attorneys facing discipline comment that the matter that gave rise to the complaint "was a real problem from the beginning" or that they "had doubts about taking on this client."

Indeed, these are often the cases that lead to discipline. Although these are trying economic times, if these thoughts come into your head when considering undertaking representation for a client, think carefully about whether you have the experience necessary for the representation, the time to work on this file or the desire to work on this case or with this client. Thinking twice about accepting a case may save you time and headaches later and avoid a complaint with this Office.

During the past 22 months I have learned that the vast majority of Minnesota's attorneys are doing a wonderful job representing their clients. These few simple suggestions are intended only to improve that percentage.