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# Customer Service A Lawyer's Obligation to Communicate with His or Her Clients

By Lawrence F. Morizio, YLS Chair

I received a call from a credit card company with whom I have an account following a purchase of furniture that my wife had to have. The call was an endorsement of their "direct billing" process that they had by way of their Web site. It was recommended that I log on and complete all of my banking and billing information to avoid mailing in the check each month. I was given a user name, selected a password, and my account was officially set up.

A few weeks later, I logged on, well in advance of the bill's due date and made the payment. It was easier than I thought. I even printed out a confirmation page for my records. Shortly after the due date of the bill, right before heading to an important court date in Stamford, I received a call from the credit card collection service. Apparently, they never received the payment made online. I explained that I had been urged to sign up online, completed the background information, and received a confirmation

number for the transaction. I was put on hold for a few minutes while the representative went to go "sort things out" for me. After listening to the background music for a little while, starting to sweat as my court date approached and I wasn't in the car yet, the representative got back on the phone and to trumpet the "customer is always right"

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advised me that I must have incorrectly entered my bank account information online and, therefore, the payment was never officially made. The representative further advised that because this was "my fault," I would be assessed a late fee as well as a

returned instrument fee based on my failure to make payment before the due date.

I aggressively sought to speak with this person's supervisor to explain that the payment was entered on time and that this situation was not deserving of a penalty. I tried to trumpet the "customer is always right"

doctrine that I remember hearing at some point in my days as a consumer. The supervisor got on the phone and put me on hold a couple of times but to no avail. I again stated that it wasn't even my idea to go forward with this direct billing situation and

that this process was supposed to be more convenient. I told the agent that I couldn't grasp their logic—because I plugged in or omitted a single digit on my checking account's route number, they would punish me for not "paying" the bill. I also reiterated that I received a confirmation number for the transaction as well. Why would I receive such a number if the transaction was invalid?

After battling for a few more minutes, I was reduced to accepting a late payment penalty and the returned instrument fee with not an ounce of compromise from the representative. The alternative would be a higher percentage of receiving a speeding ticket on the way to court, and even worse, being tardy for my hearing. Despite my last-minute pleas citing difficult personal circumstances and insisting that I would not shop at this place for the rest of my natural born life, the penalty was not waived. The final insult to my customer experience was that I had to pay the overdue amount over the phone for which I was charged an additional fee!

I barely arrived at court on time but ultimately survived the trek and the hearing. Returning to my office, I stared at the message I had. When I peered over at the phone to begin my client contact ritual, I was immediately reminded of the agony I went through that morning. It got me thinking... what am I doing for my clients from a "customer service" standpoint? What should I be doing to best communicate with them

regarding the status of their respective cases? As young lawyers, we sometimes forego our opportunity and/or our obligation to discuss relevant information with clients about their pending case. There are pressures to bill hours, draft memorandums, and negotiate settlements. Getting on the phone with or drafting a letter to the client may feel time consuming and sometimes gets put on the back burner. The authority outlining the need for such client contact is outlined in the Model Rules (found conveniently in the Connecticut Practice Book):

Rule 1.4. Communication.

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

The Rules are pointed in that attorneys must "promptly" inform and comply with requests for information. There is also reference to keeping the client "reasonably informed" as to the status of a claim. Interestingly, the Rules do not delineate what is "reasonable" effort. The Rules are also devoid of distinction between the level of response necessary to a client from a lawyer at a firm with 200 attorneys or for the solo practitioner. These are judgments that the individual attorney must define for himself or herself.

The volume of phone calls and Web site inquiries are at times overwhelming for all of us. But the bottom line is that the client is, in essence, a customer. And if I can bark out that motto about the customer always being right, I'd better be able to do the same for my client when it comes to communication. I hate to admit that I actually learned something after the aggravation I went through on the phone that morning with the customer service center. It made me take a peek at these rules about client communication, we sometimes lose sight of. I think the spirit of the rule is contained in Rule 1.4. I just wish that the credit card company had similar guidelines on the back of their billing statement to protect us from such agony. **CL**



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