

How to handle a client complaint, or lawsuit

You come into the office and the letter is sitting prominently on your desk. It is addressed to you and marked "personal and confidential." You experience a range of emotions even before you pick it up — fear, anger, defensiveness, guilt. Your stomach is doing flips. You open it and read the allegations against you. You feel personally and unjustifiably attacked. Your hands may shake as you look for the file to reassure yourself that this is all ridiculous. You cancel all your appointments so you can deal with this. Finally, exhausted, you put the letter down and question what to do next. Odds are that, at some point during your career, you will have a letter of complaint from a client or a negligence claim. Dan Pinnington at Lawyers' Professional Indemnity Company (LAWPRO) reports that four out every five lawyers they insure will have at least one claim during the course of their career. Dan Abrahams, senior counsel, professional regulation from the Law Society of Upper Canada (LSUC) reports that, on average, a little over 10 percent of lawyers in practice will be the subject of one or more regulatory complaints in a given year. These figures cover all complaints that fall within LSUC's regulatory jurisdiction and include both the most and the least serious of complaints. In addition, each year, LSUC receives approximately 2,000 complaints

that are not considered regulatory — these tend to close for want of jurisdiction (e.g. fees, negligence, etc.). So, when you are dealing with a complaint or lawsuit, you may experience a churning stomach, loss of self confidence, perhaps an increase in use of alcohol or other substances to numb your emotions and a mental obsession with the case as it always sitting on the periphery of your consciousness. For anybody who will listen, you may talk about it ad nauseum. But you need to deal with the problem, so what do you do? Here are some tips:
Do something quickly
Do not put it aside and try to forget about it. You won't, and it won't magically go away. Call your insurer immediately! Do not call the client Venting your anger or frustration to the client who has complained or sued you will only make things worse, especially if there might be a simple solution to the problem. Do not continue to act. Transfer the client's files over to another lawyer immediately. Get legal counsel. Remember the old adage that a lawyer who represents him/herself has a fool for a client. Your insurer will get you competent counsel who will give you an independent perspective. This will be someone you can trust who has expertise in this area. Do what your counsel advises. Get all the documents together. Make notes. Listen to the advice given to you.

Go to meetings with your lawyer and do what he/she says. Trust your lawyer. Give your counsel full control of your case. Do not play lawyer for yourself. Review the file fully. Organize the file as your counsel directs. Turn over the whole file, but make copies of relevant documents for your personal review. Read all documents carefully Review all letters and court documents carefully before your counsel sends them out or files them for factual accuracy. Leave the legal strategy to your counsel. Help your counsel help you. Listen, listen, listen. Do not become the client from hell. Do not call or phone every day. Wait for your counsel to contact you to give you updates. Understand the process This is a marathon, not a sprint. You know that proceedings go slowly. As hard as it is, try to have patience. This will help you understand what your clients go through. Set priorities. Get rid of the things that will distract you in your life right now like unreasonable clients who will aggravate you when you need to keep calm and concentrate. Use the exercise of what matters most and prioritize your life. It could be family, friends, spirituality. Please don't let it be work. Manage your stress. Take care of yourself. Eat three meals a day. Sleep eight hours a night. Exercise at least three times a week. Cut down or cut out coffee, caffeine and tobacco. Talk to a trusted friend. Meditate. Get a physical check up. Access resources.

Go to www.lawpro.ca to the practicePRO section and the Online Coaching Clinic section. There is a small charge, but there are over 150 modules to help with stress relief, practice tips and communication skills. Invest some time in yourself.

Be realistic. You will probably lapse into distorted thinking such as looking at the worst possible scenario. Ask your counsel to assess the upside and downside of your case.

Stay in control. Write a journal of your thoughts and emotions. Get the anger out and do not aim your feelings at your family or friends. If you can't let it go, devote a set amount of time every day to thinking about this and only that amount of time, and then get back to real-life responsibilities. Scream into a pillow. Hit a thousand golf balls. Pray. Take long walks.

Meditate. Accept your feelings. Get professional help from a therapist or counsellor. Prepare. Review the file carefully. Do what your counsel tells you to do. Spend the time you need to get ready. Don't be the lawyer. Be the client. Think like a defendant. Do not take the system for granted because you are a lawyer. Review where you sit, how you dress and how you conduct yourself. Use the "best friend" method. Imagine that it is your best friend being grilled when it is in fact you being questioned. Approach the experience as if you were speaking for that friend. Speak clearly, confidently and with precision. Do not exaggerate. Answer the question put to you only. Do not volunteer information. Do not speak about or to the claimant with

anger or sarcasm. Keep your cool. Get help. Call your provincial lawyer assistance program. Ask to speak to a peer support lawyer who will assist you in this time of trouble by lending a non-judgmental and sympathetic ear. Not all provinces have peer support lawyers so call a trusted friend who can act as a sounding board if that is the case. Ask the provincial lawyer assistance program what services are available to you and use them. Go to www.lpac.ca. Being sued or having a complaint against you is a truly upsetting and traumatic experience. The process can wear you down. The emotional roller coaster is huge. Get help. Do not be stoic and take this on yourself to solve. I say again - call for help. It is the smartest thing you can do.

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