



All in the family

“Can you help me with a quick legal question?”



Cooper

BY MILES B. COOPER

The voice on the phone asked, “Are you Miles Cooper the lawyer?” (Yep, I am.) “Not Miles Cooper the financial advisor?” (That would be my father.) The caller was a social worker calling from a hospital. She tracked me down on behalf of a long-lost relative. His legal

problem – surprise, surprise – was not how to add me to the will. Instead, he had a complicated issue that crossed family law, contracts, and financial elder abuse – three areas I do not practice.

The holidays are filled with holiday parties, family and friends. After the requisite bottom-feeder jokes are made, you’re suddenly Atticus Finch, general practitioner and solver of all legal problems. Doctors have similar problems (“Hey, I know you’re a psychiatrist but I have this rash...”)

Listen

Yelling, “Look, there’s Santa!” and running off will not endear you. And you do want to be helpful, even if you know you don’t want to take on the issue.

Most people want a good listener. Oblige them – listen. If you want to master take-all-comers Jedi lawyer techniques, volunteer at a local legal-aid clinic. Identifying the legal issue and helping someone find the resources necessary – within 15 minutes – is great training (not to mention you help people in need.)

Empathize but do not commit

As you listen, empathize. Empathize with distance though. “That’s terrible!” is fine. “That’s terrible! We’re going to get those bastards!” presents problems. The vast majority of issues are ones you have no business handling. There’s a temptation. It’s a friend. It’s family. You want to help. The issue seems isolated. All it will take is a letter or a phone call. I enjoy helping others and really do want them to ask me their legal questions. But I want to make sure their issue goes to the right place.

If it is not your area, don’t do it

There’s a professional conduct rule on point. Rules Prof. Conduct, rule 3-110 paraphrased: if you don’t know how to do it or can’t do it well, associate with or refer it to someone who can. Thus, when the family member has a (seemingly simple) dispute with the car dealership over a repair, resist the temptation unless it’s your area.

After years in the business (and learning from my mistakes), I recommend avoiding family and friend projects. Here’s why. After the holidays are over, you’ll return to your busy law

practice. The family case – that requires learning something new – is likely to be an albatross around your neck. One of two outcomes follows. You’ll eventually complete the task, but quite likely disappoint family by not getting the (sometimes unrealistic) result they expect. Or you’ll realize you are out of your depth and eventually refer it, resulting in a time-consuming detour for the issue.

Explain why it is best – for both of you – to refer the issue

You need a polite reason for why you can’t help. My explanation? The preceding paragraphs. “I don’t take cases outside of my practice area because both you and I will be unhappy. I focus on personal injury cases, and would be happy to help you or anyone you know with that type of case. But this is outside my area. I will be happy to connect you with a colleague.”

Formality: Do you formally decline the matter?

There are two answers to this. Protocol dictates that you formally – in writing – make it clear to anyone you speak with that you will not be taking any action. Protocol and reality sometime collide. For example, you may be faced with sending a formal decline letter to your mother following a conversation over dessert. This is a judgment call. Is your mom the kind of person where you need to document the file?

I’ve found that a more casual e-mail can work:

It was nice to see you. Sorry to hear about the problems you’ve been having with your car dealership and repairs. I’m suggesting you call Joe Schmidlap at (415) 867-5309. And without sounding too formal, I want you to understand that I will not be taking any action on this matter as it is outside my practice area.

Miles, the financial advisor

I referred my long-lost relative to a local estate lawyer I knew. And my father, the financial advisor, turned out to be the best resource for many related issues. My job – problem solver – was done when I identified the problem and provided my relative with the resources he needed.

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