

Managing Challenges Dealing with Clients and Counterpart Lawyers

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Learning From Each Other

- In this session, we will learn from each other
- I will present insights from my work
- You have lots of experience and ideas to share
- Topics:
 - Working well with clients
 - Working well with counterpart lawyers
 - Dealing with uncooperative counterparts

Lawyers are From Mars, Clients are From Venus

- **New study finds that law students are “woefully unprepared” to work with clients and negotiate**
- **Even experienced lawyers have hard time**
- **Hard when clients have unrealistic expectations**
- **Clients resent lawyers don’t listen well and ignore their concerns**
- **May occur when lawyers focus on expected court outcomes and clients focus on intangible interests**

What Can Lawyers Do Better?

- **Listen carefully to clients**
- Be a conflict diagnostician – learn what clients' problems really are about
- Ask clients what they want – don't assume it's just to win or get good financial outcome
- Pay attention to what's important to clients, even if it's not legally relevant

More Things to Help Clients

- Recognize cognitive and motivational biases – theirs and yours
- Don't get trapped in the “prison of fear”
- Assure clients that you care about them and will work hard to achieve their goals
- Prepare clients to be realistic and recognize that they may settle – if they decide that it's in their interest to do so

Your Experiences with Clients

- Have you had “client from hell” experiences?
- How have you fixed these problems?
- How do you develop good relationships with clients?

Develop Good Relationship with Counterpart Lawyers

- Why “counterpart lawyers,” not “opposing counsel”
- Why try to develop good relationship
 - Your own “private hell” vs. smooth process
- Start from the beginning of a case
 - Call, have coffee, lunch, zoom
 - Get to know each other, eg, type of practice, where they grew up, family, hobbies, travel, etc.

Working Well With Counterparts

- Look for areas of agreement
- Be genuinely curious about other lawyers' and parties' perspectives
- Ask what would change their perspectives
- Plan to talk when problems arise

How Have You Developed Good Relationships with Counterparts?

- **What have you done that worked well?**
- **What have you done that didn't work well?**

What if Counterpart Won't Cooperate?

- Prepare your client
- Be on guard
- Diligently protect your clients' interests
- Use tit-for-tat strategy
- “We can do this the easy way or hard way.
We prefer the easy way. What about you?”

Change the Game

John Wade anecdote

- I have seen competent lawyers say, “I am guessing that we will be apart on the facts, the weight of evidence, the interpretation of the rules, and what we think the different judges might do with this. Am I right?” (Nods and smiles).
- “But that after a year or two of negotiation and posturing, we will close the gap but still be a mile apart.” (Nods and smiles).
- “So I was wondering: ‘Is there any way to consider the business goals of our clients and try to find a satisfactory business outcome, before we go the old posturing route?’”

How Have You Dealt with Difficult Counterparts?

- **What worked well?**
- **What didn't work well?**