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Choose the right approach, then adjust

Every attorney has his or her own approach to situations and dealing with other attorneys; I understand that.

There are bulldogs, salesmen, poker players, slash-and-burners, intellectuals and the methodological.

I often hear of other attorneys being referred to as being this or that.

Many times, that perception grows over time. Sometimes it is earned, and sometimes it is not.

One of my clients once referred to me as a “bulldog” — a characterization that surprised me.

Sure, I can be aggressive and fiery when called for, but I generally think of myself as fairly even-keeled and tame, both personally and professionally.

Granted, self-perception often differs from how other people view you.

While I was flattered that the client was happy with the result of my work (presuming, of course, he meant the bulldog terminology was a compliment), I reflected on my actions in that case and my general approach to practicing law to see if I was indeed a bulldog. I don't think that I am.

Well, at least not all of the time. Rather, I strive to understand and adapt to what the situation calls for.

Every situation, no matter how routine, has its own unique variables.

Therefore, not every situation calls for the same approach.

Aggressively arguing for a default judgment against an

elderly and destitute pro se litigant, for example, would not garner a positive response in front of a judge.

Likewise, taking an overly deferential position against a hard-hitting experienced litigator might leave you, and your client, flat on your backs.

Each of those situations requires a thoughtful approach.

Even then, remaining flexible and ready to react to each situation is essential to dealing with the dynamics of any matter.

In most situations, I prefer starting low on the scale.

I go back to my police training on this point.

Like the practice of law, as police recruits, we trained for human interaction in often intense and emotional situations.

While some might argue that attorneys often fail to meet the definition of “human” in the general sense, the same basic principles apply.

We were taught to quickly read and assess situations coming in.

Our jobs were to calm and control chaotic situations. It is human nature to treat hostility with hostility. The resulting

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DUE DILIGENCE



**FRANCISCO
E. CONNELL**

Francisco E. Connell is a principal at Chuhak & Tecson P.C. who focuses his practice on transactional matters and litigation for commercial and banking clients. Connell advises business owners on all types of legal issues, from entity formation to real estate acquisitions to succession planning, and represents lenders in bankruptcy, creditors' rights cases and complex commercial workouts. Prior to earning his law degree, he served as a Chicago police officer for almost 10 years.

situation is often poisonous.

In most cases, however, the general approach was to start low; you can always move up the scale.

On the other hand, moving down the scale is difficult. Once you initiate with animosity, you can expect animosity in return.

From there, it is difficult to go back. Even if you do, trust and respect are often unnecessarily damaged.

You can always escalate if the situation calls for it. However, getting the desired result in the most efficient manner is, in any case, the best scenario.

While I believe starting out at a lower level on the scale is advisable, I have been known to breathe fire both in and out of court.

I have been asked to leave meetings due to an unscripted outburst.

Judges have advised me on more than one occasion that they had “heard enough” from me in oral arguments.

I have hung up the phone in disgust, and I have been hung up on. In my mind, I have sometimes gone beyond the “pleasant” stage of interaction; those situations required a strong reaction on my part.

I could have been wrong in those situations and I don't know that my reaction necessarily helped my or my client's cause.

Nevertheless, I felt I had reached the point where an aggressive and even emotional stance was necessary.

These specific incidents also help form a professional perception that can aid you in future interactions. I hope to generally be perceived as a stand-up, approachable guy, but that I hit hard when the gloves come off.

While I try to avoid getting most of my real-world advice from fictional advertising characters, I blindly follow Dos Equis' Most Interesting Man in the World.

One of his many lauded characteristics illustrates how I would like to be perceived by other attorneys: “He's a lover, not a fighter. But, he's also a fighter, so don't get any ideas.”

It should always be your approach to be respectable and kind, even in the bloodiest of battles.

Your professionalism will be appreciated by clients and foes alike, and you'll be more productive in both the short and long runs.