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The Pitfalls of Acting for Friends & Relatives

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At some stage in our practising lives we all have had an approach from a relative or friend who needs “a little legal advice”.

There are inherent problems involved when acting for friends or relatives which in turn increase your risk of a negligence claim. The next time you are approached remind yourself of the following consequences, one or more of which may result from taking on such a matter:

Acting outside of your area of expertise

There is an expectation by relatives and friends that as a “lawyer” you are able to handle every legal problem that arises, even if the matter is outside your usual area of expertise.

Cutting corners

Due to the extra-familiarity, you may be less formal and more likely to take shortcuts at various stages such as not following formal file opening process, not doing a proper and full conflicts of interest check, failing to document communications and send reporting letters, not keeping time records or not sending interim or final accounts.

Lack of objectivity

Your ability to be independent is affected given the relationship between you and a relative or friend. The emotional connection affects professional objectivity which is detrimental to the work being carried out.

Conflict of interests

Acting for relatives and friends may pose conflict of interest problems. For example, where there are multiple interest situations such as estate and administrator, trustee and beneficiary, shareholders of a closely held company, financial obligations (loans), guarantees, security interests.

Unmanageable client expectations

Relatives or friends may make unreasonable demands and expect you to perform miracles. They may not want to accept what they are being told. You feel pressured to help your "client" achieve his / her goal which may result in you taking an unduly harsh or unreasonable position with another party or, engage in unethical conduct.

Confidentiality

There is a risk that your obligation to maintain confidentiality is overlooked. Your "client" may be wary in any event that you will disclose their affairs with other relatives or friends.

Fees / discounts

The payment of fees can be an awkward matter. You may not send interim or final accounts. You may be asked by relatives or friends for a huge discount or, they may expect that you are doing them a favour. Recording your time can be tricky because of the difficulty each party will have discussing between friendly conversation or discussing their file? Taking on a matter gratuitously may lead to the further problem of giving the matter less priority than the files of your paying clients. Relatives and friends may complain bitterly about their bill after their matter is completed and relationships can be adversely affected.

Managing the risks

Be aware of your greater claim exposure if you choose to act for relatives or friends. If you must act make every effort to transform the relationship from a personal one to a business one ensuring you maintain your usual practice standards i.e. meet at your office to discuss the matter, carry out a conflict of interest check, open a file, discuss time frames and outcome, obtain proper instructions, document all communications in writing.

However, the best risk management advice is "don't accept the case". Refer the matter onto another lawyer / firm.

For any queries about this, or other Risk Management Services offered by Law Claims, please contact the PII Risk Manager, Gianna Di Stefano on 8410 7677.