



## Tip of the Month March 2021

### Telling Clients When Legal Action is Not the Right Solution

Submitted by: VLN Staff

It's often difficult to tell a client that they do not have a meritorious claim or defense, or that the difficulties of the legal process outweigh the potential benefits. However, when applicable, this advice is essential; it enables a client to leave with relative peace of mind, after a caring advocate has carefully reviewed their situation with them, rather than with false hopes. It also avoids wasting the client's limited time and resources, and can prevent sanctions they can ill afford.

Here are some tips for handling this difficult situation.

**Acknowledge unfairness.** Many people appreciate the validation of an acknowledgement that their situation seems unfair and that the legal system does not adequately address all problems. Sometimes bad things happen to good people.

**Listen deeply and empathize with the client's situation.** Sometimes fully listening and empathizing ("I hear you, I would feel the same way if I were in your situation.") can give enormous relief.

**Unless the client asks for more details, keep explanations simple.** Be clear as to why they don't have a case, given their facts and the law, avoiding legalese and jargon.

**Explain the court's enforcement power and its limitations.** Many believe that getting a judgment will result in immediate payment. Explain that enforcing a favorable judgment requires more paperwork and effort (and that some people may be "judgment-proof," in which case no payment will be forthcoming).

**Explain the difficulties of proceeding pro se.** Many lay people are confused by the rules of court/evidence, or even the difference between evidence and argument. Proceeding pro se is always an option, but clients should know the reality of seeking justice without a professional's help.

**Explain the difficulties of obtaining evidence.** Clients sometimes assume they can definitely and easily obtain certain essential evidence, such as security camera footage or phone records. It's important they know accessing this evidence may be difficult or impossible to obtain and admit to the court.

**Consider writing a letter or making a phone call on behalf of the client.** Sometimes, this can resolve a situation. Often an "opposing party" may be unable to negotiate directly with the client or may be more motivated to do so with you. It can help to explain the client's situation in a sympathetic light and let the opposing party know that they may be able to save the client needless financial, emotional, or mental

hardship. Be sure the client understands the purpose or goal of your call or letter and does not see it as being a threat or warning of legal action.

**Consider a social services or other referral.** To find options, call United Way 2-1-1, which provides free and confidential health and human services information for people in Minnesota. They are open 24 hours a day, 7 days a week to connect people with the resources and information they need.

**Consider a consumer complaint with the Minnesota Attorney General's consumer complaint division.**

In certain situations, you can help the client complete and submit [this one-page form downloadable form](#). Upon receipt, the AG's office will send the client a confirmation letter and send the other party a letter with the complaint and ask for a response. Large corporations and legitimate businesses often take these complaints seriously and try to resolve the issue. However, the AG's office will not represent the client or taken any action directly on behalf of the client should the dispute not be resolved.

Not every volunteer experience is the same, and sometimes volunteering involves doing the difficult work of managing unrealistic expectations and providing clients with a subjective, honest, legal assessment, which can sometimes be hard to hear and accept. As a volunteer, VLN is here to support you. Please contact us if you ever have any questions or concerns that arise when assisting our clients. We can provide practical advice and tips (both legal and non-legal), be a sounding board, or help you debrief.