

## Dealing with the Most Difficult Clients

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by Joseph Shaub

You should have heard those faint alarms going off after the first half hour of Susan's initial consultation. You were her second lawyer (and you're aware of the "Don't Be the Third Lawyer" rule), and she was extremely critical of the handling of the case by her prior attorney. You'd never dealt with him so you didn't have a frame of reference. Yet, as Susan continued to tell her story, she seemed to vilify everyone who had been involved in the case. The father of her three children was "abusive" and she was afraid of him; she had been in therapy for a while, but that ended in dissatisfaction with the counselor's lack of empathy; Susan was concerned that the parenting evaluator was biased. She came across as an intelligent, charming woman. Every concern she had was entirely plausible. It wasn't until you had invested thousands of dollars of energy and time into the case, and at times felt compelled to tell Susan things she didn't want to hear, that she suddenly turned on you with all of the venom that she had previously held for her husband. As it happened, you became the second of four attorneys and you are left with a receivable which you aren't eager to pursue, given Susan's penchant for accusation and conflict.

Or perhaps you have had clients like John, a successful businessman who is inclined to dismiss your advice whenever offered. He came to you because he had heard that you were an excellent attorney (even the best in a particular field) and he is enraged when the temporary orders fail to grant him 100 percent of the relief he has sought. He is estranged from his wife (of course) and his teen-age children. He is invariably rude to your staff and very demanding of your time. He insists on being treated like a "special client."

Leon is another kind of client that some have endured. He is extremely attractive and charming. Your first impression is quite positive and you actually feel some sympathy for his statements that his wife is trying to cheat him. He can't pay the full advance fee deposit you seek because he has a deal that is closing in three weeks and he desperately needs some work done on his case immediately. You take him on as a client because, frankly, you like him and he seems very forthcoming. As you get more deeply into the case, however, your misgivings bloom. He continues to put you off on the fee, with imminently reasonable excuses; he dodges discovery requests for financial documents; he blatantly ignores the pick-up and drop-off times in the temporary parenting plan. After two months and a \$7,000 receivable, you are forced to cut your losses and withdraw.

Finally, there is Mary, a strikingly attractive woman, who dresses such that your receptionist and staff turn her into the topic of the day whenever she comes by to drop things off (which is more frequently than any of your other clients). She is extremely emotional, and you took her on (with a tiny tug of doubt in your gut) because she triggered the protector in you. She was truly needy. However, that tiny tug became a full-on shove when she began calling the office almost every day — sometimes three or four times a day. Your staff wasn't able to "understand or help" her. Again, the fees were running up disproportionately. When she would come in for appointments, she would carry on for about 90 percent of the meeting about her feelings, her concerns, her

husband, her co-workers, her plans — almost everything but the business at hand, which might be reviewing and signing off on a declaration.

How we respond to these clients in the volatile environment of a family law case will not only bear on whether we get paid, but it will also affect our freedom from bar complaints and suits. It is widely acknowledged that family law is the leading magnet for bar complaints. A recent report of the Arizona State Bar, for example, noted that 28 percent of their complaints arose out of family law matters. Failing to adequately communicate with clients is the number-one cause of bar complaints. Difficult clients almost compel us to avoid them in order to manage our calendars, our energy, and our sense of well-being. The way that we manage our “normally distraught” clients is certainly important. However, the greater share of complaints and potential malpractice suits will arise from our pool of clients who suffer from a condition that is described by the DSM-IV (the “Bible” of mental health diagnostics) as “personality disorders.”

Mental health practitioners have long been aware of a particular difficulty that was termed a “personality disorder” in the DSM-IV. Rhoda Feinberg and James Tom Greene describe a personality disorder in their article *The Intractable Client — Guidelines for Working with Personality Disorders in Family Law* (35 Fam. & Conc. Cr. Rev. 351 (1997)) as follows: A personality disorder is a clinical term used to describe people who are “locked in” for many years with certain exaggerated personality traits that interfere with all aspects of their functioning in life.

Both the DSM-IV and William Eddy<sup>1</sup> aptly describe these personality disorders as reflecting “enduring traits.”

While there are nine personality disorders described in the Feinberg and Greene article, Eddy, in his excellent *High Conflict Personalities*, focuses on the four which he identifies as particularly challenging for the family law practitioner. These are Borderline, Antisocial, Narcissistic, and Histrionic.

In the shortest of shorthands:<sup>2</sup>

Antisocials (Leon) are characterized by a collection of traits which may include the failure to conform to societal norms with respect to lawful behaviors; deceitfulness; impulsiveness; aggressiveness; consistent irresponsibility; and lack of remorse over the injuries they cause, often, but not always, accompanied by a very beguiling personality.

Narcissists (John) are characterized by a grandiose sense of self-importance; a preoccupation with fantasies of unlimited success, power, or beauty; a belief that he/she is special; a sense of entitlement; a lack of empathy; and a tendency to be interpersonally exploitive.

Histrionics (Mary) are uncomfortable when not the center of attention; display rapidly shifting and shallow expressions of emotion; consistently use physical appearance to draw attention to themselves; tend toward theatricality in expression; and consider relationships to be more intimate than they actually are.

Borderlines (Susan) tend to have a pattern of unstable and intense interpersonal relationships; be impulsive in their intimate relationships; experience chronic feelings of emptiness; exhibit inappropriately intense anger; and possess a markedly unstable self-image. Borderlines are noted

for putting the other person on a pedestal (“You are a brilliant lawyer. I cannot believe my luck in finding you.”), followed by intense denigration and anger (Bar grievances, lawsuits, abrupt dismissals, etc.).

Family lawyers who have engaged in custody disputes may be familiar with the name Millon, as Theodore Millon is the principle author of the psychological instrument, together with the MMPI-2 (Minnesota Multitphasic Personality Inventory-2 — a widely used and widely researched test of adult psychopathology), which is conventionally administered to parties in a parenting evaluation. In his excellent text *Personality Disorders in Modern Life* (2000), Dr. Millon notes that each personality disorder may be seen as residing along a continuum of behaviors or traits. Most of the characteristics of a particular personality disorder may be found, albeit in different intensity and presentation, among the “normal” or even “highly successful” population. Along the Antisocial continuum, for example (but not into the “red zone” of difficult, alienating, or destructive behavior), is the daring risk-taker who takes care of the business many of us wouldn’t touch. Not so far along the Narcissist continuum is the supremely confident, and successful, businessperson. Moderate Histrionic qualities impart a sense of drama and entertainment to life, while the drama which is so acute in the Borderline adds spice to an otherwise dull life when carefully measured.

When pushed to the level of pathology, the four “high-conflict personalities” are found by Eddy to be driven by the following fundamental fears: Borderline — fear of abandonment; Narcissist — fear of inferiority; Antisocials — fear of being dominated; Histrionics — fear of being ignored.

Additionally, what really differentiates these people, in Eddy’s view, is that they perceive (and persuade others to share in this perception) that the cause of their distress is external. Eddy notes:

Because they think their internal problems are external problems, the difficulties of those with personality disorders continue and become quite distressing.<sup>3</sup>

High-conflict personalities have enduring patterns of behavior characterized by:

1. Chronic feelings of internal distress;
2. Think the cause is external;
3. Behave inappropriately to relieve distress;
4. Distress continues unrelieved;
5. Receive negative feedback about behavior which escalates internal distress but thinks the cause is external so behaves inappropriately . . . and on and on.<sup>4</sup>

Not everyone with a personality disorder becomes a high-conflict personality. Only those who are also “Persuasive Blamers” seem to become high-conflict personalities. Persuasive Blamers persuade others that their internal problems are external, and caused by something else or someone else. Once others are persuaded to get the problem backwards, the dispute escalates into a long-term, High-conflict dispute — which few people other than Persuasive Blamers can tolerate.<sup>5</sup>

The thing to remember about these people is that they labor under a real psychological burden. Their personalities tend to be rigid, and they have little tolerance for self-reflection that might challenge their (often) fragile egos. While conflict is stressful for most of our clients, the

circumstances that bring these folks into our offices are fertile ground for the maladaptive behavior which make them so tough to handle. So how can we best protect ourselves, and the professional relationship, from the encroachments of the strivings of these clients? Consider these seven closing tips:

1. Set clear boundaries. The rules of the attorney-client relationship must be assiduously adhered to. Telephone calls must be billed, or they will mushroom. Deadlines must be clearly communicated and enforced. Bills must be paid in a timely fashion. Be particularly careful to dress and act professionally with these clients. They should never be permitted to verbally abuse you or your staff.

2. No special treatment. Do not stray from your customary practice to allow these clients to feel special. Avoid unique financial arrangements. Don't give the client your home phone number. Don't meet at odd hours.

3. Do not avoid the client. Failure to return phone calls, while relieving you of stress and aggravation, will cause the client's anxiety to escalate. If necessary, tell the client that you will not be readily available to him. Instruct your staff on specific procedures when dealing with multiple and insistent telephone calls.

4. Communicate clearly. While e-mail has a down-side with these clients, as you are likely to be deluged with messages, at the same time, you are able to clearly communicate expectations and possible outcomes in writing so you have a clear paper trail that you can refer to. Don't believe that just because you told the client something, it had impact on him and he retained it. If you have certain rules or boundaries to set, communicate them very clearly and, if necessary, repeatedly.

5. Don't get seduced by adoration. This is particularly true with the Borderline personality, who is gifted at the art of seduction ("I don't know how I was ever so lucky as to find you for a lawyer.") followed by vertiginous denigration (accusations of betrayal, malpractice, or unethical conduct). Keep your relationship with this client level.

6. Be consistent. These clients will repeatedly try to push the boundaries you set. They will test you and your staff. Counter-intuitively, they will be more anxious if you allow there to be even minor variations in your process and relationship style. You will be more likely to calm this anxiety with consistency.

7. Stay at arm's length. Almost every one of these personalities has an attractive quality about them. You may be drawn to the Antisocial's charm, the Borderline's need for protection, the Narcissist's powerful personality, and your desire to impress or the sheer entertainment value of the Histrionic. In fact, if you find yourself thinking of a client in an emotional or personal way because of these qualities, be very careful. You will have the greatest success managing the client, their case, and the post-litigation fallout if you strictly adhere to a professional, friendly, arm's-length attitude toward the client.

Ask among your colleagues, and you will hear the "war stories" of client relations gone sour due to mistakes made with these four "high-conflict personalities." The solution can't be to avoid them, because we often won't know we have this problem until after we have been retained. Additionally, these people sorely need our guidance, professional advice, and representation. The

work does not have to end with grumbling and distress — and can even result in a deep sense of professional satisfaction — if we keep our eyes and ears open and follow some basic rules once the red flags begin to pop up.

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## NOTES

1 A significant portion of this section is derived from the work of William Eddy. Bill Eddy is an attorney/mediator who practices in San Diego, California. Having practiced for many years as a clinical social worker, he became an attorney and devoted his practice almost exclusively to divorce mediation. Through both his practice as a therapist and then later as an attorney and mediator, Bill observed that a certain kind of personality was highly disproportionately represented in the volume of unresolved conflicts that required trial. These people were also far more inclined to bring ethical complaints against their attorneys. This article, however, is only a sliver of the wealth of information that may be garnered from his excellent edition, *High Conflict Personalities — Understanding and Resolving Their Costly Disputes*. This volume may be obtained through Bill's website [www.eddylaw.com](http://www.eddylaw.com). I also recommend a visit to this website for the number of brief and valuable articles that Bill has posted, covering a wide array of subjects of interest to family lawyers and mediators.

2 Readers are strongly encouraged to review the criteria for these personality disorders found in the DSM-IV and also a very lucid discussion found in Theodore Millon, et al.'s, *Personality Disorders in Modern Life*, Wiley & Son, 2004.

3 Eddy, W., *High Conflict Personalities*, p. 15.

4 *Id.*, p. 17.

5 *Id.*, p. 18.