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What Are Friends For?

by K.C. Victor

Virtually every lawyer I know with a continuing or repeating client base considers some of those frequent or regular clients to be friends. Although not all continuing clients are personal intimates, they are at least professional intimates and often social companions. With regularly repeating clients, spouses often know each other; children may be involved.

Over several decades, I have observed a nearly constant distinction in the professional comfort level of lawyer/client relationships based upon whether the client relationship took off from a personal relationship or the personal relationship began as a client relationship. For the purposes of this column, which is about the business of law, I will only focus on the business relationship and describe the differences I have observed based upon the source of the lawyer/client bond.

To put it very simply, the lawyers and clients whose relationships begin as professional ones almost always have a better, clearer and more predictable professional relationship than the lawyers and clients whose relationship began as an outgrowth of a friendship. All long-term professional relationships will have bumps along their paths. It is, of course, best when those bumps are acknowledged, discussed and worked out. Molehills need not become mountains. When memories were first built in a professional context it is easier to acknowledge and discuss the molehill. The working relationship was, at least at the start, unfettered by personal claims and interests. It is easier to see and examine.

As a legal recruiter, I consider my daily professional experiences to be a combination of law (matching skills and practices) and psychotherapy (matching values and sometimes personalities). From that perspective over many years, I have seen two basic ways that clients and lawyers who are committed to each other work through their problems. (Of course, if the client/lawyer relationship is nascent, either side may decide to abandon the relationship without any serious attempt at working through a problem.) There are strong parallels in the basic divide of methods in working out client/lawyer professional issues and between individual and couple counseling.

With the possible exception of cognitive therapy, none of the various sorts of individual talk therapy work quickly. One of the chief reasons for this slow pace is that we all protect our own psyches and block threatening, frightening or even merely uncomfortable memories. It can sometimes take years to recall painful old memories and even longer to acknowledge our feelings about those memories. As high functioning humans (and successful lawyers are often particularly high functioning), we develop coping mechanisms that enable us to live our lives without revisiting the pains of the past. It is usually only when the pain of our present hurts enough that we may seek to uncover the past so that we can work on and get beyond our traumas. Even with caring professional assistance, that uncovering takes a lot of time.

Couples or relationship counseling is, by comparison, quite efficient. The patient is the relationship. The relationship has no subconscious or suppressed memories. Although two people may have extremely different memories of an event, unless the relationship was formed when the people were quite young, the memories are seldom repressed. What needs to be discussed is relatively on the surface.

Likewise, when a personal relationship between a lawyer and client begins as a professional relationship, discussions of professional problems, should they arise, are easier to handle. It is generally not a great challenge to anyone's psyche to have an open and forthright conversation about what is expected professionally. The goals of a lawyer and her client can be made to walk the same path because it matters little who leads the way. What matters most is the accomplishment of some professional goal. When a personal friendship follows a professional relationship, the client starts out as someone who wanted or needed that particular lawyer's skills. That lawyer was sought out for professional reasons. A client who began by believing in a particular lawyer's skills can usually be open about professional needs or disappointments.

On the other hand, when a client decides to hire a lawyer because they first were personal friends, there is more of an expectation about the lawyer being able to have the new professional relationship run smoothly without detailed discussion or instruction. This extra belief in intuition about a client's business situation is based on a false notion: that by knowing the person's character and personal proclivities, the lawyer knows the person's business attitudes and acumen.

This reliance upon personal friendship as a good basis for a working relationship can be very subtle. It can also create havoc if it is overly relied on. An assumption about knowledge of the business based upon personal knowledge is seldom on the surface. (If it was, it could be seen for what it is – a false assumption.)

Clients who choose lawyers because of a personal friendship all too often assume that because a friend has had his back in a personal context and knows what sort of actions have historically make his friend feel cared for, that he will understand without intense explanation how to care for the person's professional legal needs. When two people have been dancing the friendship dance, history and intuition will help on the professional front, but they can only go so far. Any business situation that needs a lawyer is at least somewhat complicated, and intuition in complicated business relations is insufficient to guaranty a well done job. Detailed professional communication is essential for any sophisticated professional relationship.

When things do go wrong, and in an imperfect world they eventually do, clients and lawyers who have a relationship based in friendship, feel more hesitant about bringing up disappointments or misunderstandings in business communications. The friendship may be protected at the expense of the best flow of professional information.

None of these problems are inevitable or insurmountable. They do, however, need to be watched for. At the start, when a client and lawyer want to work together because they are friends, it is

crucial to evaluate with a fair amount of objectivity whether the match is also a positive one in the business context. If there is a significant professional mismatch between friends, one would rather know it at the start than ruin a friendship.

Most importantly, if two people have good reason after careful evaluation to take a friendship and also make it a client/lawyer working relationship, it is crucial to agree that any significant professional concerns will be aired and discussed. It is possible to work through professional problems with friends, but it is harder and that should be acknowledged from the start.