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How to keep the case: When clients walk away over litigation estimates

By George Brandon

In today's litigation market, where clients are increasingly cost-sensitive and legal services face commoditization, one of the toughest challenges litigators face is not opposing counsel; it is the prospective client who walks away after hearing a realistic fee estimate.

Consider a typical example: a business owner with no prior litigation experience seeks representation. A mid-sized law firm presents a carefully calculated estimate: $300,000, covering discovery, expert analysis, trial preparation and court time. The prospective client pauses, chooses another firm quoting just $75,000 and, days later, informs the first law firm.

This is frustrating and dangerous. If mishandled, it can lead to lost business, weakened trust, and, ironically, clients ending up in worse situations because of under-prepared representation. How can attorneys retain the case while staying ethically grounded and strategically sound?

1. Frame the estimate as strategic insight with business context

Clients often view legal pricing through a transactional lens, especially when they are angry or emotionally invested. The client may want to litigate aggressively to "send a message," often not realizing aggression significantly drives up costs. Here, the attorney must transition from service provider to trusted advisor by asking:

"What are your goals for this litigation and what would a good outcome look like for you, practically and financially?"

Then, connect each litigation phase to those goals. For instance:

"This is a fact-heavy case. The key to a favorable outcome is developing credible third-party witness support and managing risk through early discovery, not just pushing to trial."

Be ready to address unrealistic assumptions, like expecting favorable third-party testimony or believing every case should be winnable on summary judgment.

Tip:

Clients appreciate strategic framing, not just process breakdowns. Use analogies to compare litigation to business decisions:

"Litigation is like a product launch; cutting the budget can compromise performance. You don't always need to launch the biggest campaign, but you need to invest wisely to hit your goals."

2. Offer tiered budgeting but be realistic

Tiered budgets work well when the client is business-minded, dispassionate, and views litigation as a managed risk. For emotionally driven clients or where malpractice risk is high, this approach can be harder to execute.

Documented informed consent is key. Explain what's *excluded* from each tier and why some shortcuts might expose the client to risk or expose you to liability.

Example tiers might include:

- Essential defense-responsive pleadings and minimal discovery.
- Targeted litigation-focused discovery and key depositions, one expert.
- Full trial preparation-robust discovery, multiple experts, mock trial, pre-trial motions.

Make it clear when a scaled-back defense isn't feasible:

"This case will not resolve at summary judgment, and third-party discovery is essential. Reducing scope could harm your position."

3. Break down lowball competitor quotes with professionalism

If the client brings up a cheaper quote, get comparative, not defensive.

Ask questions that tie in with your estimate, such as:

- "Does that quote include expert witnesses?"
- "Are third-party subpoenas, depositions, and trial time accounted for?"
- "How much time will senior attorneys spend versus junior staff?"

Encourage your prospective client to scrutinize assumptions. Many low quotes omit things like e-discovery, which can cost $25,000–$50,000 for collection, review and hosting. Itemizing ESI separately in your budget builds credibility and context.

A calm, comparative approach positions you as reasonable and reinforces your experience:

"I understand the appeal of a lower estimate, but litigation costs are like construction bids. If it seems too low, something important is probably being left out."

4. Add value beyond the billable hour

Most clients don't want a cheaper attorney; they want an attorney who *gets* them. The single greatest value proposition is demonstrating that you understand their business, their industry and how this litigation affects their operations and reputation.

This understanding doesn't require client portals or fancy dashboards — it requires listening.

Deliver value by:

- Providing briefings that explain how litigation intersects with business goals.
- Suggesting early settlement options, even when emotionally difficult.
- Offering scenario planning such as, "If we settle at X versus go to trial at Y, here's the impact."

Clients who feel heard and understood are far more likely to stay, even when the price tag is higher.

5. Document and follow-up

If a client rushes off a call before you've had time to explain the estimate, follow up in writing. Provide a breakdown with brief explanations:

"Here's the basis for the estimate I mentioned earlier. I've outlined each cost driver and included alternatives where applicable."

A missed chance to explain the budget in real time doesn't have to mean a lost client. Proactively explaining the strategy behind the number shows professionalism and keeps the door open.

Conclusion: Win on strategy, not price

Litigators don't lose clients over price; they often lose them over perception of value. In emotionally charged or fact-intensive cases, cost-conscious clients need reassurance that their investment is justified, understand the risk of shortcuts and believe their attorney has their broader interests in mind.

If you:

- Frame the estimate as part of a business-aligned strategy.
- Offer realistic choices with honest boundaries.
- Address lowball competitors with transparency.
- Show you understand not just the case, but the client's business…

Then you position yourself not just as the more expensive attorney but as the better investment.

In high-stakes litigation, clarity is not only powerful but also persuasive. When trust is built on clear advice, candid strategy, and business-aligned thinking, it's more than sufficient to keep the case.

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