

EFFECTIVE INTAKE PROCEDURES - PART II

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My previous *Society Record* article addressed the importance of a good conflicts checking system in an effective intake procedure. Equally important is your initial interview. This is your opportunity to screen cases and clients unsuitable to you, thereby greatly reducing your risk of an errors and omissions claim.

At the intake stage conduct an in-depth interview to determine if this is a client and a matter that you want to accept. Listen carefully to what the client is saying, and not saying. Ask probing questions to learn more about the client and the matter. Determine the potential client's expectations and assess the reasonableness of those expectations.

Explain the legal process in detail, including the range of possible outcomes, timelines, fees, retainers and ongoing payment schedules. Before accepting a new matter, evaluate the cost and the risk to you of this client and this matter. Also evaluate if:

- you are qualified to handle the matter
- you have the time and resources to handle the matter, given your current case load and your other professional and personal responsibilities
- the client's expectations are attainable
- the client is willing and able to pay for your services
- the client is someone you want to work with and for

Some clients and some client matters are not the right ones for you. Recognize and listen to that negative gut feeling you get when you first interview a potential client.

Use your best judgment but generally decline a client who:

- has unreasonable motives or a hidden agenda
- resists paying the required consultation fee or retainer
- has unreasonable expectations about the outcome, cost or time involved
- wants you to guarantee a particular outcome
- has a negative attitude towards lawyers
- doesn't take responsibility for his or her own actions and arrives at your door at the last minute and expects immediate attention

- doesn't want to accept an objective evaluation of the case
- wants to eliminate necessary steps in the presentation of the case to reduce costs

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This type of client is generally high maintenance and crisis producing. He or she consumes a lot of your time and energy and may be slow in paying if they pay at all. Claims against lawyers are frequently filed by this type of client.

If you choose to represent this type of client, use appropriate safeguards to reduce your risk. Be extra vigilant in documenting all meetings and conversations. As with all clients, write detailed letters confirming advice given (including possible outcomes) and instructions received.

If you choose not to represent a potential client make this very clear, and do so in writing. Declination letters are crucial to effective risk management. Return any documentation received from the client at the end of the interview or with your declination letter. If there is a relevant limitation period, advise the client of it and advise them to immediately contact another lawyer if they wish to pursue the matter. Keep the contact information, declination letter, and interview notes.

Sample declination letters will be posted on the LIANS website at www.lians.ca

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