

# IN THIS CIRCUS WE AREN'T THE CENTER RING

In the circus, there are three rings and then there is the side show. I used to think that the case that I was working on was definitely the center (most important) ring (main event) in the client's personal circus (otherwise known as their life). Then I was presented with evidence to the contrary.

Harry and I met at the other attorney's office for a settlement conference.

The plan was (I thought) to settle the case, thereby saving the clients a lot of money and anxiety. The attorney suffers anxiety too, but at least we are on the receiving end of the money.<sup>1</sup>

Harry and I went into a separate office to await meeting with his wife and her attorney. As is my habit, I usually try to relax the client with jokes or small talk. I noticed that he was wearing an ESPN sweatshirt so I said, "Who do you like in the Final Four this year?"

"The what?" he responded.

"The Final Four. The college basketball tournament. March Madness.."

"Oh, I don't follow that stuff."

"I am a little confused," I said. "You are wearing an ESPN sweatshirt. I figured that you followed sports."

"No. The sweatshirt is just a gift from my girlfriend. I knew that my wife would recognize it."

Now here we have an example of another agenda. Where I thought the plan was to settle, it seemed that my client's plan was to aggravate. When the client has been paying me a lot of money to litigate, I thought that they would want to get this crap resolved. The aggravation plan works counter to resolving. The chance of getting a concession from the wife to settle just became remote.

Episodes like this over the years have convinced me that litigation is not always

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<sup>1</sup> If the attorney is not receiving money, then the attorney is a fool and the client has no incentive to seriously settle.

the priority that clients say it is. Harry, for example hated paying my bills. But he just couldn't resist the opportunity to stick it to her. A client might drive miles out of his way in his new car, towing the new boat, with the new girlfriend, wearing a new ring, just so the soon-to-be ex can see. She then calls to her attorney and complains that child support is ridiculously low and he has more money than he is admitting.

In another case: I went to a deposition with my client. The other side was alleging that she was a tramp, to put it nicely. Party-girl insinuations masked in the vernacular, "she has priorities other than the children" were rampant in the pleadings. She came to the deposition in a very short skirt, high heels, with low cut polka-dot top,<sup>2</sup> which dovetailed beautifully with their theory, and also flaunted some assets that were no longer available to the husband. Her agenda was to stick it to him, despite the fact that it would prolong the case and increase the costs.

Maybe the resolution and even proper litigation of the case, isn't the primary objective of the client. I used to think that the legal action would be center stage in the client's life. But when the client is behaving bizarrely, it may be wise to consider whether there are other agendas. Some of these agenda's might be known to the client, but others are unconscious. When a client sabotages their case (by their words or actions) that usually means that some other psychology is at play. If you and the client are not seeing things eye to eye, then perhaps a step back and looking at the case with a wider lens is necessary. Consider what is going on outside of the litigation. Don't be afraid to direct the client to a counselor when there appears a conflict between what they say they want and what they are doing.

I will often direct highly emotional or confused clients to counselors as a precondition to taking on their representation. I usually advise them that I am not trained as a counselor and that they are not hiring me for that. Their emotional and mental needs (especially at times of crisis: such as being in the court system) would be better addressed there.

Good luck and don't be afraid to trust your gut.

-Scott Candoo

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<sup>2</sup> Never mind how I can remember the details. This article is not about me.