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Dealing with Clients' Emotions

Firm, I practice in areas with largely emotional cases and clients. Although I think I'm doing an ok maintaining objectivity while being sensitive to those emotions, I always wonder if there's a better way to go about it. I've only been an attorney about 100 days or so, so I have much to learn, but I'm curious as to what you guys do when a client breaks down mid conference or phone call. I wonder if there's a point where one cannot take on this kind of work without losing a little of themselves. Just a young, curious lawyer.

Jarrett N. Tyus, Esquire

Jarrett,

I am a very new attorney myself. I used to work for a legal service agency helping women of domestic violence resolve their divorce and custody issues. I never had a problem working with those clients because even though they are emotional, they do listen to you because they're so down from their experiences that they turn to you for guidance. In those situations, I really just distance my emotions from the case. I sympathize but I do not empathize. Especially with these cases of child abuse and such, you really cannot get emotionally involved.

I have a recent client who I am having trouble dealing with and he is not a victim of domestic violence. His wife cheated on him and had a child out of wedlock with another man. He is now in the middle of a divorce and custody battle with his cheating wife. He's not emotional in the sense that battered woman are - he's just pissed off. I've found this to be very very difficult to work with because he will not listen to any voice of reason whatsoever. He will say no to everything just to make the litigation last longer. He will say no to anything that his wife's attorney would request (even if by law or common divorce procedures) because he doesn't want to budge an inch. I'm at my wit's end with this client but I'm just biting my lip till I can get the trial over with (in January).

Sometimes it's just very hard to deal with people but I've found that if you keep yourself emotionally distant, but yet act compassionate and focus on the legal issues at hand, it'll make it a lot easier for you to get through each case.

Gabriel Cheong, Esq.

There are whole books on this--good ones. Most are written with the physician/patient relationship in mind, but attorney/client dynamics are very much the same. The best short answer I can give is to reassure you



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that it is possible to learn professional detachment, i.e. how to be compassionate, but totally objective at the same time. Possible, but not easy. It takes some study of the psycho dynamics are a good deal of practice. Please contact me off-list if you would like more info.

Alan

I actually have a document called "Rules of Engagement" that my clients have to sign as a condition to my representing them. One paragraph states as follows:

20. I am not your savior, boyfriend/girlfriend, Santa Clause, protector, best friend, priest or rabbi. I am simply your lawyer. If you need therapy, please go to a therapist. If you need a friend, please call one. I am here to advise you as to the legalities of your particular case.

Additionally, during the prescreening, before I tweak the contract to fit the individual client, if I feel that they are emotionally in need of counseling, I include in my contract that they agree to seek counseling while the case is pending. I have only had to do this a few times, but the client's later thanked me. As for the Rules of Engagement, although it gets the point across, most of my clients call me laughing when they read it, and it gives me ample opportunity to explain what I meant. If I am emotionally burdened with their problem, I will not be effective legally.

Micah G. Guilfoil, Attorney

I don't know what Gabriel's fee arrangement might be, but imagine that a flat fee would allow or encourage the client's bullheadedness, while an hourly fee might restrain it once he realizes he is paying more for stretching things out.

Ray Walden Bellevue NE

I sympathize but I do not empathize. One of my social work profs advised us to distinguish these two. He said the difference between empathy and sympathy was something like this: Two people are walking along when they hear cries for help. Up ahead is a huge hole, and the person in need of help is at the bottom. Being empathetic, the first person finds a rope to drops one end down and hauls away until the person can throw a leg over the lip of the hole. Being sympathetic, the second guy has already jumped into the hole to comfort the poor fellow. Empathy is being capable of understanding the feelings. Sympathy is taking on the feelings as if they were your own, a dangerous thing for any advocate to do. You definitely want to empathize with your client if you're in family law, and it probably is helpful with many trust and estates clients (who necessarily have to believe they might die someday but don't really want to think about it). I've been many clients' second attorney simply because the first attorney could not relate to emotional states.

Once an attorney acknowledges that the client is angry, afraid, pissed, without doing anything else but acknowledging emotions, the attorney

immediately becomes more effective for this client. In this case, Husband is angry, that's obvious. But my guess is that he's also in emotional pain. Infidelity has to hurt. You might cry to express it. Your client here is using anger and retaliation to ease the pain. I think you might as well tell him that he needs to deposit at least a mid-range (but I'd go for high range) four digit additional retainer. When he balks, be frank with him."Your anger is interfering with my ability to counsel you about the best way to handle your case. You are prone to resisting the best way in favor of the most difficult and expensive way for Wife. But that also makes it difficult and expensive for you, therefore for me, and that costs money. If this is the avenue you want to pursue, so be it, I'll continue to work with you. But you have to acknowledge the higher level of difficulty and complexity and the attorney time it consumes.

And, by the way, your anger is not something you can contain. It seeps into everything you do. Your children can hear it in your voice. They see it on your face. They witness it in your behavior. You will make serious mistakes in anger that will harm your relationship with them. Possibly harm your standing in the judge's opinion as well. The judge will be loathe to issue an order that puts the children in the position of hearing you speak badly of their mother, no matter how truthful it might be, and seeing you behave poorly toward her. The judge will empathize with her, not you. Here's what I'm willing to do about the supplemental retainer: I will reduce it to low-to-mid 4 digits IF you will immediately start working with an anger management therapist. I want you to grant the therapist a release of information so that I stay informed regarding your progress. I need to be able to represent to the court that you are taking charge of this and will be able to parent your children without your anger interfering."

You might even have an addendum to the A-C Agreement that you (pretend) to cobble up by sleight of hand, then printing it out right then for signature.

CJ Stevens

Jarrett,

I suggest you print out CJ's post and tape it to your desktop. Read as many times a week as necessary.

Alan

I've always thought sympathy and empathy were the opposite meaning. Now CJ has totally confused me but I do agree with what C.J. said. In response to Ray's comment, I actually have an hourly agreement with this client but he's so angry that he'd rather go bankrupt than give in to any little demand of his wife. I've been discussing this with other attorneys and also I've posted about it before on the list, everyone's stumped. I think sometimes you just get the crazy clients and you just deal with it.

Gabriel Cheong

From CJ's post: "Once an attorney acknowledges that the client is angry, afraid, pissed, without doing anything else but acknowledging emotions, the attorney immediately becomes more effective for this client." Mediation training is a great way to learn to do this / practice this. Even if you never actually mediate a case, the training is invaluable for dealing with sensitive emotions.

Beverly(a mediator, but not a lawyer)

C.J. is correct about the difference between empathy and sympathy. Ask the guy if he has a gun: something I think you should know before you represent someone in an angry family law matter. You might not be able to do anything about it, but I have been known to tell a client that the guns have to be out of the house before I take on the representation. I explain that I don't want either party to get so angry they grab a gun and if the guns aren't in the house, that is less likely to happen. Be empathetic when you ask, not critical or judgmental. It's just a practical question, not amoral evaluation. Just my 2 cents worth.

Roxanna Kaz

I usually work it in the conversation too whether opposing party has a gun and, if so, what kind. I've had quite a few cases where some fun testimony was had regarding opposing party's misuse of a weapon (i.e. misfire in the house with children in house, shooting in residential neighborhood, shooting randomly up in air on 4th of July). But keep in mind that there's obviously a distinction between a shotgun/rifle and handgun AND you should be reasonable in your requests. Asking a reasonable person (even though he might be involved in an emotional family matter) to remove their handgun or an avid hunter to remove their shotgun/rifle from their home might not be reasonable, IMO...no matter how personally adverse you might be to firearms. I also really liked CJ's explanation of the difference between empathy and sympathy. I think there is also a "wear and tear" factor for family law practitioners, IMO as family law is like a roller coaster ride where you will have ups and downs and after awhile...you just want a nice straight even stretch...:>

Dwayne E. Cooper

I deal with boundary disputes where emotions run high over inches of property. I also find that paying money up front is the best way to drive home the costs of emotions. The money side doesn't really hurt until they have to write the check, while the substantive stuff hurts now.

Rebecca Wiess

Dwayne is correct that there's quite a difference between a hunting rifle and a handgun. However, I'd still ask my question and if there is any hint of animosity between the parties (isn't there always?) I'd tell him he has to remove the guns from the house during the proceedings. If he is legitimately going hunting, he can always go over to his friend's place

where he stored the gun and pick up the gun and the friend and go hunting. But there is a cooling off time between his place or his ex-wife's place and the location of the gun. The kids aren't near the gun either .I've had a bit of input from my husband, a psychiatrist who practiced 31years as Director of the Parole Outpatient Clinic, California Dept of Corrections. I say, get the guns out of the house or don't represent the guy.

Roxanna Kaz

Wow this has been a wonderful thread. A couple of thoughts:

1. I have over time developed a close relationship with psychotherapist. He is phenomenal in working with our clients. He has helped me learn how to work with my clients most of whom face complete ruin and extended loss of freedom. Bob is also a forensic psychotherapist so he both gets and can explain "the system" to clients. His ability to empathize and our close relationship gives him tremendous insight into my thoughts and practices and so he sometimes acts as a buffer between the client and me.
2. The mediation idea was a great idea. Learning to acknowledge the pain and anger and letting them vent is very important.
3. Asking about weapons is a great idea. In fact I am going to put a no weapon clause in my office welcome letter. It won't stop someone who intends to do harm but may stop an impulse crime.
4. I regularly read articles on speaking with clients and noticing psych issues. We are often the gatekeepers for psychological issues. I think we have an obligation to treat the client not just handle the case. Hence empathy is a needed quality in a counselor at law. Learning to deal with the client's psychology is almost as important as learning to deal with the case.
5. Make your office a safe place to experience emotions. Have water available; tissues too. Have them in places where clients can see and get them without having to ask. Keep the room cool in temperature.
6. Do not tell the client not to cry or not to feel bad. Instead acknowledge their feelings. DO NOT CRY W/ THEM. Empathy is fine. The client needs to feel however that you will be there to protect them when they are vulnerable.
7. Make sure you do not act or speak to the client judgmentally.
8. No you're not their shrinks but in family, bankruptcy, criminal, and heavy PI, you do have to prepare for the emotional response and some venting.

Finally, after a particularly tough meeting. Take a few minutes. Process what happened, call a friend or even a voice mail and leave your own venting there. It is important to have your own feelings, not necessarily in

front of the client.

Good luck in your new practice.

Yours,
TonyC

Just one thing I would add to #5. "Make your office a safe place to experience emotions. Have water available; tissues too. Have them in places where clients can see and get them without having to ask. Keep the room cool in temperature."Have chocolate available. I offer a variety but I tell clients that the dark ones, especially the antioxidant ones that I order specially are healthy for them.

E.J. Hong

I like the chocolate idea. We offer hot chocolate now but a variety of sweets would work, 'cept the secretary would kill me.

TonyC.

But that's the beauty of dark chocolates, especially the ones with extra antioxidants in them, they're healthy. They're not candy, they're nutritional food. Which brings me to another point in dealing with client's emotions, try to bring levity (of course, only if appropriate).

EJ

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