

Accommodations for Diversity

By Robert A. Kraft

In these difficult economic times, many solo and small firm lawyers are considering diversifying their practices. Before you forge ahead into new territories, however, you might do well to consider some of the factors that go into wooing and working with new categories of clients. For simplicity, this article considers “diverse” clients to be anyone who is not just like you—whether in mobility, language, education, emotional stability, intelligence, visual acuity, or other attributes.

Although you may know the law for the cases such clients bring you, you would be wise to consider additional factors that will arise in working with these new clients. Obvious practice areas likely to include such clients are personal injury law, with claimants who have disabilities or severe injuries; elder law, with clients who have diminished sight, hearing, or mental capacity; immigration law, with clients who do not speak English or know U.S. culture; and mental health law, with clients who are emotionally disturbed. If you decide to expand your practice to work with such cases, you’ll quickly find you must make some changes—some small, others a bit more cumbersome—to smooth the way for your new clientele. Let me illustrate by using my own firm as an example.

Physical Accommodations

My firm practices personal injury and Social Security disability law. Many of our personal injury clients are on crutches or otherwise limited in their mobility, and our Social Security claimants all have serious health problems. Social Security disability law takes into account cognitive and psychological deficiencies as well as physical, so we see clients with everything from paraplegia to borderline IQ to transgender multiple personality disorder. Our experience in dealing with this extremely diverse clientele has affirmed two key points: these people are not disabled because they want to be, and aside from their particular disability, they are just like you and me. They deserve to be treated with all the dignity and respect you would show any other client. This means you needn’t make a point of catering to the disability—simply do what you can to minimize the effect the disability or difference plays in your interactions with the client.

For instance, our offices are arranged to accommodate clients with physical disabilities. Our waiting room has no furniture in the center, so there’s plenty of room to maneuver a wheelchair. Our client conference rooms are very close to the reception area, so clients must move or walk only a few feet; and the pathways to the furniture accommodate wheelchairs and crutches. Unfortunately, our largest conference room has big, heavy leather chairs that don’t roll easily on the carpet—that’s not good, so our employees are careful to be alert to anyone who may have difficulty moving them. We also attach client documents to

clipboards so they can be written on by a person in a wheelchair.

Door latches within the office should be easy to maneuver by clients without full use of their hands. This means no round doorknobs or handles with thumb latches—a door with a simple lever or loop handle can be opened easily by someone who can't use their fingers. Exit doors especially should open easily with minimal effort. Restrooms should include at least one wheelchair-accessible toilet, with grab bars within reach. Faucets should be easy to operate by people with impaired hand movements or who are in wheelchairs. Water fountains should be low enough to be used by a person in a wheelchair. A water cooler with a cup dispenser is a good alternative to a water fountain. Paying attention to small details will earn you praise, and trust, from your clients.

Communication

Employees should have some training in disability etiquette so they are better able to communicate with clients. Our lawyers and employees are asked to be patient and tolerant with clients who cannot speak, read, write, listen, or move as well as others. With clients who are poorly educated or intellectually impaired, we are careful not to use legal verbiage or even big words. We try not to burden clients who have cognitive impairments with unnecessary details, and we ask them to repeat the most vital information so we can be sure they understood it correctly. When meeting with clients who have speech impediments or heavy accents, we listen attentively, try not to finish sentences for them, and, when possible, ask questions that require short answers. We never pretend to understand if we really don't, even if we have to ask clients to repeat or rephrase their answers several times. We try to be patient and remember that it's not the client's fault.

We sometimes deal with clients who are emotionally disturbed, as would lawyers practicing mental health law. We try to be friendly and encouraging. We keep our voices low and present an unthreatening demeanor. Depending on the client's impairment, it may be helpful to have a friend or family member of the client present in the meeting. Some emotionally disturbed clients prefer leaving the office door open during conferences, while others prefer an inner room with no windows. Still other clients are comfortable only when meeting with us in their own homes. We do everything possible to cater to the client's particular emotional needs, so the client can better focus on what we have to say. If the client has a history of violent outbursts, we take appropriate security precautions in anticipation of such an episode.

We read all documents to vision-impaired clients. Our office is brightly lit because elderly and/or legally blind clients appreciate good lighting for reading legal documents. Lawyers with offices in older buildings or remodeled houses might want to invest in a few new lighting options. We sometimes print at least a draft, if not the final version, of legal documents in large print for elderly clients or others

who do not have good vision—and we also keep a magnifying glass handy. When walking with clients who have impaired vision, we allow them to take our arm at the elbow for guidance—we don't take their arm and steer them. When meeting with a client who is blind, we're careful to identify anyone else who is in the room. Some people with impaired vision—and people who have other disabilities—use service animals; they are not pets, and they accompany clients throughout the office, even though we have a policy of not allowing animals. We never touch a service animal without permission.

Deaf clients who read lips also need good lighting. Obviously, we must remember not to look away from the client while speaking. If a client is deaf or has a hearing impairment and cannot read lips, we use written notes. An alternative is to share a computer and type messages back and forth. Telephone calls with deaf clients are easily accomplished by their using a telecommunications device for the deaf (TDD), which is a telephone with a screen and keyboard. The client uses the TDD to type the message, which is sent to an operator with a similar device who repeats the message orally to us. We reply orally, and the operator types our message to the client. These calls can be time consuming, but they offer a practical way to communicate with deaf clients other than in person. For lengthy or complex client visits, you might consider providing a sign language interpreter.

We have several Spanish-speaking employees who translate for clients who do not speak English, both in the office and at mediations; in depositions and trials we use professional translators. When working with an interpreter, be sure to speak directly to and maintain eye contact with the client, not the translator. We have Spanish versions of our employment contract and a few other important forms. On the rare occasion that a client speaks a language other than English or Spanish, we ask that they bring a friend who can translate for them. This has never been a problem—obviously, the client asked someone who speaks English or Spanish to contact us initially.

A little common sense and compassion will go a long way toward making your “diverse” clients feel more at ease in your office. But the clients have to be able to actually get into your office before you can start to supply these qualities. Our firm is fortunate to lease space in a large office building that is fully handicap-accessible, so we haven't had to worry about these issues. But lawyers who practice from a small office in a strip shopping center, a remodeled house, or even out of their own home must think about access issues.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) comes into play in this context. Title I of the ADA deals with employers, employees, and job applicants. But because it applies only to employers with 15 or more employees, and this eliminates most solo and small firm attorneys, we will discuss it only briefly. Title I protects

“qualified individuals with disabilities” from employment discrimination and requires employers to make reasonable accommodations for an individual to perform a job.

The two primary methods of accommodation are changes to the physical work environment and changes to the way a job is usually done. For example, widening a doorway to allow wheelchair access is a change to the physical work environment; shifting minor but physically demanding tasks to other employees is a change to the way a job usually is done. An employer does not have to make accommodations that would cause the employer undue hardship. Of course this is a flexible standard that will vary from one situation to another. An employer can ask for reasonable documentation of the disability if it is not obvious, and no particular method is required for the employee to request an accommodation. The employer must act promptly to acknowledge the request and to provide the accommodation. Title I is enforced by the Equal Employment Opportunity Commission, and further information is available at www.ada.gov.

Title III, enforced by the Justice Department, applies to businesses of any size and describes the accommodations a business must make to enable access by people with disabilities. It applies even to a solo lawyer working out of the home, although only the portion of the home used for professional purposes is covered by the ADA. Title III does not apply to portions of an office used exclusively by employees. Lawyers who lease space in office buildings cannot escape responsibilities under the ADA; both landlord and tenant are responsible for compliance.

New office construction and major remodeling projects also must comply with the ADA. A gray area is existing buildings that are not in compliance. The ADA states that “readily achievable” accommodations must be made and defines that term as “easily accomplishable and able to be carried out without much difficulty or expense.” (Because the ADA takes into account the size and resources of the business, a large law firm will be held to a higher standard than a solo lawyer.)

Easy Access

But even a solo lawyer on a tight budget can take simple steps to provide better access to the office. Top priority should be given to removing physical barriers that actually prevent clients from getting into the office. For example, if you have 25 or fewer parking spaces, you must provide at least one handicapped space as close as possible to the building entrance. Parking lots can easily be restriped to comply. You may need to build curb ramps to allow wheelchair access from the lot to the sidewalk. Be sure people using wheelchairs or crutches do not have to cross uneven ground like a lawn to get to your door. Good lighting in the parking lot and along the route to the office door also is important. At least one entrance to your building must be wheelchair accessible, which means no steps; a sturdy ramp can be built inexpensively, but pay attention to details, too. The ramp

ideally should have handrails and a slow rise; doorbells or door knockers should be no more than four feet from the ground. Be sure your wheelchair-accessible entrance can be spotted clearly from the parking area.

If building a wheelchair-accessible entrance simply is not possible, the ADA allows alternative means for delivery of services to a client with a disability. For example, you may go to the client's home or agree to meet at a location that is wheelchair accessible. This is a poor substitute, however, for access by all (and the ADA does not allow charging for the time traveling to meet the client outside the office).

Additionally, be sure to reassess the interior of your office for functionality. Conference tables, light switches, and wall-mounted telephones are all potential barriers for clients with disabilities. Have your staff watch clients for hints of other problems—what do clients do with winter coats and hats, for example—then do what you can to eliminate them. The Internal Revenue Code allows partial tax credit for expenses incurred in complying with the ADA.

Always remember to put yourself in your clients' position—especially your “diverse” clients. Role-play having certain disabilities or arriving from another country, and think about what you could do to make the office visit smoother. Anytime you make life easier for your clients, they will truly appreciate it, will return, and will refer their friends to you. Time and money invested in accommodating your new clientele will be well spent.

Robert A. Kraft practices law in Dallas, Texas. He can be reached at rkraft@kraftlaw.com.