

## Ten Ways to Avoid Lawsuits Against Real Estate Agents

The following list of “best practices” can lower the risk of a lawsuit being filed against a real estate agent. While this list provides guidance for real estate agents in efforts to avoid or defend against future lawsuits, it is not a guarantee that a disgruntled or unhappy client will not initiate a suit against his or her agent.

1. **Retaining a client.** When agreeing to represent clients, try to avoid retaining a client who has unrealistic or unreasonable demands. If a client is unusually demanding and maintains a poor attitude or opinion of others, he or she may direct such anger or attitude towards you in the future. For example, if a client talks poorly about prior realtors or other professionals or fails to actively and effectively communicate with you, such attributes may prove to be problematic for you down the line, and may even result in a lawsuit against you in the unfortunate event that a transaction goes awry.
2. **Be transparent and honest with a client.** It is always important to be open and honest with your client. Avoid exaggerating features of a property or making any misrepresentations concerning the condition of the property in efforts to avoid misleading your client. Oftentimes, realtors find themselves subject to a lawsuit when they make representations about certain features or conditions of a property (whether intentionally or inadvertently) which prove to be inaccurate. It is important to be aware of your representations and make every effort to avoid misleading your client, which advice can later be perceived as deceptive should he or she discover that your misrepresentation was false.
3. **Disclosures to a client.** Do not “protect” your client by failing to disclose unfavorable and “disappointing” information. By failing to disclose such information, you are not protecting your client, but rather exposing yourself to potential liability.
4. **Importance of communications with a client.** Make it a priority to remain in constant contact with your client to apprise him or her of all developments throughout your representation. For example, always promptly inform your client of any recent developments regarding any contracts or bids on a property, and make sure you are available to answer any questions for your client. If a client feels that he or she can contact you and openly discuss issues with you, he or she will likely be more inclined to work out any unforeseen issues in the transaction amicably, rather than pursue a legal recourse against you.
5. **Documentation.** Not only will documentation prove to be helpful should a later claim be initiated against you, it will allow you to keep up-to-date records and demonstrate for the client that you are an organized, proficient, and competent realtor. It will also likely instill for your client a sense of confidence and trust in your representation of him or her. Documenting your conversations with a client through a follow-up e-mail is one way to maintain reliable records. For example, sending a client an e-mail post telephone conference will enable you to confirm whether you have a correct understanding of your client’s wishes and concerns and can also be a way to

document your advice or representations to a client accurately. This also provides a client an opportunity to clarify or correct any misunderstandings between you and him or her.

6. **Know when to terminate a relationship.** There may be times when certain clients ask you to perform illegal, unethical, or fraudulent conduct. In such instances, you should terminate the relationship immediately because not only will you be subject to civil liability, depending on the request, you may also find yourself subject to a criminal complaint as well.
7. **Be cognizant of the advice provided to your client.** While it is important to remain in contact with your client and be available to answer any of your client's concerns or questions, be sure not to provide your client legal advice or make critical decisions during the transaction. In other words, provide the client the risks and benefits associated with each decision, and allow the client to make the decision on his or her own. By way of illustration, one practical example is discussing the risks and benefits of obtaining a home inspection on a property. After explaining the risks and benefits of this option, allow the client to decide whether he or she would like to obtain a home inspection of a property, and follow up his or her decision with an e-mail to confirm your understanding of his or her decision.
8. **Data protection.** Unfortunately, with the use of technology comes the risk of data breaches and hackers. Obtain a security system that protects against such hackers and secures your client's information. This can provide further confidence and reassurance for your client, if he or she is aware that you have proper safety procedures and protections in place.
9. **Duty to a client.** As a realtor, remember that you owe a duty to your client. Be sure to keep your client's best interest in mind throughout the representation. When the client feels that you have not acted in their best interest, and breached such a duty to him or her, such allegation can form the basis of a lawsuit against you.
10. **Obtain liability insurance.** Although it may be a costly endeavor, obtaining liability insurance is very important. Seek a knowledgeable insurance agent to aid in identifying and selecting the type of coverage to obtain.