

# PSYCHOLOGY OF CLIENT RELATIONS

## TAGLaw Panel – Dublin

- I. Intro - Areas of Concern – where psychology can play a role.
  - A. Getting Clients
    - 1. Formulating relationships
    - 2. Word of Mouth from satisfied clients
  - B. Keeping Clients
    - 1. What is more important – satisfaction or commitment?
      - a. Commitment. Satisfaction is “a transitory state based on the most recent experience of the service provider’s delivery.”<sup>1</sup>
      - b. A 10% increase in committed clients = 20% increase in net profit.<sup>2</sup>
    - 2. Reducing churn.
      - a. “The failure of lawyers to appreciate that they deal here with emotions, human values, beliefs, secret hopes and fears, prejudices, all of the aspects of humanity, is probably the single most important reason for client dissatisfaction with legal services.”<sup>3</sup>
      - b. Reducing churn by 5% can raise profitability by up to 20%.<sup>4</sup>
    - 3. Avoiding Problems – according to the Nevada State Bar disciplinary department, the vast majority of complaints from clients concern attorneys failing to communicate with clients.<sup>5</sup>
  - C. Problem Solving with Clients (legal and non-legal solutions) *see II below*.
    - 1. Understanding client needs.
    - 2. Cooperative relationship vs. power-relationship
    - 3. Emotional intelligence and understanding how attorney and client emotions may affect relationship.
  - D. Problem Clients – examples from practice – how handled, how could have done better.

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<sup>1</sup> Carey Evans, [news@legalweek.com](mailto:news@legalweek.com), June 22, 2006.

<sup>2</sup> Id.

<sup>3</sup> Serena Stier, *Reframing Legal Skills: Relational Lawyering*, 42 J. LEGAL EDUC. 303, 306 (1992).

<sup>4</sup> Evans, *supra* note 1.

<sup>5</sup> Conversation w/ the Nevada State Bar, October 4, 2006.

- II. Legal issues are more than just legal problems.<sup>6</sup>
  - A. Lawyers tend to focus narrowly – “. . . deal with legal matters without paying careful attention to accompanying psychological fallout.”<sup>7</sup>
    - 1. Look for “psycholegal soft spots” (no legal vulnerability BUT possible anxiety, distress, depression, hurt feelings, etc.)<sup>8</sup>
    - 2. Raise issues and strategize with client for ways to deal with the fallout.<sup>9</sup>

EX: elderly parent with 2 adult children, one with hx of alcohol abuse, wanting to write will wishing to disinherit one child or give \$ outright to one child and in trust to the other. Possible solutions to legal challenge and future family disruption: parent can discuss w/ children now, can leave reasons in the will, etc.<sup>10</sup>
  - B. Relational Lawyering – “Client problems are not only . . . legal. [They have] moral, psychological, and economic dimensions.”<sup>11</sup>
    - 1. Collaborative Relationships – clients and lawyers work together to determine and achieve client’s goals.<sup>12</sup>
    - 2. Expertise
      - a. Attorneys – law
      - b. Clients – needs and interests
    - 3. Attorneys must understand that the “primary business of lawyering is nonadversarial.”<sup>13</sup>
      - a. Transactional work
      - b. Client is not the enemy

### III. Skills required

#### A. Interpersonal Skills

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<sup>6</sup> Primarily drawn from Marc W. Patry et al, *Better Legal Counseling Through Empirical Research: Identifying Psycholegal Soft Spots and Strategies*, 34 CAL. W. L. REV. 439 (1997); Marjorie A. Silver, *Love Hate, and Other Emotional Interference in the Lawyer/Client Relationship*, 6 CLINICAL L. REV. 259 (1999); and Stier, *supra* note 3.

<sup>7</sup> Patry, *supra* note 6, at 439.

<sup>8</sup> *Id.* at 441.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 441-442. For more examples, including suggested ways to prevent problems see pp. 443-449.

<sup>11</sup> Stier, *supra* note 3, at 306. This is in contrast to what the author calls “Instrumental Lawyering,” which focuses on simply the law and the attorney reaching a successful outcome, as defined by the attorney. *Id.* at 304.

<sup>12</sup> *Id.* at 306.

<sup>13</sup> *Id.* at 308.

1. Often left for the professionals to learn on their own.<sup>14</sup>
2. Determining if the professional is a “trusted advisor.”
  - a. Credibility – requires four behaviors<sup>15</sup>
    1. Confidence
    2. Creating an Initial Impact – first impressions
    3. Being Honest
    4. Delivering as promised
  - b. Competence – 4 behaviors
    1. Knowledge
    2. Track Record
    3. Expertise
    4. Searching questions (non-manipulative)
  - c. Compatibility – 5 behaviors
    1. Demonstrating a genuine interest
    2. Active listening
    3. Adapting behaviour
    4. Showing we care
    5. Showing vulnerability
3. Empathy – “the ability to put yourself in someone else’s shoes and to feel their suffering and emotions.”<sup>16</sup>
  - a. Have the ability to acknowledge the client’s feelings<sup>17</sup>
  - b. Do the polite thing and be considerate of others<sup>18</sup>
  - c. Respond to e-mails and phone calls<sup>19</sup>
  - d. Send thank you cards<sup>20</sup>
  - e. Focus on the kind acts of people, rather than the nasty ones<sup>21</sup>
4. Understanding how emotions (yours and the client’s) may affect the attorney/client relationship.
  - a. Attorneys, especially, resist acknowledging the “power of the unconscious.”<sup>22</sup>

<sup>14</sup> Kevin Walker, *In Practice: Soft Skills – The Rounded Professional*, ACCOUNTANCY, Feb. 1, 2005. This article was directed at accountants but the ideas and skills are just as relevant to attorneys.

<sup>15</sup> *Id.* (referring to everything under a, b, and c).

<sup>16</sup> Kate Wighton, *In a Sorry State of Mind*, THE TIMES (London) Features, at 4 (June 10, 2006); *see also* Silver, *supra* note 6, at 271; Stier, *supra* note 3, at 307.

<sup>17</sup> Stier, *supra* note 3, at 308.

<sup>18</sup> Wighton, *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

- b.** Why is it important? Analogy to medicine.  
“Interpersonal skills are only rarely taught in medical school. Most of us have likely experienced the frustration of encountering medical professionals who lack any measure of empathy. Virtually all of us desire the assistance of medical professionals who can understand our pain and alleviate our anxiety. Our clients ask no less of us.”<sup>23</sup>
- c.** Transference – the client directs feelings of affection or hate towards the attorney without any basis in the actual relationship between them.<sup>24</sup>
- d.** Countertransference – the attorney directs feelings of affection or hate towards the client which have no basis in the actual relationship between them.<sup>25</sup>
- e.** Awareness of the psychological forces allow the attorney to better understand the client’s problem and their own handling of the case and relationship with the client.<sup>26</sup>
- f.** Ways to assess feeling toward client: self-awareness questionnaire:<sup>27</sup>
  - i.** How do I feel about the client?
  - ii.** Do I anticipate the client?
  - iii.** Do I over-identify with, or feel sorry for, the client?
  - iv.** Do I feel any resentment?
  - v.** Do I get extreme pleasure out of seeing the client?
  - vi.** Do I feel bored with the client?
  - vii.** Am I fearful of the client?
  - viii.** Do I want to protect, reject, or punish the client?
  - ix.** Am I impressed by the client?

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<sup>22</sup> Silver, *supra* note 6, at 278.

<sup>23</sup> *Id.* at 305-306.

<sup>24</sup> *Id.* at 262-263.

<sup>25</sup> *Id.* at 264-274.

<sup>26</sup> *Id.* at 288.

<sup>27</sup> *Id.* at 296-299.

If you answer yes to any 2, ask Why? Even without answer – recognizing the problem may help control response.

- g. Sometimes negative feelings are reasonable, but the attorney still needs to resolve the feelings to provide competent representation.<sup>28</sup>

IV. 5 Ways to measure if the client has trust in you<sup>29</sup>

- A. “You know where the money is[,]” or in this case, you know all the pertinent facts.
- B. “The client does what you advise them to do with little, if any, convincing, persuading, or selling.”
- C. “Referrals.”
- D. “The client is more influenced by you than by all outside sources.”
- E. “Bad market[,]” or for attorneys, unpopular or negative outcomes – a “high-trust” client accepts that not everything is under your control, and while they may not be happy, they don’t blame you when a judge or jury decides against them.

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<sup>28</sup> *Id.* at 300-301.

<sup>29</sup> From information provided by Adrienne. I can’t find the citation. This article was focused on financial advisors but is applicable to attorneys also.