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By Christina Martini
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By David Susler
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Having the difficult conversations

Here is a portion of the conversation. An extended version is on video at chicagolawyer.com.

How do you deal with a bully who may be opposing counsel or someone in your office?

Tina Martini: I try to adopt the same approach for both. My attitude is to treat them with the same level of dignity and respect that I would treat anybody else. I think it's really important not to let them see you sweat and I think people sometimes get intimidated by bullies. I think the important thing in dealing with them is to not get intimidated.

One approach I've adopted, which is particularly effective over the phone, is when someone starts to get difficult, I say, "Did I catch you at a bad time?" Oftentimes they will say, "No, why?" And I'll say, "Because you don't seem to be acting like yourself and you seem to be having a bad day. I can't believe you would ordinarily act like that." It ends up being an effective approach. If nothing else, it will stop people in their tracks and they will take a step back and think, "Why is she asking these questions?" That will often work.

If it happens to be someone who is opposing counsel, what I will often say, "It's really in our best interest and in our client's best interests to get along and to reach a mutually acceptable and beneficial resolution." ... It's the better approach. Even if we have to go toe-to-toe there is no reason to be disrespectful or mean to each other.

David Susler: I just love that story. That's a great way to do it. The best way I can answer this is to give an example. When I worked for a previous employer, I inherited a large caseload and my predecessors had failed to answer discovery for a long period of time. So each time I would call to introduce myself to new opposing counsel, I was met with a barrage of

pent-up anger and threats of sanctions. Each time I would have to say, "Stop. I can't answer for my predecessors. You're dealing with me now. We can continue to yell and fight with each other every step of the way, but that's not the way I like to operate. My preference is for you and I to cooperate and save our fighting for the courtroom. How we proceed is up to you."

Almost every time from that point forward, I got along fine with opposing counsel. I think our profession is tough enough as it is. Contain the fighting to the courtroom and otherwise at least be cordial.

How do you handle a junior lawyer who isn't meeting your or your clients' needs?

Martini: Ultimately we are in a service business, so our clients will judge us based on our ability to deliver what they want and need. ... My responsibility when managing a relationship with a client and when I'm managing a matter is to figure out when the disconnect happens and where the disconnect lies.

Usually it's in one of several buckets. First, sometimes a junior attorney just doesn't understand the assignment and this is something that is usually easily addressed by sitting down, taking time out and saying, "Let's go through exactly what the assignment is again and here is some background information to help you understand the context." ... However, sometimes, it's an issue of the junior associate not having enough substantive legal knowledge in an area. So the decision tree then points me to mentoring and training that will help the associate continue on the project or it could be one of those things where I need to bring someone else in to complete the matter to keep the client satisfied.

The third bucket is when there is an attitudinal issue. Those can be really tricky and

very tough to navigate through and sometime it's a bigger picture issue that you may not have time to work through. That's something that's dealt with on a case-by-case basis. ...

Regardless of what it is, what I try to do is to work directly with the associate to address the matter and to have open communication about what the issue is and to help resolve it so the client doesn't see any of the behind-the-scenes things we are addressing. ...

Susler: In some respects, this is a bit easier for me as the client. I have a choice of either talking to the partner or directly to the associate. When possible I like to talk directly with the associate and tell him or her how to work with me.

I tell them, "Ask me questions so I can make sure you understand the issues and understand how I want you to deliver the work product back to me." I always encourage the associates to take ownership of their work, but they shouldn't pretend that they know something they don't or they have experience that they don't yet have.

If that approach doesn't work or isn't appropriate, then I will talk to the partner in charge. I always try to remember that I was a junior associate at one time. All experienced lawyers started as junior lawyers. That doesn't make us better than they are, it just makes us more experienced lawyers. It's always important to remember whichever approach one takes it's important to, No. 1, make sure to address it with someone who can do something about it; and No. 2, be constructive in the way you approach the issue. ■

David and Tina are not only lawyers who practice on different sides of the table, but they are also married to each other.

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