



Précis Paper

Managing Client Expectations

A discussion on the role of client expectations within the client-lawyer relationship, how they affect the relationship and how lawyers can strategise the management of such them.

Discussion Includes

- Sophisticated v Unsophisticated Clients
- Strategies for managing expectations
- Understanding the 'why's'
- Costs
- Advising clients
- Tips for managing client expectations
- Ethical standards

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Managing Client Expectations

In this edition of BenchTV, Matthew Lo (Solicitor, LHD Lawyers, Sydney) and Petros Macarounas (Barrister, Fredrick Jordan Chambers, Sydney) discuss the role of client expectations within the client-lawyer relationship, how they affect the relationship and how lawyers can strategise the management of them.

Sophisticated v Unsophisticated Clients

1. Generally, clients are not altogether concerned over what the legal question is as opposed to the solution to their legal problem.
2. What a client wants, generally depends upon the type of client. An unsophisticated client's aim is generally to obtain a good practical or commercial outcome, knowing that they are in safe hands and that they can trust who they are dealing with to lead them to the solution in unfamiliar territory. A sophisticated client generally knows what they want, have dealt with lawyers before and therefore lawyers are service providers to them.
3. A client's expectation is largely dependent on two factors:
 - a. the knowledge base i.e. the understanding of the law by the client and
 - b. Whether it is a personal matter or a corporate matter, that is the emotional investment of a client.

Strategies in managing expectations

4. Managing client expectations heavily depends on what the client's expectations are and whether they are realistic or unrealistic expectations. Generally clients expect practical guidance, identification of the problem and direction toward a solution.
5. Lawyers need to be frank and upfront at an early stage and provide clients with a realistic appraisal so that clients understand from the outset, the potential outcomes for their case.
6. Providing consistent and clear advice, is inherently important particularly from a risk management perspective.
7. It is important to brief counsel early; get a realistic appraisal of the prospects of success of the case and obtain evidence of advice early.

Understanding the 'why's'

8. It is important for a lawyer to not only understand what a client wants, but also why they want it. This is because there are often interests involved outside of the outcome.

9. This can assist a lawyer in managing client expectations. For example, it may be the case that what a client really wants is based on emotion, they may wish to feel vindicated. This was exemplified in the case of *Balmain New Ferry Co v Robertson* (1906) 4 CLR 379 whereby the plaintiff refused to pay one penny to exit a ferry terminal and fought the matter as a matter of principle and ultimately ended up paying a great deal more in costs.

Costs

10. There are regulations for lawyers about disclosure and cost agreement, particularly in conditional matters. It is important for a lawyer and a client to start off the relationship right, so that a client knows how their case will run, what the likely costs involved are and the likely disbursements. This will assist in managing their expectations.

Advising clients

11. Lawyers can never be criticised for over-updating their clients so long as they are not over-servicing or over-charging them. Clear communication about what is happening with their matters is always better than keeping clients in the dark
12. *In the Matter of JL Glissan QC* 1991, a barrister faced the Legal Profession Disciplinary Tribunal after advising his client in fairly strong terms to settle a case against the client's wishes. The Tribunal found that a lawyer cannot overbear their client's will. A lawyer may believe that a particular outcome is in their client's best interests but you cannot dissent into the role of a litigant
13. Lawyers are in a position to advise and should a client choose to do something adverse to their own interests, it is a matter for them.

Tips for managing client expectations

14. A lawyer should be conscious of their relationship with the client to understand their underlying concerns and for the lawyer to set boundaries with their client as to what is and what is not appropriate within the relationship.
15. Costs are highly regulated and compliance with the Legal Profession Uniform law is inherently important.
16. Lawyers need to realistically advise about the case, providing clients a way forward as to how the case or transaction will proceed and thereafter, during the course of the matter be prompt and clear in communications with them.
17. It is also important for a lawyer to understand their own limitations. This is because the basis of a client-lawyer relationship is mutual trust between solicitor and client.

Ethical Standards

18. The Roy Morgan Professions Poll, which was at its latest conducted in 2017 shows that lawyers are consistently ranked for ethics and honesty under 40%.
19. Even though lawyers have one of the highest levels of ethical standards this shows that there is a disconnect in the community about what a lawyer's ethical standards are.
20. The case of *Legal Services Commissioner v Mullins* [2006] LPT 012 shows the level of ethical standards that lawyers have. The matter involved a lawyer who implicitly represented that the life expectancy of his client was not in accordance with what he knew to be.
21. If a lawyer is ever caught misleading the court or misleading one of their opponents, they risk losing their livelihood. If there is suggestion by a client for a lawyer to present untrue or misleading evidence, the solicitor and barrister rules are clear and that is, that the solicitor or barrister must withdraw from acting.

BIOGRAPHY

Petros Macarounas

Barrister, Fredrick Jordan Chambers, Sydney

Petros Macarounas was admitted as a barrister in 2012 and holds a Bachelor of Laws (with honours) and a Bachelor of Medical Science, from the University of Technology, Sydney. Petros Macarounas has handled matters in the Supreme, District and Local Courts of NSW, the Federal Circuit Court, Family Court of Australia and the NSW Court of Appeal. In addition he has been awarded the Roche Award for Excellence in Pharmacology and has practiced as a solicitor at Henry Davis York and McLachlan Chilton. Petros Macarounas appears for plaintiffs in personal injury matters and insurers in motor vehicle property litigation as well as acting for both individuals and small companies through his commercial practice.

Matthew Lo

Solicitor, LHD Lawyers, Sydney

Matthew Lo has conducted matters at various jurisdictions, including the Supreme Courts of NSW, Queensland and ACT. Matthew Lo graduated from UNSW Law with honours in 2014 and has been primarily practicing in life insurance litigation and dispute resolution. In addition to life insurance, Matthew Lo has provided complex legal advice regarding superannuation law.

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Cases

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