
Law Students Humanizing “Thinking like a Lawyer” “What would your mother say?” A Mediator/Educator’s Perspective

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Which values and skill sets will best serve us as mediators and perhaps more generally as lawyers? Where do we learn them? Several years ago I wrote an article entitled “Mediator Role Models.”² It was a chance to relate lessons learned from my parents and other special people in my life to my serving as a mediator. For the last several years I have asked law students in my advanced mediation class at University of Detroit Mercy School of Law to write a paper highlighting peacemaking and mediation skills they have learned from observing important people in their lives. My not so subtle reminder to these students is that thinking like a mediator is so much more than matching a set of facts to a bunch of laws. These lessons apply just as significantly to our broader role as attorneys and counselors.

One student wrote, “I probably should take such qualities (peacemaking) and learn from others, but all too often I find myself continuing the pattern of confrontation and conflict.” Some aspects of law school only provide tools for confrontation; I hope that these following lessons from the students’ personal role models are at least equally valued. It should be understood that these tools of cooperation, caring and peacemaking will define a crucial part of a worthwhile legal career.³ We can all choose our paths.

One reason to teach as an adjunct is to learn and I thank the students who have taught me and reminded me of the reasons I love being a lawyer.⁴ The following are snippets of wisdom taken from the students’ mediation role model papers.

MOTHER

“My mom always told me that when you don’t allow yourself to really understand the other person in the conversation, you will just hear based on your own thoughts and not what they are really saying.”

“She taught us that when you treat people like individuals and respect them for their personal attitudes and beliefs which might be different from your own,

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you can solve almost any type of problem, because people are always willing to solve a problem if they know they are being heard.”

“...she would emphasize the importance of actually having that conversation and not just letting something go or trying to avoid it because she felt that doing this was not a successful way of solving the problem, it just masked it.”

“It usually takes her caring and listening to get us to talk to each other again... I love that you can tell her anything and you can trust that she will only reveal what it is that you want her to reveal.”

“She simply guides the situation so that everyone can feel good about themselves...I never felt as if my mother picked a side or that the result was unfair...she always tries to get us to smile.”

“She has this knack for looking past the words that are used to the underlying message...she is very aware that a problem is rarely one person’s fault, and forces you to look at the situation critically to see how everyone may have contributed.”

FATHER

“...my father never over-reacts, and often puts things quickly in perspective...never loses his cool...handles things compassionately and calmly.”

“(Dad and Mom helping neighbors)... My parents would offer the neighbors something to eat and drink to make them feel at ease... most of the time was spent with my parents listening...”

“The ‘why,’ ‘what,’ and ‘how,’ questions were always annoying when my dad got in the middle of disputes between my sisters and me, but they were effective. ‘What are you fighting about?’ ‘How did this start?’ ‘Why?’ ‘How can you fix this?’ This approach was much more effective than when he would say ‘stop fighting.’ It made us think about each other’s side and point of view, and more importantly, it made my sister and I come up with a mutual resolution to our problem.”

“My father follows the motto, ‘In order to disagree, one has to understand. If one doesn’t understand how can one say they disagree?’ People have asked him how are you able to be peaceful in a time of turmoil. I have come to realize that a great way to inspire is to lead by example.”

“My dad (police officer, coach) is also incredibly flexible...He doesn’t get frustrated if a situation doesn’t go exactly as planned. In one of those situations my dad is right there suggesting something different.”

“...my father is extremely patient, he always lets the other person tell their side of the story first, he takes time before he approaches a difficult conversation, and he refuses to compete with someone who is yelling at him, or out of control...more importantly he tends to increase his patience as the other person loses theirs. He allows the other person to speak first, so that the other side feels satisfied that they have at least told their side of the story. This makes the other person listen attentively rather than mentally prepare how they will tell their side of the story.”

“He would force me to take responsibility for my actions and feel comfortable with the decisions that I had to make. Being able to look at things from another perspective made my life more peaceful. He used common sense and simplicity.”

GRANDMOTHER

“I believe people consistently come to her for a number of reasons. First, they know that she will always make time to listen. Second, she appreciates everyone’s concerns. She listens and carefully makes sure to verbally recognize their point of view. I have also never heard her take sides, whether or not she is in the presence of the disputing individuals. Therefore, people trust her and they are open to her thoughts and ideas. Taken together these characteristics make people around her feel safe...”

“She listens with all eyes on me. She never seems disinterested, she is always engaged in the conversation... being in her presence is always peaceful because she is so positive.”

“She very quietly and patiently listened to me while I vented my side of the story. Then, instead of taking a side or lecturing me on what I did wrong, she counseled me with patience. She paraphrased my mother’s side of the story and asked me if I could understand where she was coming from. She also explained to me her feelings on the importance of family; there will be disputes here and there but it is important to look past these and work at maintaining good relationships, because this is what matters in the end.”

GRANDFATHER

“...he listens, he is respectful and he never passes judgment on people.”

“...he asks questions that make you think he really wants to know what you are talking about.”

“...he understands that human emotions cause people to do things that aren’t always right, and he would never make someone feel bad about it.”

“He would only give advice on how to remedy a situation if the person asked for it.”

“For my grandfather, who was elected the village official (village in Macedonia)...respect was his number one rule; he not only gave it, but expected it in return from everyone...he spoke in a very quiet, low voice. When someone was trying to push his buttons or got angry, he would slow down the speed of his voice and talk even quieter so that the person would have to stop talking and listen carefully...by talking in his quiet voice and acknowledging each party with kind words and anecdotes that would help them feel

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understood...if someone wanted to yell or be verbally abusive towards another person, my grandfather would simply ask, 'What would your mother think if she were here to see you behaving this way?'

BROTHER/SISTER

“(brother, after engaged in a deep conversation with a homeless man), you can learn something from every person you encounter; all it takes is seizing the opportunity to connect with that person (on some level)... People are the most valuable asset on this earth and there is a wealth of knowledge within them that can be unlocked with the simplest, purest form of acceptance and tolerance.”

“(sister)... when you are talking with someone who you know is not tallying marks as you speak it opens up possibilities to discuss anything.”

“(sister)...has a desire to learn about other people's lives and what makes each person unique...she asks open ended questions...I can tell that she has been listening to every word that I have said...she brings calmness to even the most stressful situations...”

RELATIVES

“My cousin...is a person who brings peace into the room. She is so full of energy and enthusiasm, very outgoing and always polite. It seems to me that people flock to her because of her positive attitude...when she talks to someone they can feel this positive attitude and it is contagious...she gives me undivided attention through eye contact, listening only to me and no distractive behavior.. She makes people feel comfortable.”

“(Uncle)...cool head and an open ear...approached every situation with a sense of calmness... (sibling dispute)...my uncle listens to each side of our story...his focus is on the big scheme of things...he will throw out possible solutions...the first thing that helps facilitate a solution is the trust factor that both my brother and I have in my uncle...”

“(great uncle-attorney)...his calm, understanding behavior had a bigger impact on our family than we ever imagined...such a quiet, humble man... (Courts closed for funeral) showed that being personable and courteous is far more important in the law...for being a man of incredible intellect, he used active listening skills and always maintained a respectful tone with friends and family alike.”

SPOUSE

“My wife has the uncanny ability to be a good attentive listener. She seems to always know when a person needs to vent and when they are actually seeking advice or guidance. Even when we have our disagreements or I am upset she knows just when to listen and when to give advice.”

“...to possess a nonjudgmental character like my husband, allows individuals to trust you and feel comfortable telling you their whole story without leaving out parts of the situation which might make them feel embarrassed...My husband always allows people to complete their stories without appearing frustrated...”

FRIEND

“I learned from...that the world is not limited to two mutually exclusive choices.”

“... Has helped me understand that sometimes it's no one's fault.”

“...what is important is to focus on the good in the relationship and in the person.”

“...he is always able to see life on the other side of the conflict, often its resolution.”

“He is great to talk to about my disputes with others because he is willing to risk stepping on my toes to open my eyes to my own contribution to a dispute.”

“(Neighbor) He listens without judging, lets me talk as much as I want, I know that he is actively listening and engaged in what I have to say. Sometimes he comes up with possible solutions, but mostly he just listens.

“(girl friend) She rarely interrupts, instead having the speaking party finish completely their thoughts before she offers up her advice...is never one to jump to conclusions...no matter how tough the question she asks, you feel comfortable because you know the only reason she is pressuring you is because she has your best interest in mind.”

“(Fiancé) I may rant and rave and get angry or upset, but he stays calm and balanced. In turn, he calms me down...”

MENTORS

“(supervisor)...after she had given us a chance to speak and rephrased each of our stories in her own words, I felt a sense of relief—she actually heard what I was saying...she always treated everyone equally and with respect...”

“(manager) keeping a calm, consistently optimistic tone was key.”

“(Minister) by establishing a rapport with each parishioner and by working with each person to identify a way to participate in the function of the church...was fostering an atmosphere of cooperation and peace.”

“(Judge) He does an excellent job of focusing 100% of his attention on what you are telling him. His response is often crafted with a question that could only be asked if someone was truly listening.”

“Enthusiasm was his gift. He had a way of expressing his interest in every word we said, every emotion expressed, and every fear in our hearts. He was also showing us how to be excellent active listeners. His attention was focused entirely on what we were saying.”

“(Rabbi) I have never seen him interrupt someone...he will sit with patience, listen and nod his head to indicate he is paying attention. His stories have such an impact on people because they can relate to them. After listening and thinking about a story rabbi has shared, I have often found myself thinking, 'if this could happen in the story with those people, then I can make changes to harness those attributes in my life.'”

FINAL THOUGHTS

There are promising movements within legal education and the legal community referred to as: Therapeutic Jurisprudence, Comprehensive Law, Collaborative Law and Humanizing Legal Education which all broaden the meaning of the phrase “Thinking like a Lawyer” to include increasing the value of restoring people to society and to healing relationships.⁵ Taking time to reflect and honor the lessons we have learned in: listening, caring, patience, calmness, optimism and respect can only make us better lawyers and mediators. “Thinking like a Lawyer” in addition to recognizing the importance of law and facts, should also and perhaps most importantly mean bringing the lessons we have learned from our role models to the forefront of our mediating and law practices.⁶ ❄️

(Endnotes)

- 1 Martin I. Reisig, Birmingham, Michigan, is a full time mediator and frequent arbitrator. He is also an Adjunct Professor of advanced mediation /mediation clinic at The University of Detroit Mercy School of Law. He is past chairman of the Oakland County Bar Association ADR committee and a past president of the Oakland Mediation Center. Prior to focusing on mediation he had an extensive trial practice. Further mediation articles are available at www.reisigmediation.com. Marty was interviewed at the 2008 conference of the International Alliance of Holistic Lawyers, see www.youtube.com Marty Reisig. This article was prepared for the Oakland County Bar Association May 2010 issue of *Laches* and a longer form appeared on www.cuttingedge.com
 - 2 Reisig “Mediator Role Models,” *Laches*, Oakland County Bar Association, November 2003, Alternative Dispute Resolution Issue
 - 3 For a further review of ADR programs in law schools and the Mediation program at University of Detroit Mercy School of Law see Professor C. Michael Bryce, “ADR Education From A Litigator/Educator Perspective,” *St. John’s Law Review*, Volume 81, Winter 2007, Number1
 - 4 Special thanks to my students at the University of Detroit Mercy School of Law who have been so open to learning new skills, remembering and valuing peacemaking lessons learned from family and friends and giving to the community through their volunteering at the Wayne County Mediation Center, The Resolution Center of Macomb County and the Oakland Mediation Center. Also special thanks to these Community Dispute Resolution Centers for all they have contributed to the education of these students.
 - 5 Leading advocates for modifying “Thinking like a lawyer” include: David B. Wexler, *Rehabilitating Lawyers: Principles of Therapeutic Jurisprudence for Criminal Law Practice* (2008), Bruce J. Winock, David B. Wexler, Dennis Stolle, *Practicing Therapeutic Jurisprudence: Law As A Helping Profession* (2000), Susan Daicoff, *Lawyer Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses* (2004), Steven Keeva, *Transforming Practices: Finding Joy and Satisfaction in the Legal Life* (2002), Daniel Bowling, David A. Hoffman, *Bringing Peace Into The Room* (2003), Lawrence S. Krieger, “The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity, and Happiness,” 11 *Clinical Law Review* 425 (2005), Kim Wright www.cuttingedge.com, the International Alliance of Holistic Lawyers, www.iah.org and David B. Wexler, International Network on Therapeutic Jurisprudence, www.law.arizona.edu/depts/upr-intj/
 - 6 The 2007 Carnegie Foundation study by William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S. Shulman, “Educating Lawyers—Preparation for the Profession of Law,” fully recognized the need to train lawyers to be fully dimensional and open to the messiness and complexity of life, not solely sterile fact gatherers and masters of legal arguments.
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