

## Attorneys as purveyors of peace

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Conflict for clients can be terrifying. Conflict for attorneys can be exhilarating.

Many parents/litigants voice the desire to place their children's needs above their marital conflict and work to develop positive strategies to separate from the marriage without destroying the children's family. Striving to maintain the relationships with their former spouse and their family for the sake of their children is very hard work and is done more often than many people realize.

Conflict is differences of opinion. Resolution is based on finding areas of agreement or common ground on which to compromise. In other words, everyone gets something but no one gets everything. When compromise does not work or when neither party wants to try, litigators are called in to defend their party's position against the other's position. This will no doubt increase the conflict, costs, etc.

Angry, but passive, parents will often find an attorney to fight for them, exposing all the bad, terrible, horrible things that were done in the marriage in the hopes that trial will expose those awful things.

Frequently, such items were confided in moments of intimacy, now breached in the heat of battle. The court system, which tries to level the playing field, gives both sides' attorneys an opportunity to argue their cases and to examine and cross-examine the parents and their allies.

Compromise sometimes comes after the parents have had the opportunity to state their concerns and complaints in open court for all to hear. But, for the observer, it is as if the children are forgotten or barely considered.

"Criminal lawyers see bad people at their best, divorce lawyers see good people at their worst." In each instance, the need for representation springs from some type of conflict—with law enforcement, with one's spouse or with others. Conflict is an evitable part of life. Can conflict, and the resolution of conflict, net good results? What can attorneys learn from conflict?

Arthur Schopenhauer, author of The World as Will and Representation, can be characterized as "the philosopher of pessimism," viewing life as "some kind of mistake." Schopenhauer perceived our relentless striving,

or our impulse to want more than what we already have, as being at the core of unhappiness. According to Schopenhauer:

The truth of this will be sufficiently obvious if we only remember that man is a compound of needs and necessities hard to satisfy; and that even when they are satisfied, all he obtains is a state of painlessness, where nothing remains to him but abandonment to boredom. This is direct proof that existence has no real value in itself; for what is boredom but the feeling of the emptiness of life? If life—the craving for which is the very essence of our being—were possessed of any positive intrinsic value, there would be no such thing as boredom at all: mere existence would satisfy us in itself, and we should want for nothing.

Do crime and divorce inevitably stem from unhappiness? From striving for more? Are crime and/or divorce the natural extensions of Schopenhauer's philosophy?

By contrast, Friedrich Nietzsche perceived life as a long conflict, a pummeling—like waves to the shore. However, Nietzsche also thought people have a will to fight and to overcome resistance, celebrating conflict, both internal and external, as opportunities.

Doctors Jean M. Twenge and W. Keith Campbell suggest that we need to redirect our core values by teaching “children how to get along with others with polite, civil conduct, and how to resolve conflicts with their friends,” noting that:

After Washington Elementary in Lancaster, Pennsylvania, an inner-city school where frequent conflicts occurred among students, taught children how to resolve conflicts through mediation, fighting diminished

considerably. Instead of singing songs about how special they are, children at the school beat drums and chant, 'as a drummer for peace/I will live at peace with others.'

Twenge and Campbell contend that the most important lesson to teach our children is empathy, essential for individuals and groups of people to get along.

Conflict is at the core of divorce and custody litigation. Divorce and custody disputes can stem from a variety of circumstances, including:

1. Emotional turmoil/escalating family conflict;
2. Disagreements over sex, money and child rearing;
3. Disagreements over living arrangements and/or lifestyle;
4. Engaging in myopic thinking and blaming the other spouse for all that is wrong in the relationship.

What can attorneys do to address conflict? Bill Eddy, founder of the High Conflict Institute, recommends the following:

1. Communicate with **e**mpathy, **a**ttention and **r**espect (**EAR**);
2. Employ a **b**rief, **i**nformative, **f**riendly and **f**irm (**BIFF**) communication style
3. Collaborate;
4. Keep the best interests of children first and foremost.

Bruce D. Perry, M.D., Ph.D. and Oprah Winfrey discuss the impact of suffering trauma and abuse on a child in What Happened to You?: Conversations on Trauma, Resilience, and Healing. As Winfrey notes in her introduction, "...understanding how the brain reacts to stress or early trauma helps clarify how what has happened to us in the past

shapes who we are, how we behave, and why we do the things we do.” In the same book, Dr. Perry notes that:

Over the years, I’ve found that seemingly senseless behavior makes sense once you look at what is behind it. And since the brain is the part of us that allows us to think, feel, and act, whenever I’m trying to understand someone, I wonder about that person’s brain. Why did they do that? What would make them act that way? Something happened that influenced how their brain works.

Perry discusses the continuum between the “fight or flight” response to trauma versus a dissociative response, concluding that “[f]inding balance can be an exhausting challenge for anyone with trauma-altered stress-response systems. The search to avoid the pain of stress can lead to extreme, ultimately destructive, methods of regulation.”

From the first day of law school, budding attorneys are encouraged to think of themselves as tenacious advocates. Yes, there are classes offered in mediation, conflict resolution and similar titles, but a scorched-earth mentality is considered admirable. Yet, not every person charged with a crime is guilty. Not every person caught in the middle of dissolving a relationship is innocent. Attorneys should not presume that their job is to fan the flames of divisiveness.

Each person has an inherent impulse toward empathy. That drive can be nurtured or squelched during any legal process. As attorneys, we would be wise to learn from our mental health professional colleagues about how to best serve our clients with empathy, attention, and respect.

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