



SLAM THE BRAKES!

6 CLIENTS TO AVOID . . . IF YOU RECOGNIZE THEM

BY IRWIN R. KRAMER, ESQ.



After two other lawyers let her down, a sexual harassment victim approached me to fight for fair compensation. I haven't done these cases before, but she thinks the case is worth millions in light of the #MeToo movement.

Should I take the case?



In a word that we don't use often enough,



When used correctly, this tiny word has the power to eliminate significant headaches, malpractice claims, and grievances. As much as we might like, we cannot say “yes” to every worthy cause or to all who seek our help.

Not to be unsympathetic. But a client who was victimized at work, expects to recover millions, and criticized two other lawyers for failing to achieve this objective may raise red flags. Even in the #MeToo era, sexual harassment cases aren't all that easy to prove and, lacking experience with these cases, you may be the third lawyer to “let her down.”

Your lack of experience in sexual harassment cases is a hurdle, but not an insurmountable one. “A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar.”

MARPC 1.1 comment [2]. If you are willing to put in the time to learn a new area of law, and won't be charging the client for necessary study, this may be one way to gain competence. “Competent representation can also be provided through the association of a lawyer of established competence in the field in question.” *Id.*

It's okay to leave your comfort zone if you have the time and the desire to gain sufficient competence. But there are reasons to be uncomfortable over the prospect of representing this particular client in your very first case of this kind.

Deciding whether to take the case requires more than an evaluation of its merits. You must evaluate the client as a person before offering your services to her.

To serve existing clients well, there are several types of clients we must try to avoid. While we can't always spot them in advance of retention, we must “just say no” when we recognize the following people:



THE CRITIC

Those who have had bad experiences with other lawyers, or are quick to criticize their work, are more likely to complain about you in the future. While it's possible they've genuinely had poor experiences in the past, it's far more likely that the problem lies with

them, not their previous lawyers. Even if you are convinced that her first two lawyers did a lousy job, bad experiences may taint a client's view of “all lawyers.” If so, this client may be predisposed to find fault with your work as matters progress. If this client complains about two others, you may be next.



THE VENGEFUL

You are an attorney, not an instrument of revenge. If you detect a desire to exact some form of retribution on the part of a prospective client, you could become her next target. Divorce lawyers must be especially weary of clients who not only

want aggressive representation, but want it to hurt the other side. Though cases involving emotional trauma may produce these feelings, you must set important boundaries on the nature of your representation and objectives. Unless you have reason to believe that you can diffuse the client's anger, you should just say “no.”



THE DREAMER

Unless you can bring this person down to reality, her “slam dunk” multi-million dollar case isn't worth it. Avoid clients with unrealistic expectations on the results you can achieve, the cost of your services, the time and attention you

can provide, or the speed of legal solutions. These clients often lack a clear understanding of the legal system's limitations, the risks inherent in litigation, or the realities of attorney-client relationships. Dreamers are easily disappointed when their unrealistic visions clash with legal reality, and they'll often blame you when things don't go as they imagined. They may also resist your advice, push for aggressive but counterproductive strategies, or grow resentful over fees as their “guaranteed win” drags on without results. If the client has already cycled through multiple lawyers, it's often a sign that no one could meet their impossible standards. During initial consultations, probe their expectations carefully. If they're unwilling to temper their fantasies, think twice before taking them on. A lawyer's role is to advocate effectively, not to indulge wishful thinking.



THE SHOPPER

There may be a reason this person can't find the “right” lawyer. She may not be the “right” client.

Some clients treat lawyers like fungible commodities. Placing price over quality, clients who relentlessly haggle

Just as lawyers come in all shapes, sizes and personalities, prospective clients do not fit into perfect categories. You must determine whether a particular client's personality, character and case fit your own temperament.

over fees or compare your services to cheaper alternatives may undervalue your expertise, or expect premium service at a discount rate. These clients also tend to have unrealistic expectations about outcomes. Rather than build a trustworthy relationship, such clients are less likely to respect your advice, your boundaries, or your value. If a prospective client seems more interested in your fees than in your qualities as counsel, let her shop for the "right" lawyer somewhere else.



THE CHEATER

Those who cheat others may do the same to you. Whether through dishonesty, bad faith, or manipulation, these clients are often just as willing to cheat their own lawyers or place you in professional and legal jeopardy.

They may also be inclined to dispute your fees, delay payment, or exploit ambiguities in your engagement agreement. Beyond the direct risks they pose to your practice, clients who seek to use the law as a weapon to achieve unjust or inequitable results can tarnish your professional reputation and undermine your credibility with courts and colleagues. Representing such clients may also create ethical dilemmas, as their goals can conflict with your duties of candor to the tribunal and fairness to opposing parties. If a prospective client's motivations or tactics feel morally questionable, they likely are. Even if you can achieve their objectives through legal means, do you really want to waste your talent on a cheater?



THE EVADER

One important exercise in assessing a potential client involves pointed questions designed to probe the potential weaknesses of her case. Does this person answer questions directly and provide consistent answers? Does

the person get defensive when challenged on some details? Does the person remember things that she should remember, or hide behind a memory lapse as you probe her story? Is she candid in disclosing facts even when they may not present her in the best possible light? Those who resist questions about potentially adverse facts or conceal information make bad witnesses and even worse clients.

Just as lawyers come in all shapes, sizes and personalities, prospective clients do not fit into perfect categories. You must determine whether a particular client's personality, character and case fit your own temperament.

Trust your instincts. It's far better to walk away from a problematic client at the outset than to find yourself entangled in their web later.

Nobody's perfect. But if you are rude to my staff, display anger or tell me that you need a "pit bull," you are not likely to become or to remain a client of mine. I prefer to work with people that I like, on cases that I like when I believe I can achieve worthy and realistic objectives.

Otherwise, I can just say "no."



Irwin R. Kramer advises lawyers and law firms throughout Maryland and the District of Columbia. Combined with significant trial and appellate experience, his law firm management experience gives him an appreciation for the pressures of law practice and the ethical issues confronting lawyers daily. He also publishes a regular blog on legal ethics at <https://attorneygrievances.com>.