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Communicating with personal injury clients

By Darcy Merkur

April 29 2011 issue

Personal injury clients have completely unrealistic expectations when it comes to communication with their lawyers?—and meeting those expectations is a major challenge for most plaintiffs' personal injury lawyers.

Lack of communication, in both frequency and quality, is probably the most common complaint made by personal injury clients about their lawyers. Most plaintiffs' personal injury law firms are regularly consulted by accident victims dissatisfied with their lawyers. While the consulted lawyer should encourage the potential client to communicate his or her concerns to the current lawyer, communication itself is almost always the problem.

When it comes to specific communication complaints, personal injury clients usually say either that the lawyer is not communicating often enough or has provided misinformation.

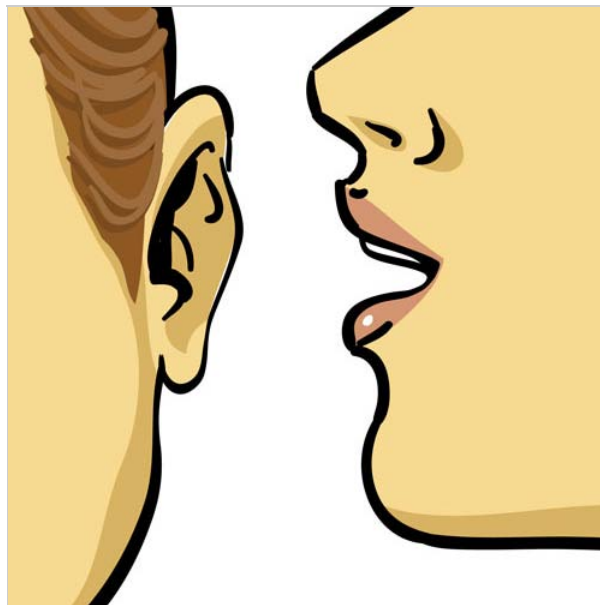
There are some key reasons why personal injury clients demand regular communication with their lawyers. The most obvious reason is that the lives of personal injury clients are in a shambles?—they are unable to work, need care and treatment, can't provide care to their dependents and worry about paying their bills. On top of all of that, the accident victim is in extreme pain and discomfort along with having his or her life scrutinized by the insurance companies involved. Under these circumstances, the personal injury client desperately needs a lawyer who can not only advocate on his or her behalf, but who will also answer questions in a timely and understandable manner.

Another reason why personal injury clients may demand constant communication with their lawyers may stem from the nature of the contingency fee relationship. Personal injury clients are most often charged legal fees on a contingency fee basis, meaning that they are not really being billed by the hour. Accordingly, there is no financial deterrent for personal injury clients to try to engage in communication with their lawyers?—by whatever means, whether phone, email, text message or otherwise.

One solution to economically satisfy clients requiring frequent interaction is to set out some basic communication guidelines with the client right from the outset. Having a common understanding of appropriate levels and means of communication will reduce the level of frustration that may otherwise be experienced by both personal injury clients and lawyers. Clients who know they will receive a file update at the end of each month are less likely to call each week.

What seems to be a trend of an increasing number of accident victims feeling misinformed by their lawyers may result from the popularity of self-education through the Internet, combined with the complexity of the personal injury claims process. For example, in an Ontario motor vehicle case, an accident victim may be looking at the new *Statutory Accident Benefits Schedule* on the Internet, not realizing that an older version applies to the case.

One solution to prevent clients from feeling as though they have been misinformed is to caution them from the outset that they are at risk of being guided down the wrong path by information they may gather from other sources. Arming clients with written materials and explaining where different types of claims may diverge helps reduce a client's interest in searching out other information.



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A client has a valid complaint, of course, if his or her lawyer has provided misinformation. All too often, a lawyer who does not specialize in personal injury work is retained because of his or her ability to speak in the client's native language rather than expertise in personal injury law. The lawyer who only dabbles in personal injury work may want to develop a working relationship with a personal injury specialist to act as co-counsel on serious cases. This solution helps address clients' interest in communicating with their lawyers in their native language while ensuring effective representation.

As it becomes easier for clients to send out communications, the demands placed on personal injury lawyers will continue to grow. Nevertheless, meeting the challenging communication demands of personal injury clients is essential to effectively represent accident victims.

Darcy Merkur is a partner at Thomson, Rogers in Toronto, practising plaintiffs' personal injury litigation, including plaintiffs' motor vehicle litigation. He has been certified as a specialist in civil litigation by the Law Society of Upper Canada and is the creator of the Personal Injury Damages Calculator.

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