

Texting a Client: Is it Okay?

AUTHOR: KATRINA L. SMELTZER

As much as we all correspond by text and other instant messaging means these days, it is not surprising that many professionals also use texting to communicate with clients. It is convenient. And, for some clients, texting may encourage the client to be more attentive. However, from the perspective of someone who defends professionals from malpractice claims, there are several things to keep in mind when texting with a client:

- A professional's obligation to keep the client's information confidential and secured. Texts with a client may be best limited to practical and logistical topics, such as reminders of meetings and deadlines or short updates to the client. The professional should be thoughtful about sharing confidential or privileged information in a text, as it may not be secure. Lawyers have considered similar issues with email for years — weighing potential security risks with the ease of communication. The professional should also consider obtaining the client's permission to correspond by text in writing before engaging in such communications.
- A professional's obligation to keep the client fully informed. When discussing important topics or when the professional anticipates client questions, a telephone call or e-mail is still likely the better option to ensure the information shared is more extensive and the discussion is two-sided rather than one-sided. The professional may set parameters with the client before texting to clearly explain what should and should not be discussed via text.
- A professional's obligation and/or best interests in documenting the communications and relationship with the client. Professionals often maintain a file for each client; this is a good practice for both ensuring the client's file is complete but also for ensuring documentation to assist in a defense of the professional, should it be necessary. Client texts should be a part of that file. If a professional communicates via text, the professional should periodically capture the communications (off the phone) and save them into the client's file. The professional should also ensure this is done before deleting any text strings with the client.