

Professionalism takes a collaborative approach

Dear Editor,

In reading the President's articles in *The Advocate* on bullying, one portion in particular resonated strongly with me — "Over the years I've seen wonderful lawyers who are effective problem-solving collaborators. I've also encountered brilliant, hard-charging, uncompromising trial attorneys. The former are often driven from the profession by the latter." So true. What a tremendous loss for our profession.

I would classify myself as one of the "problem-solving collaborators" referenced in the article. I concede that at times in the past 23 years of practicing law, I have been close to wanting to pitch this profession and everyone in it. During those times, being a bartender in Fiji seemed really, really attractive. At some point, each of us does a personal analysis and decides whether this short life we are given should be filled with the toxicity that is present in almost every day of our work.

I have chosen to stay; not because I enjoy the abuse, but because my life is enriched by helping others. I stay for my clients. Each time the Bully frustrates me, I remind myself of why I stay — when a client walks out my door relieved because they handed off their problems to me, I feel good. When a client trusts me to solve a problem, I am honored, humbled, and motivated.

When I call opposing counsel early in a case, to explore resolution, and I am met with a "brick wall," an unwillingness to consider the opposing concerns and discuss solutions, or no verbal communication at all, I admit, I become frustrated. More

and more, over the past decade, I have watched emails and letters replace telephone communication and in-person meetings. More and more, the first communication in a case is a written demand or a threat, rather than a cordial conversation to determine if a quick, cost effective, and appropriate resolution can occur. We can jump to incorrect conclusions by reading an email rather than having a phone conversation, in which inflections and context can be gauged. We need to journey back to conversations as our first line of approach.

We should not adopt a no-holds-barred, take-no-prisoners, antagonistic approach. We should work professionally and courteously to prepare the case and submit it to the fact finder for a decision. That is why we have a judicial system — for someone else to decide our issues and outcomes when we cannot do so ourselves. These proceedings are adversarial, yes — but, they do not need to be acidic or acrimonious. *Webster's Dictionary* defines "adversarial" as "involving two people or two sides who oppose each other."

As in a sporting event, "adversarial" does not mean that the competition must be hostile, nasty, or unprofessional. Good sportsmanship is a tenant that should carry from the field to the courtroom. I've walked away from trials with great affinity and respect for my opposing counsel, and I've walked away thinking opposing counsel should be barred from the profession.

It is my hope that the Bar's push for civility among our ranks gains traction in our professional community and makes a positive impact. I enjoy working collaboratively with another attorney to solve our clients'

problems. Those moments make me happy, fulfilled, and proud to be a lawyer.

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Bullying affects subordinates and friends, too

Dear Editor,

I'm grateful that the ISB is starting a public conversation among Idaho attorneys to address bullying within our profession. The hardest parts of this job for me are the antagonism and pressure to characterize everything as a win or loss. As you discussed, the bullying between opposing counsel is an obvious issue. We can also look closer to home and see how we treat our colleagues within a firm, including junior attorneys, paralegals, and assistants. Many high performing lawyers are very good at exploiting the failures of others and hiding their own weaknesses — that's how they win cases. As a result of being very good at those things, they can become overly critical of and condescending to their subordinates, jumping on their mistakes instead of being helpful or supportive. Unfortunately, these workplace tactics often bleed into personal lives and we treat our lovers and friends to similarly toxic conversations. When examining bullying behaviors in our profession, we should look at how we communicate to people both on and off "our team."

This conversation has the potential to create some real healing in our communities. When lawyers treat each other better, will clients do the same? By increasing the amount of positive and productive interactions we create, I believe we can do a lot

to reduce the pain and confusion suffered by people in distress, experiencing shifting priorities, and coping with life changing decisions.

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The best lawyers solve problems, not create them

Dear Editor,

The columns of ISB President Tim Gresback in the last two issues of *The Advocate* have been some of the most honest and helpful I have read. I look forward to an open dialogue among our colleagues on the ideas and suggestions discussed.

To me, the finest practitioners of the law are those who zealously represent the interests of their clients while doing so with competency, integrity, respect, and morality. They focus on resolving the problem in a way that is acceptable in the long run — many times “resolving” rather than “solving” the matter. They attend to the problem rather than the personalities and they can disagree without it becoming a competition or personal.

The practice of law can certainly be done in a disruptive way but such an approach is much less pleasant, has fewer intellectual and spiritual rewards, and distributes far less happiness for all involved. An attorney, with the great power and responsibility that comes with that, should be a healer and problem solver.

There is plenty of harshness and injustice in this world. An attorney, no matter who they serve, should not contribute to it.

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Working with a bully takes skill

Dear Editor,

I found the article *Confessions of a Recovering Bully* to be refreshingly relevant and candid. As an attorney, I have dealt with several bullies over the years both in my dispute resolution practice and in my transactional practice. Bullies are so difficult and shattering to spirits and psyches that I have become determined to figure out how to crack their code. That is why I devote an entire segment of my dispute resolution workshops to dealing with the bully personality (something I call “Busting the Bully”).

Tricks and tools for busting bullies come from understanding them from the inside out. The bully operates from a different paradigm than most people. Their world is one of scarcity, not abundance; of fear, not security; and of suspicion, not trust. Win/lose is the operative paradigm, not win/win. The bully sees threats everywhere. It is as if they live in a war zone even though no one else wants to fight. It is impossible to change their minds on this, so part of the engagement with a bully has to be the powerful fight: not disrespectful, not abusive, but powerful. Bullies respond to power and will make concessions to powerful opponents. Stand strong and don't be too nice. Find leverage to trigger fear in the bully because bullies often back off or compromise when fearful.

I like to think of bullies as army tanks. They fire out missiles and let nothing in. That means they don't listen, they don't negotiate reasonably, they attack, they diminish, they don't take responsibility, and they fire out their one-sided, black and white view of things and call it Reality. Again, it is war for the bullies.

In war, people don't talk about gray areas and compromise. Your most powerful tool with a bully is to stress your facts and leverage points and keep it simple and strong. Stay away from the gray.

On the bright side, bullies are real people who crave connection and don't have much because they are so difficult. Connection is leverage so while fighting the fight, always be respectful and always try to find some point of connection. Then build it. Build it every day, every way you can. Talk about the connective point every time you talk to the bully. In the end, most bullies can't help but cave to connection, allowing the paradigm to soften and some peace to enter the warzone.

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Professionals deserve referrals; bullies do not

Dear Editor,

All attorneys swear to represent clients with “vigor and zeal.” There's nothing wrong with using the law and rules to their full extent to represent clients vigorously and zealously, but it crosses the line of professionalism when attorneys attempt to use bullying and intimidation as tactics to achieve their client's objectives. Attorneys that bully others are the reason for most negative lawyer stereotypes and jokes. They make the entire profession look bad, which is why I make it a point to never refer a potential client to such an attorney.

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