

Nonlegal Considerations in Client Relations

AN IMPORTANT ASPECT OF PROFESSIONAL GROWTH involves developing an ability to recognize and incorporate nonlegal considerations into the fabric of a legal situation. In law school, a standard exercise for students is to apply the law or legal principle to a problem. In legal practice, however, new attorneys must learn that being a lawyer often involves a number of factors that depend on not only the law but also the circumstances of the problem. Attorneys do not just apply a legal principle to a problem but also try to do so in the greater landscape of nonlegal considerations. What are the consequences and benefits of any given course of action? What does the client want? What are the time and money limitations? Even for the most junior attorneys, these aspects color how to represent a client.

A primary nonlegal factor in any given situation is the cost-benefit analysis. There are consequences and benefits that affect the practical options of the given situation. Minimal consequences may require a minimal legal approach. For example, an ideal sales contract may be a dozen pages, addressing every issue that may arise in the contract relationship. However, if the amount of the sale and the consequences of a breach are small, a three-page agreement may be the better approach, even if it leaves some issues open. Similarly, if a course of action will result in little benefit, it may be appropriate to abandon that course, even if strictly legal considerations would dictate otherwise. For example, a claim may justify a large judgment, but such judgment is of little value if the client cannot collect on the judgment, and it may not be worth the time and effort to pursue. The nonlegal consequences and benefits of the situation may influence practical possibilities of how it will or should be handled.

Nonlegal Factors

The priorities and proclivities of each client are an additional set of nonlegal factors in the practice of law. An attorney needs to understand what the client wants. The practice of law is a service industry, and to a certain extent a client's goals dictate the lawyer's objective. For example, one client may have a strong cause of action but does not want to spend the time or energy taking on a lawsuit. A different client may put a premium on addressing a problem quickly or quietly. Another client may be willing to undertake expense—even if it is not legally required or warranted—to maintain a good relationship with a potential defendant. Part of a lawyer's role is to consider these nonlegal goals and priorities.

In addition to understanding what the client wants, a lawyer needs to grasp who the client is. To practice law is to work with people, and understanding human nature and personalities is a crucial part of being an attorney. A client may want detailed updates and formal communications or only the broad strokes in casual phone calls. The client may be cavalier or very risk averse. An attorney needs to

factor these considerations into the relationship with the client. Identifying and addressing this variable facilitates the growth of a relationship with a client, which ultimately improves the lawyer's ability to assist the client as an attorney.

Finally, external constraints such as time and money are an unavoidable limitation on the practice of law. A thorough response to a legal question may require a few days of research, but if a client needs an answer in a few hours, the associate needs to act within those constraints. Even if there is more time, a client may only be willing to pay for a certain amount of legal research. When practicing law,

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an attorney must deal with these temporal and economic constrictions.

Adding complexity to the interaction is that legal concerns and nonlegal ones, as well as more than one nonlegal concern, can be in conflict. A client may want to resolve an issue on friendly terms but may not want to accept the risks that resolution entails. A client may be litigious but also be vehemently against undertaking the expense of pursuing a claim. A lawyer must help the client navigate through these conflicts, identifying the priorities, tempering the personal elements, and ultimately helping the client reach a conclusion that is tenable from legal and nonlegal perspectives.

Perhaps the most difficult part is balancing the above with the constraints of the law and the responsibilities inherent in the role of attorney. Lawyers must inform and advise clients regarding the law, regardless of the consequences or the client's goals, and must try to protect a client's interests, despite the constraints of time and money. A client may be loathe to draw up a long legal contract, but the risks of having an abbreviated contract may be too risky to be legally sound. A client may want a project done quickly, but doing so may result in legal perils that the client must understand. Lawyers must apply the law—and the lawyer's legal training and experience—amid nonlegal complications. The nonlegal elements of a situation influence how it should be addressed but do not completely overtake the constructs of the law and the lawyer's responsibility to the client. Maturing as a lawyer requires learning to recognize and balance the many competing aspects weighing upon and influencing a lawyer's practice. ■

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