

Navigating the Emotional Minefield Called Litigation

No Client Left Behind

By Candyce Ewing Abbatt

People struggling with incessant pressure and unwanted change created by cultural, economic, and social forces may experience increased episodes of depression and, in extreme cases, resort to suicide. I am not aware of an attorney who has not been touched by the loss of a colleague, client, or loved one in this manner.

Candyce Abbatt uses writing as a coping mechanism. She began to do so years ago and has cataloged her work, satisfied to have had the catharsis the creative process provides for her. During her mother's terminal illness, she did more topical creative writing and decided to share her efforts with others. To this end, Candyce submitted the following article to the Michigan Bar Journal in hopes of touching and supporting other attorneys who experience emotional trauma—and sometimes loss—through the practice of law. Ms. Abbatt's suggestions for coping with emotionally draining work in a world of uncertainty are both astute and timely. I applaud her courage in facing her personal loss and her willingness and desire to find strength and healing through writing. I also applaud her wish to mentor others in healthy coping by sharing this very personal article with you.

—Martha D. Burkett,
LJAP Program Administrator

In the middle of a lovely July day, my client and friend, in the privacy of her home, took her own life. I have since learned the detectors for suicide are so subtle and unpredictable that once the decision is made, it is hard for even mental health professionals to know in advance. Yet I wonder what I could have done to alleviate her pain and spare her sons the agony of losing their

mother this way. Given the gravity of family dissolution on the human psyche, I am told that I am fortunate to have avoided this loss for more than 28 years, but a perfect record would have been far less painful for everyone.

Joan ended her life one quiet Monday afternoon. A simple woman who asked little of anyone, she could not put her life back together after her divorce. The plant closing—her livelihood moving to Mexico—was the ultimate insult, one she could not bear. As her attorney, I wonder how I could have better helped Joan through this crisis. Besides the universal admonition to law graduates to avoid the domestic practice of law like bad road construction, what wisdom can those of us who have navigated this emotional practice impart to those just beginning this journey into the complex law of families?

Young lawyers enter the field of family law with compassion for the plight of others and a strong need to connect with and help folks in crisis. The trouble is, we lawyers are often ill-equipped to evaluate the true emotional status of our clients and, while we can prop them up and send them forth to fight the good fight, we cannot go home with them.

In addition to the loss of a friend, I look at this from the professional perspective of

a practitioner and as a mother of a third-year law student who is drawn to both the drama and humanity of family practice.

What should be told to a new hire (or my daughter, for that matter) who has the technical skills to engineer a settlement, but lacks the psychological training or life experience to understand what is ticking inside the mind of that face across the desk? Here are a few things I've learned:

- **The first contact:** Understand what it takes for someone to make that first call to your office and, ultimately, to meet with you. It's like dialing an oncologist for the marriage, except the prognosis carries less hope of recovery. Children and financial stability are at risk.

Promptly return the call. Before setting up an appointment, find out if there are any burning questions that cannot wait. A brief reassurance can buy several hours of needed sleep. Sleep-deprived clients are not accurate reporters of facts.

- **Subsequent phone calls:** Try to return phone calls before the end of the day, particularly early in the litigation. If you are unable to call, you might send a text or e-mail, or have your assistant make contact, explain the reason you are unavailable, and indicate when the client might hear from you. If there is a sense

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of urgency, have your assistant make an appointment for the client to meet with you as soon as possible. If your time is limited, explain that in advance.

- **Explain limitations:** Family attorneys are not trained therapists, but deal daily with highly emotional and often agitated individuals. Most have never spent a day inside a courtroom, yet must manage the most significant financial transactions of a client's life while that person is grieving or reeling in betrayal. Not a good combination.

Keep a list of qualified therapists and strongly advise your client to contact one. Tailor your recommendation based on past experiences of others as well as independent research. Call the therapist to clarify the purpose of the referral and fine tune the fit. Ask the client to sign a release to allow you to speak with the therapist.

Stay in touch with therapists by e-mail or telephone. If you notice a change or degradation in the individual's behavior, call the therapist. If the case involves psychological issues, set up an appointment to meet with the therapist alone to discuss the client's adjustment and relevant treatment. It's important to work as a team with the other professionals involved in your client's life.

Make sure your client stays in touch with a physician and advise the physician of pending actions and inherent stressors.

- **Establish regular face-to-face contact:** Early on, meet with your client in person every few weeks. While the main purpose is compiling financial data or drafting responses, there is nothing like face time to find out what is really going on in your client's life and explore information that may be critical to the case. Folks are less open on the telephone and far more cautious in e-mails.
- **Pick a point person:** Get permission to establish a secondary contact with someone who is important to your client but lacks a strong emotional connection to his or her ex-partner. If your client has substance abuse or emotional health issues, a third party who can organize the details is necessary while the litigant re-

groups, gets treatment, or falls apart. This person may be a parent, sibling, or trusted office assistant. Understand that you are often getting a filtered view of your client's life that can be clarified by periodic input from an inside observer.

- **Manage expectations:** This is difficult, but critical. Lawyers who don't provide clients with a realistic analysis of the outcome of their cases end up with unhappy clients and a poor reputation among judges and colleagues. Lawyers who fail to manage expectations for the sake of attracting business and expanding billings are an endless source of frustration. Your client will need steady reassurance and focus.
- **Pathology versus situational reactivity:** Learn to distinguish the difference between a client or opponent spouse who is pathological or mentally ill versus one who's merely anxious or depressed as the result of an ongoing conflict. This takes practice—an inherently disturbed individual can fool even the most experienced professional.

Finally, if it does go bad, don't blame yourself. Sometimes we do all we can and the client still suffers or the system fails.

Domestic litigation can be surgery with a butter knife, and practicing in this area is rife with emotional turmoil. Yet when the call comes from the client who has moved on to a happier life, savor those moments because that's what practicing in this area of law is about. In most cases, we usher folks to a better life.

Above all else, keep handy a sense of humor and maybe a sense of the absurd. I still hope my daughter chooses another area of practice but would be proud if she chooses this difficult and emotional practice with her eyes and heart wide open. After almost 30 years, the rewards still outweigh the heartache, and the people I have been privileged to represent have become my friends. ■



Candyce Ewing Abbatt is a family law practitioner concentrating in the areas of divorce—both pre- and post-judgment—and child custody. She has served as a court-appointed arbitrator and mediator in Wayne and Oakland counties. In 2007, Abbatt was nominated to the Michigan State Bar Foundation as trustee. She is a 1983 graduate of Wayne State University Law School and was the first woman president of its alumni association board.