CASE SELECTION-REJECTION AND HOW TO MANAGE CLIENT EXPECTATIONS

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You have that prospective client in your office. There has been some type of screening to determine that this is either a case which you may be interested in handling and/or you can help the person requesting information. The next few pages will hopefully provide an overview of the potential questions and actions which could help you decide whether or not to take a case and regardless of the final decision, what information you can provide to the person so as to help them with their legal issue.

For the purposes of this paper we will begin with a "simple" car wreck in which the person in your office was driving down the road and another car pulled out in front of her causing the wreck. The most money you may ever make is by saying no to a case which you shouldn't take. The cost of your time, your staff, as well as out of pocket expenses all represent dollars which are coming out of your pocket in the prosecution or a defense of a claim. The following questions will help you not only decide if the prospective client has a case, but more importantly if it is a case you should handle.

While taking or not taking a case is an important decision, if you decide not to take a case, how you do so can make a huge difference in your practice. It should be your goal that the person who you tell your will not represent becomes your biggest fan and recommends you to everyone they know and will continue to call you for years to come every time they have a legal issue.

How did you get my name?

This is a question which everyone of us ask generally to see if there is another attorney who referred us the case. We all need to make sure to follow up on the answer when it is not another attorney. There are times we get I got your name from a friend but I don't remember his/her name. It is important to track that name down if at all possible. Find out if they got it from work, a bowling team, etc.

What did they tell you about me?

Ask the potential case what they were told about you. Were they just given your name and number and told to call this attorney? Were they told you have never lost a case in the 100 years you have practiced law? Were they told ???? Find out what they were told because that will form the basis of what they expect from you and right or wrong you need to know what they are expecting. If it is wrong you need to correct it from the start.

Why?

That is a question that I believe is not used nearly enough and more importantly the answer is not listened to carefully. One of the first questions you should always ask a potential client is "Why are you here?"

The question is critical because it will give you some insight into not only what happened that brought them to you, but is important as to their perception of what they would like to have happen. Our firm generally has a paralegal meet with the person first to get most of the information regarding who was involved, where it occurred, when, health care issues, prior medical treatment, etc. I have attached to this paper our information sheet that is filled out by the person when they come in to meet with us, as well as the sheets that we use to collect information from the client. The forms have evolved over the years, but the original concept and layout credit goes to my former partner and always friend, Carl Waldman.

Our review of the potential for our handling a case begins with the first call. We screen them to determine if it is something we might be able to help with and if so get as much information as possible and set up a meeting with the client. Between the time of the phone call and the meeting we try and get any additional information which may be relevant to the issue. When the injured party arrives we have them fill out an information sheet. Our paralegal will then meet with them and go over the information they provided as well as get additional information to fill out our management sheet. Once the basic information is filled out and the paralegal has finished meeting with them, the attorney is given all the information to review before the meeting. Sometimes I am able to pull something from the internet about the wreck, the particular product or issues and review that as well before the meeting. Additionally, if there is anything special or newsworthy about the incident, we check with the office to see if anyone heard anything about the wreck or knows anyone involved. The other reason for getting the information and reviewing it before the meeting is to make sure there is no conflict with handling the case. We have had situations in which a person has called regarding an incident that involved kids whom I have coached in soccer and I would not have been able to do the best job for that person so rather than discuss the case with them, we just refer them to another firm.

So after all that is complete, I go in and meet with the potential client along with our paralegal. It is important that you have someone else in the meeting so that you can concentrate what the person is saying (and not saying) and not be spending your time taking notes. The question of Why is raised. **Why are you here? Why do you believe the person that hit you is responsible? Why did you choose our firm? Why do you need a lawyer?** These are some of the why questions which help you evaluate the case and your desire to handle it.

Why are you here? The answer to that question may be the most important thing that is said during the initial meeting. It will give you some insight into what the person is looking for, what type of result they may expect and whether it is something that you can provide. In looking at the fact pattern above, the answer could be: I need to get my car fixed and the insurance company won't call me back, or my doctor won't see me because I was hurt in a car wreck and they don't want to get involved, or my airbag didn't go off and I want to know why, or I don't

understand how the other driver and I could both walk away without a scratch and my child is paralyzed, I want the person that hit me to go to jail forever, etc. etc.

The answer to that question is the beginning point to your analysis of the case and your potential participation. If the person is concerned about the property damage and no one was injured, you may be able to help them by telling them how to handle it with the insurance company without getting involved. If there are injuries and their doctor does not want to treat them, you may be able to contact the doctor's office and get them to see the light and get the person in for an appointment, the airbag may not have gone off for several reasons, none of which are important to the case if there was no injury, but they can contact NHTSA to file a complaint and the reasons why the child is so severely injured could again be numerous and require a great deal more work to find out, the criminal matter is for the D.A., etc.

Once you find out why they are there you it is good to find out **why they believe the other person is responsible**. They were there and may bring an understanding that you will not have. Using the example, we as attorneys would say the other driver failed to yield the right of way and if you don't that may be all of your understanding, but if you ask, it may turn out that the person sitting in your office is not as upset with the driver as she is at the apartment complex whose sign is so close to the road that it make it almost impossible to see around it coming out of the apartments and she knows there have been at least five wrecks there already because of the sign. Always ask why they believe the other person is responsible.

Why did you choose our firm? I like to know why they choose us over everyone else out there. If it is because of referral from another lawyer, what was it they told you about us, it may be that they believe there was a products case that needed to be investigated, it may be that they knew we would help them without charging them, it may be that they heard about us from a friend or former client, but however they found you it is important because it is one of the factors which went into their decision to come to you over other attorneys and you need to know how that fits into their issues.

Why did you feel you need a lawyer? A good deal of our time is spent explaining to people how to handle issues themselves, we tell them how to deal with adjusters regarding property damage, PIP, etc. If they can handle it themselves and feel comfortable doing so, then they may not need an attorney. I have been accused of being better at telling people why they shouldn't hire me than why they should, but if they can do it, save themselves money and get it done in a timely manner, everyone wins. I tell them if they have any problems to call back and I will help out, and depending on the situation. If it is an adjuster I know I will even tell them to tell the adjuster that they talked to me and I told them that the adjuster was ok and would work fairly with them and if that was not the case, we would get involved at that point. There have only been a few times where we had to do anything after the initial visit, but there have been several times where that person or a friend or family member has called on another matter some time later.

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