

Managing Adversity in Business

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As attorneys, many of us are faced with adversarial situations on a daily basis. On behalf of our clients that is. But how do we manage adversity in the operation of our own practices? This is an area in which I counsel clients quite regularly. Doctors, artists, electricians and even lawyers are typically very good at their trades, but are often not too effective at managing the business end of their businesses.

Whenever we interact with other people, the potential for adversity exists. Business owners may deal with customers/clients, vendors, employees, partners, and government agencies, and all of these interactions are breeding grounds for miscommunications and disagreements.

Clients may be dissatisfied with billing, strategy, or other aspects of legal representation. Vendors may miss-bill us or provide defective or unsatisfactory products or services. Partnerships can be like marriages; partners may disagree on the goals and direction of the practice or the responsibilities of each partner, or they may engage in wrongful acts in the course and scope of the business. Employees may also not perform as expected. Government agencies can cause a myriad of tax and compliance problems.

This article cannot solve all of those challenges. Rather, it provides some basic rules, preemptive suggestions, and solutions. Following are some basic rules, preemptive suggestions and solutions. The most important rule in dealing with a potential adversarial situation is “don’t wait, communicate.” Effective communication can cut many potential problems off at the pass. It is important to establish clear relationships from the beginning. Fee agreements and other contracts can help avoid many problems relating to what each party expects of the other. Regarding employees, basic rules and handbooks will let them know exactly what is expected of them.

The second rule is “communicate effectively.” If a relationship with any person or entity begins to get sticky, take the high road in your communications. Think about whether you want to be right or to attain your goal. Communicate in the preferred style of the recipient. If you know the other party likes to talk on the phone, call them. If their preferred communication modality is e-mail, use it. Begin and end every communication on a positive note. I start many letters with “thank you” Even if it is “thank you for speaking to me on the telephone” Saying thank you goes a long way. The listener or reader is much more likely to shut down and not hear a word you say if the communication starts with a threat or a criticism. If the communication ends that way, the reader may disregard everything they have read previously. You can do this without appearing to be a pushover and still maintain respect.

Effective communication does not arise from emotion. I often wait a day to open an e-mail or a letter that I know is not going to make me smile. After I receive problem letters and e-mail messages, I typically wait a day to respond to allow my emotional reactions to subside. If it is impossible to refrain from emotional involvement in an issue, it may be prudent to retain someone else to represent you in the matter. I have done so, as an example, in a tax audit.

Rule number three is “document, document, document.” Even if you deal with your potential adversary on the telephone, send a confirming letter or e-mail immediately to memorialize the conversation. Save hard copies of everything. Keep complete and organized files on all adversarial matters. You never know when you may need this documentation. Unfortunately this business is more about saving our assets than saving trees.

With these three simple rules:

- Don't wait, communicate;
- Communicate effectively; and
- Document, document, document;

We can avoid many adversarial situations and minimize those that do arise.