

## Managing your dismissive and bully peers

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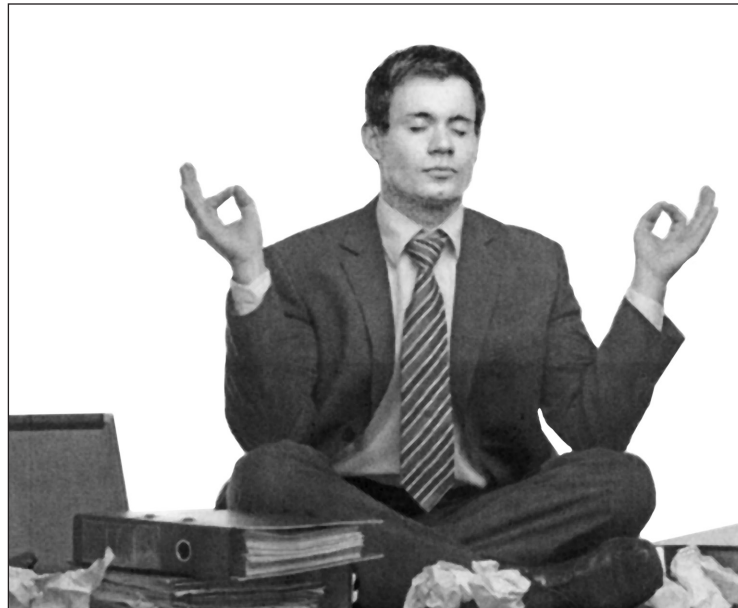
In this installment of the series on managing Dismissive and Bully attorneys, we describe additional actions that do not work or that contribute to dysfunctional relationships with opposing attorneys. It is drawn from interviews with more than 40 attorneys.

**Part 5 of a Monthly Series  
on Managing Dismissive  
& Bully Attorneys**

### Don't Reciprocate

One reason not to reciprocate in kind is that Dismissive and Bully attorneys are expert at derailing, manipulation, becoming indignant, acting super-heated, making outrageous allegations and bringing up personal issues, all for the purpose of seeing what you and your client react to and are defensive about. Reacting only draws you, and your client, into the opposing attorney's side of the game where you cannot win.

Some attorneys will sound like they don't hear or understand you. Repeatedly attempting to make your point can be frustrating, lead to an escalating argument, and waste your time. Further argument will not change who they are and they will become



more entrenched. Change your tactic and be creative. Let them know you've heard their point: "I hadn't thought about XYZ. I'll look into it, discuss it with my client and get back to you. In the meantime, I understand your position on item A, which I disagree with so let's both explore with our clients alternatives to see if we can brainstorm some solutions the next time we talk." For those attorneys accustomed to the gladiator arena this approach may sound a little too tame. However, it gets the job done when the arena does not.

Ways to manage your emotions include engaging in activities that are pleasant. Go for a walk or even strenuous exercise, listen to music, and seek out a confidant who can

help you see the funny side of the situation.

Sometimes when someone is angry and you are the brunt of their outbursts we immediately feel defensive and begin to disagree with opposing counsel. Rather than defending yourself, try listening. If you imagine that they are scared, worried, defending against their own fear of you getting the best of them — let them vent. Next try finding something truthful about their criticisms. Maybe you did take a week to respond, or you forgot to answer a question. Perhaps you have dug your heels in on an issue. Even if very small, find something to agree with them on. This diffuses some of their hostility and creates a pathway toward

solving problems. Then you can bring up issues that need to be discussed in a non-argumentative way. Additionally, remind opposing counsel that although you understand they are frustrated, which might slow down progress on the issues, it doesn't have to destroy the professional relationship the two of you are building to ultimately resolve the issue for your clients. Do not criticize the opposing attorney, Dismissive, Bully or otherwise. It will immediately downgrade communication and the relationship. Instead, blame everything on the clients and keep the communication professional. Reciprocating can make you look bad. One attorney shared that while in the judge's chambers, she heard opposing counsel tell something to the judge she thought was a lie. This angered her and she struck back by telling the judge the other attorney had not been honest. After the meeting in chambers, she felt she had made an unprofessional impression on the judge, and that both she and opposing counsel had acted like children.

# Managing your dismissive and bully peers

Not reciprocating or reacting also applies to discussions or arguments with mediators. Don't lose sight of the goal, which is usually economic success for the client. A seasoned attorney with a stellar reputation did not listen to the mediator when the mediator hammered on his client's weaknesses. Though this attorney knew his client was right and would ultimately prevail at trial, the costs of trying the case exceeded the benefits. The attorney concluded the client would have done better economically had he resolved the matter at the final numbers in mediation. Don't get so wrapped up in your client's position or the need to be right that you lose sight of the economics.

## Recovery from Reciprocation

If you do react in a negative way, here are some tools to help turn the relationship around:

- One lawyer knows she reacts to attorneys who she believes "are scummy" and who make her want to "not have anything to do with them." Her reaction can make her take an intractable position she later regrets, because the other side may perceive it has nothing to lose and take the matter to trial. Instead, she believes you have to be open to negotiation opportunities at every opportunity, especially those you create. Her best approach to stepping back from the brink is to be candid and acknowledge she has been unreasonable. She suggests, "Let's revisit this issue." This changes the relationship.

- Another attorney loses her temper and she knows this triggers a negative reaction. Before things spiral out of control she attempts to mend bridges by apologizing on the phone or in a letter. "Let me try again. It was inappropriate." This makes a huge difference. On occasion the other attorney may say, "You were wrong and so was I." Or both acknowledge they have terrible clients and agree that when the case is done they would meet for martinis or chocolates.
- One attorney deals with the opposing counsel's outrageous behavior by drafting a nasty letter that covers the complete catalog of miserable acts. Then she tears up the letter. This is a very therapeutic process. Then she writes the appropriately professional letter.

## Conclusion

If you can navigate your way through interpersonal land mines and learn how to work with challenging, even Dismissive and Bully opposing counsel, it can be a powerful career booster. Do not get drawn into their games. Keep your eye on the prize and what you are trying to accomplish in the interests of your client. If what the opposing counsel is trying to move you into does not meet your goals, don't let yourself spin out of control. Determine to win with intellectual strategies, not emotion games.

## Next Chapter

Gender based issues that lead to conflicts between attorneys.

*This series of articles is the result of extensive interviews with almost 40 attorneys in Southern California. These attorneys are primarily litigators/trial attorneys and several transactional attorneys. The group has some diversity, male, female and gay, with a range of practice experience from seven to 40-plus years with the average of approximately 25.*



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