Applying Emotional Intelligence to Your Negotiation Style
presented February 22, 2012 to
the Solo / Small Firm Practice Committee of
the Cincinnati Bar Association
by
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Counseling the Client With Character Pathology

By Douglas Mossman, M.D.

Most attorneys I know occasionally deal with clients who won’t accept good settlement offers, won’t accept generous plea offers, or stubbornly insist on “fighting” when they have no hope of prevailing. These clients don’t behave bizarrely or say things that sound overtly “crazy,” but they take positions that seem irrational. Worse, they get upset — even enraged — when their lawyers offer well-meaning recommendations or advice. How can you deal with a client who poses these kinds of challenges? Here are some ways to understand challenging clients you may face.

When people speak coherently, act normally, but repeatedly react badly in interpersonal encounters, psychiatrists wonder whether they are witnessing character pathology. Character pathology leads to problems more subtle than the gross behavioral and thinking disturbances caused by syndromes like alcohol intoxication, manic-depressive illness, or schizophrenia.

For the most part, people with character problems recognize reality, aren’t delusional, and don’t hallucinate. Rather, these persons repeatedly treat others in self-defeating, self-denigrating, or counterproductive ways. As a result, they alienate others, experience great distress, or function poorly at work. Yet they don’t think what they’re doing wrong, because how they treat others seems natural to them. Instead, people with character problems blame others or circumstances for their difficulties.

Certain kinds of character pathology fit patterns called “personality disorders,” which are long-term patterns of experience and behavior that deviate markedly from expectations of an individual’s culture. Stressful circumstances — such as dealing with legal problems — can often bring out and intensify maladaptive personality traits, even among people who usually function quite well and treat others decently. Here, I’ll describe two common types of personality problems that cause trouble in lots of interpersonal relationships: narcissistic pathology and borderline pathology.

Narcissistic Pathology
The American Psychiatric Association’s diagnostic manual defines narcissistic personality disorder as “a pervasive pattern of grandiosity, need for admiration, and lack of empathy.” Individuals who qualify for this diagnosis persistently display at least five of these nine traits, adapted from the American Psychiatric Association:

- Greatly inflated self-importance
- Absorbed with fantasies of being exceptional
- Regards self as “special,” privileged or superior
- Needs excessive praise or admiration
- Feels entitled to favorable treatment
- Exploits others
- Cannot recognize others’ feelings
- Envy
- Haughty, arrogant

A century ago, Sigmund Freud theorized that all infants experience “primary narcissism” and begin life assuming
they are the center of the universe. As babies encounter life’s realities, however, they learn that they do not control everything, and they become emotionally attached to parents rather than just themselves. If the maturing process goes well enough, children develop into adults who have realistic senses of themselves plus ideals and values that they aspire to. If things go poorly, though, people get “stuck”: their self-esteem depends on getting continuous approval of others, and they cannot tolerate their own flaws or weaknesses. Some interpersonal consequences of this developmental outcome include:

Intense, short relationships with others
Difficulty sustaining intimate relationships
Evaluating other persons mainly for their usefulness
Need to be the center of attention
Hypersensitivity to (even mild) criticism
Preoccupation with “image”

Sometimes, lots of narcissism is useful — for example, when doing things (like being a fighter pilot) where boldness and invincibility help avert fears and feelings of being overwhelmed. But excessive narcissism is often a liability in working with others. People with narcissistic pathology can’t empathize and don’t care about others whom they don’t need. They’re exploitative, entitled and constantly looking for attention — hardly a recipe for forming good interpersonal relationships.

Often, the most evident (and difficult) characteristic of narcissists is their response to setbacks, disagreement, or criticism. Statements that they experience as negative — mild rebukes, constructive suggestions, offers to help — make them feel weak, sick, ignorant, stupid, inept, humiliated and empty. They react by lashing out at those whose statements or actions have made them feel like this with disdain, devaluation, rage, and defiance.

Coping with Narcissistic Pathology

A narcissistic person’s spiteful actions and mean statements are efforts to avoid feeling ashamed and flawed. Keeping this in mind helps psychiatrists (and may help attorneys) feel less angry, maintain self-control, and focus discussions on problem-solving.

When they feel injured, narcissists have trouble calming down and feeling less threatened. So it’s best to avoid “injuring” them, if possible. To preserve and sustain a relationship with a narcissistic person:

Avoid criticizing or disagreeing
Provide ample (but legitimate) praise, compliments, and validation
Avoid unsolicited advice
When asked explicitly for advice, couch it in terms that help the narcissist feel he discovered it himself

Because of their exquisite propensity to feel ashamed, it’s tough to negotiate with narcissistic people. They cannot acknowledge others’ positions, and they hear requests to “be reasonable” as criticisms or humiliating demands — which just angers them more. “Winning” is very important to narcissists, so they put a lot effort into doing so (or at least feeling like they have). Some of these traits include:
Unwillingness to change
Inability to see any other perspective
Aggressive reactions (rage)

Negotiation with narcissists stands the best chance of reaching a workable conclusion if the other party states matters neutrally, stick to facts, avoids characterizing the narcissist’s behavior, and resists the (very strong) temptation to respond to insults with verbal retaliation. If you must disagree, just state what you’re going to do and don’t argue about it. Here is an example, involving a doctor talking to an enraged narcissistic patient in a hospital.

Doctor: Right now, I can’t communicate with you because you are yelling, so I’m going to take a break and come back in 10 minutes.

Patient: That just proves you don’t care how I feel!

Doctor: I’ll be back in 10 minutes [doctor leaves].

Borderline Pathology
The term “borderline” comes from older psychiatric theories about people who function on the edge of reality. As psychiatrists now use the phrase, borderline pathology refers to chronic emptiness and intense fear of abandonment. These “inner” problems manifest themselves outwardly as severe instability in mood, thinking, and personal relations. Some signs of borderline pathology include:

- Needing constant attention
- Making unreasonable demands
- Hypersensitivity to any hint of rejection
- Intense, unstable personal relationships
- Many crises that actually are frantic efforts to avoid feeling alone
- Rapid mood swings and intense rage over minor things
- Self-damaging actions: reckless driving, or abusing alcohol and drugs

Attorney and clinical social worker William Eddy thinks individuals with borderline pathology show up in significant numbers in criminal cases and civil litigation. They use “the court system to punish those perceived to have abandoned them, seeking validation for their distorted thoughts, manipulating professionals, splitting those close to them into allies or enemies, and presenting themselves as very charming and at times seductive.”

Everyone uses various psychological defense mechanisms, which are unconscious strategies for coping with stress and maintaining positive images of ourselves. Healthy adults use mature defenses — humor, altruism, and temporarily suppressing emotions — to maintain good relationships and enjoy life. Adults with borderline pathology use “primitive” or immature defenses that are typical of children and that are not as flexible or adaptive. Some examples of these defenses include:

- **Denial:** ignoring upsetting but important facts
- **Devaluing:** contemptuously belittling and dismissing people who do things that cause discomfort
- **Omnipotence:** exaggerating one’s own power to avert feelings of weakness
- **Projection:** attributing one’s own troubling feelings to others

Psychiatrists use the concept of transference — the unconscious attribution to others of feelings and attitudes originally associated with important figures early in one’s life (e.g., parents) — when working with persons who have borderline pathology. Transference arises everywhere but intensifies in close relationships — like those between attorney and client.

During intense transferences, others’ experience of us derives, for the most part, from their past. What this means is that when dealing with people who display borderline pathology, we should not take their negative feelings and responses personally. It’s important, though, to recognize honestly the intense rage that people with borderline pathology sometimes generate in us. Paradoxically, clear awareness of our own angry feelings helps us to resist our counterproductive desire to retaliate verbally. This lets us respond to borderline pathology constructively, with the goal of solving problems.

### Coping with Borderline Pathology

Many types of professionals can anticipate having clients who display borderline traits and create turmoil. When this happens, it’s critical to maintain one’s professional attitude. Some examples follow, and more examples appear at the referenced website:

1. Be helpful, but don’t violate professional boundaries. We often feel tempted to “bend the rules” for people who sound especially vulnerable and needy, but doing this can lead to ethical problems. Warning signs: doing unusual favors, like driving the client home, and feeling (or getting) emotionally involved.

2. Avoid overt, direct anger. Overt anger may be useful among mature adults. For persons with borderline pathology, however, anger activates automatic, unconscious cognitive distortions, creates agitation, and intensifies their frantic, irrational efforts to avoid being abandoned.

3. Don’t personalize, directly attack, or criticize behavior, even behavior that seems self-sabotaging or highly counterproductive. For example, instead of saying, “You’re wrong” or “you’re making false statements,” focusing on consequences might be better: “Your action may be misinterpreted” or “may hurt you in the eyes of
our particular judge.” By focusing on the law, court processes, or evidentiary admissibility, the client (hopefully) will see that you’re pointing to a problem that lies outside your relationship, rather than as a problem (or a threat) within your relationship.

4. Don’t believe every story about other parties. Remember that when under stress, people with borderline pathology are prone to huge distortions. Without directly challenging their claims (which they may hear as your threat to abandon them), you can ask, “Is it possible there’s been some miscommunication? Let’s try to gather more information before we decide what course of action we should take.”

For More Information
In a course called “It’s All Your Fault!” — Working With High Conflict Personalities (developed for therapists who treat litigants) William Eddy offers lots of suggestions that might also help attorneys who handle these clients’ cases. You can access the course at www.continuingedcourses.net/active/courses/courses009.php.

Attorneys who would like more information about working with difficult clients may want to look at books on the topic such as Eddy’s High Conflict People in Legal Disputes (2006).

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2 Adapted from Drew Pinsky and Mark Young, The Mirror Effect: How Celebrity Narcissism is Seducing America (2009)
5 www.continuingedcourses.net/active/courses/course009.php.
Characteristics of the Narcissistic Personality

Inflated self-importance

Regards self as special, superior, exceptional

Needs excessive praise, admiration

Feels entitled to favored treatment

Cannot recognize others feelings, exploits others

Haughty, arrogant

Suggested Protocol for Working With Narcissistic Personality

Avoid criticizing or disagreeing

Provide ample (but legitimate) praise, compliments and validation

Avoid giving unsolicited advice

When asked specifically for advice, couch it in terms that help the NP feel he discovered it himself

State matters neutrally, stick to the facts

Avoid characterizing NP behavior

If going to disagree, state what you are going to do, don’t argue
Some open-ended respectful questions:

How are you doing?

I want to be sure I understand your point of view (and do not criticize the merit of it, but rather acknowledge the “merit” of the reasoning, understanding need not suggest agreement.)

I can’t know how you are feeling but I know how I would feel were I in your shoes.

Are there ways in which you think I don’t understand your perspective?

Help me understand where you are coming from.

What do you see as the realities you are facing?
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