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Aspen Law & Business

We Are All Uncivil in Our Own Way

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Over the years, I have heard many complaints from lawyers about "what we do to each other." Most complain that young lawyers are the problem because they don't know how "we do things." I have heard this before, and there probably is a need for more law school and young lawyer indoctrination. But, to tell you the truth, most of my trouble is with older lawyers, and not necessarily lawyers you would expect. It's with *you and me*, depending on the circumstances.

Here's who we are. (By the way, I am one of these people below, and I'll buy lunch for the first person who writes me and tells me which one I am.) Which one are you?

1. Bam Bam

This is the baby lawyer with her new, big stick, the young lawyer aggressively trying to make a name for herself. She operates under the assumption that litigation is like a boxing match, and your objective is to knock the other lawyer's head off. She thinks it's fun.

2. The Adolescent

This lawyer, with about 10 years' experience, is just coming into his own and feeling his power. He wants people to know that he has

arrived and is a force to be reckoned with. He knows what to do and understands the force he has at his disposal. The problem is, he is like a teenager, possessing the strength and attributes of an adult but not the experience.

3. The Advocate

This lawyer believes the client is boss. She operates under the philosophy that people are paying her to be an S.O.B. She believes the client is king and that she has the right to aggressive advocacy of her position, no matter what. This lawyer does not believe it is her place to try and counsel her client on the long-term consequences of her actions or on the "right thing to do." This lawyer will assist a client in not paying child support.

4. Rambo

This is the lawyer with personal problems. He has anger in his heart from personal history. He does not know how to control his anger, so he uses it in the attempt to control results. Unfortunately, these lawyers are usually very smart and cunning.

5. Albert Einstein

(This is not me.) This is the good—usually very intelligent—

lawyer who has little patience for what she regards as the inadequacies of the rest of us. She is going to teach the other lawyer a lesson. If the other lawyer doesn't promptly return her excellency's telephone call, she will strike, to teach a lesson. If the other lawyer should dare to disagree with Einstein's decree as to the law in the case, the intellectual lawyer will penalize her opponent.

6. Oscar

This is the sloppy lawyer. He does not have the training, ability, or interest required to organize his office. He has work—sometimes a lot of it—and believes that he is in the practice of law to help people, but he is not particularly intense about it. He doesn't charge a lot and takes on little "causes." Unfortunately, he doesn't earn enough for his efforts to have the staff necessary to meet his volume of business. He finds himself in court all the time litigating. He usually believes the client is king, but not in the truly dangerous way of the Advocate. Because of his disorganization, he doesn't return phone calls, misses depositions, and files things without thinking. He really doesn't intend to be uncivil, but that's how it feels when you are on the other end of it.

7. The White Knight

This lawyer takes her client's causes personally and is on a mission to rescue her client. She is generally a good lawyer who thinks she is civil, but sometimes her rescue mission obscures her objectivity. She has a tendency to attack with righteousness.

8. The Southern Gentleman

This lawyer thinks that as long as he is a complete gentleman, he can do just about what he wants. He is so darn nice that the judges love him. When you are on the other side from him, you find yourself "pulling punches" because you don't want to be uncivil to him, but when you do that, you are caught in his web. He will lead you to believe time after time that he is going to work with you, so you pull back, but the true cooperation you

thought you were going to get never comes. The Southern Gentleman also has the capacity to court you like an old pal and then stick you right in the heart at the most unexpected time.

9. El Destructo

This is the bad lawyer who simply doesn't know what she is doing. Because she doesn't, she usually causes a lot of damage, even though she is not winning. She is like the Chicago Bears of the late 1960s: She may not beat you, but when you are through with the game, half your team is injured. Unfortunately, El Destructo has a lot of the qualities of Rambo, but not the skill.

A Lot of Work to Do

Civility starts with common courtesy. The simplest example is calling the other lawyer before

scheduling depositions or hearings. Unfortunately, lawyers as a group have a lot of work to do on this. But there are many kinds of incivility that occur just because of who we are. Each of us, no matter how good a lawyer we are, or how well intentioned, has the capacity to act in ways that put the other lawyer on guard to our incivility. We should examine who we are and understand how we, too, can be uncivil.

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