



## The fallout of incivility from the victim's perspective

A call came into the OLAP offices the other day. The lawyer caller had been subjected to a series of nasty, accusatory emails and telephone calls from an opposing lawyer and had “had it.”

The immediate reason for the call to us was an email with a personal attack on his competence and a threat to contact the Law Society (with a “CC” to the Law Society on the bottom of the letter) that came the day before at 4:45 p.m.

He described that a relatively simple matter had become very litigious. He was astonished that the other lawyer then began to engage in a campaign of name calling, sarcasm, profanity and rude, offensive behaviour. The emails were a testament to the conflict, but the personal interaction was even worse. In front of both clients, at court appearances and discoveries, the other lawyer rolled his eyes, talked to him like a child or, alternatively,

aggressively; and even shrugged his shoulders and waved his hands as if to shoo our caller away – showmanship with personal fallout for our caller.

As he talked, we explored how these actions were causing the emotional reaction of anger. He described what his anger and upset felt like.

When he got an email from the other lawyer, his heart would pound as he wondered: “What now?” On reading the projectile, he would breathe shallowly, tense his shoulders, his hands would shake and he felt that he would explode. To make matters worse (if that could be possible), another email usually came less than an hour later demanding an immediate reply to the previous email with the threat that a failure to respond would be used in subsequent court proceedings followed by the ubiquitous – “Kindly govern yourself accordingly!”

This is exactly what had happened the day before. The caller described what his day had been like after that. He was distracted from his other work. The situation obsessed him to the point that he kept going over the other lawyer’s abusive actions in his mind and then reviewing and second-guessing his own position to determine whether he was, in fact, representing his own client competently.

The thinking threaded its way into everything he did that day from trying to work on other matters to eating dinner with his family. He would alternate from wanting to send a flaming email in response to an “I don’t care” attitude. However, underlying all of these feelings were fantasies of revenge, putting the other lawyer in his place and coming out on top. When he went to bed, the events continued to worm in his brain and he had a very disturbed sleep. When he woke up in the morning, he was tired, confused and at the end of his rope. He did

the right thing by calling an OLAP case manager to talk to someone who would lend him a sympathetic, understanding ear and who could offer assistance.

The obvious essence of this scenario is anger. AngerManagementTips.com ([www.angermanagementtips.com](http://www.angermanagementtips.com)) tells us that anger is a natural emotion, nature's way of telling us that something in our lives has gone haywire. It is a defensive response to a perceived attack or threat to our well-being. These are the psychological changes we undergo.

There are physiological changes as well. Your adrenaline flows, your heart rate increases and your blood pressure escalates. Long-term anger has been linked to chronic headaches, sleep disorders, digestive problems, high blood pressure and even heart attacks.

Aristotle said: "Anybody can become angry – that is easy; but to become angry with the right person, and to the right degree, and at the right time, and for the right purpose, and in the right way – that is not within everybody's power and is not easy." Our caller truly displayed the truth of those words!

### Tips to manage how you react

To try to manage your anger in the face of incivility, I offer a few tips. Not all of them are easy to put into practice. Some may seem trite.

However, when you are aware that you are **reacting** instead of **responding** to another lawyer's actions, maybe you can mine something from the following:

**1 Put your anger on hold** – Reacting with anger to anger merely escalates the situation. The other lawyer gets what he wants from you – an out-of-control reaction that may lead to your less-than-well-thought-out reply to his or her attacks. As Eugene Meehan, Q.C., past-president of the Canadian Bar Association, has written on numerous occasions: "Never wrestle with a pig – you'll only get dirty; AND the pig likes it!" See Eugene's article titled, "Civility as a Strategy in Litigation: Using it as a Tactical

Tool" ([www.eugenemeehan.com/default\\_e.asp?id=76](http://www.eugenemeehan.com/default_e.asp?id=76)).

So, pick your battle, the time to engage it, and do it deliberately with objective argument. Do not take the bait to fight right away. Take some time to reflect, put your emotions on hold, and then think of the right steps to properly and effectively represent your client's interests.

**2 Call a friend, colleague, mentor or peer support person** – Our caller did the right thing. After taking time, he needed more help so he called OLAP. If you have someone you trust, ask them to listen to you objectively, help you gain perspective and maybe even develop a strategy to handle your anger, call them to debrief. You will reap great rewards. This does not mean turning over the problem to someone else. It does mean you need to own your own emotions and deal with them. A practice mentor can share with you his or her own experiences in how he or she managed her anger and uncivil lawyers. If you feel you are not able to represent your client effectively, transfer the file to another lawyer – with a big red flag about the other lawyer's uncivil behaviour.

**3 Change your environment** – Physically do something to deal with the physiological fallout of your anger. Go for a walk, run or exercise. Eat a good meal, drink lots of water to refresh your body to help you deal with the stress.

Emotionally, take some quiet time with your private passion – reading, working with wood, spending time with family, sailing or whatever activity gives you balance. Try some "quiet time" with meditation, yoga or reading self-affirmations. Pray, if you do that. Consider saying the Serenity Prayer during stressful times: "God, grant me the serenity to accept the things I cannot change, courage to change the things I can, and the wisdom to know the difference."

If you are not the quiet type, crank up the stereo, play air guitar or put on your favourite movie and simply escape.

**4 Recognize the triggers to your anger** – The cause of your anger will be rooted in your beliefs. For lawyers, one belief may be that we are being accused of incompetence. This can lead to a series of negative thoughts: being sued, discipline, losing clients, losing your practice, losing your home, and so on. These are unproductive and damaging patterns that lead to increased anxiety that may result in the inability to perform.

Each one of us will have our own root cause or belief that causes us to get angry, defensive and react. However, the cause will be triggered by internal and external triggers.

Internal triggers can include: becoming overwhelmed by exceeding the level of frustration you can tolerate; unreasonable expectations from yourself, others or life in general; and, comparing or judging yourself and others.

External triggers can be: personal attacks against you verbally or in writing; your position being attacked, ridiculed or ignored; and physical or emotional states including fatigue, addictions or mental wellness issues.

The difference between appropriate and inappropriate reactions and responses to another lawyer acting in an uncivil manner towards you determines your resilience and professionalism. LAWPRO will tell you that many claims are the result of a lack of communication between lawyers with clients or with other lawyers. To avoid a claim, try the tips above or whatever works for you.

Remember that free confidential help is available 24 hours a day, seven days a week with peer support and counselling through the Ontario Lawyers Assistance Program. The case managers are lawyers who understand the pressures of practising law and can refer you to appropriate sources for help.

OLAP's telephone number is 1-877-576-6227. The website has many other resources at [www.olap.ca](http://www.olap.ca). ■

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