

Apologies may fuel settlement of legal disputes, study says

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Apologies may be good for more than just the soul, according to research by a University of Illinois professor of law and of psychology.

Jennifer Robbennolt says her studies show that apologies can potentially help resolve legal disputes ranging from injury cases to wrongful firings, giving wounded parties a sense of justice and satisfaction that promotes settlements and trims demands for damages.

"[Conventional wisdom](#) has been to avoid apologies because they amount to an admission of guilt that can be damaging to defendants in court," she said. "But the studies suggest apologies can actually play a positive role in settling legal cases."

Robbennolt surveyed more than 550 people, gauging their reaction to apologies offered during settlement negotiations in a hypothetical injury case. She says apologies generally reduced financial demands, increasing prospects for an agreement.

But the nature of the apology matters, according to a summary of her findings that will appear in *Court Review*, a publication of the American Judges Association. Apologies that accept fault have more impact than apologies that merely express sympathy, but take no responsibility

Robbennolt says apologies that accept blame can be powerful psychologically, giving plaintiffs a sense of closure and accountability that makes them less angry and more willing to forgive.

"The apology fulfills some of the goals that triggered the suit, such as a need for respect, to assign responsibility and to get a sense that what happened won't happen again," she said. "So receiving an apology can reduce financial aspirations and make it possible for parties to enter into discussions about settlement."

For defendants, apologies can reduce legal costs as well as damages because cases may settle more quickly, said Robbennolt, who has studied the [legal implications](#) of apologies for a decade.

While plaintiffs respond favorably to apologies, another study by Robbennolt shows that lawyers react more in line with traditional thinking - that apologies are an admission of guilt that can be used to leverage bigger settlements.

She says lawyers may view apologies differently because of their third-party view of the dispute, or because their training provides a perspective on the legal value of apologies that lay people fail to appreciate.

"Another possibility is the way in which the financial incentives of attorneys and clients can diverge," Robbennolt said. "Settling cases quickly can mean lower fees for attorneys paid on an hourly basis. Or if the attorney is taking a contingency fee, that fee is smaller if cases are settled for less. As some lawyers say, you can't take one-third of an apology."

How those diverging views of apologies play out when lawyers and clients mull settlements is unknown, she said, but could ensure a broad analysis of pros and cons that benefits clients.

"The findings tell lawyers that clients seem to value apologies in ways that lawyers don't, so they need to be sensitive to those differences,"

Robbennolt said. "At the same time, clients can benefit from getting advice from someone who can help them fully understand all of the legal implications so they can decide exactly how to respond to an apology."

She says courts are increasingly recognizing the potential for apologies. Statutes that make at least some apologetic statements inadmissible at trial are now on the books in 35 states, most enacted in the last decade.

Because laws are relatively new, Robbennolt says, more research is needed to gauge the impact of apologies, such as how they sway jury awards, how those jury awards influence the offering of apologies and whether early apologies can ward off lawsuits entirely.

"There's still a lot to learn, but based on the data we do have, it appears apologies can be a viable strategy," she said.

Robbennolt says apologies could prove useful in a host of cases, from medical malpractice and personal injury cases to employment, divorce and custody disputes.

Whether apologies are a good defense strategy depends on the case, she said. Cases where fault is clear-cut may offer the most potential, but even then defendants need to weigh the possible benefits against the risk that apologies could backfire and increase liability.

"It seems relatively clear that plaintiffs want apologies and it also seems that defendants often want to apologize," Robbennolt said. "But there's always a chance that an apology could make things worse. One of the reasons this is such an interesting problem is because that looms so large in the background."

Provided by University of Illinois at Urbana-Champaign

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