

New Year's Intentions- Treating Each Other with Civility and Respect
By Mari J. Frank, Esq.

“Can’t we all just get along?”

For those of us who litigate, mediate and arbitrate or preside over court cases, our profession puts us in the midst of conflict on a daily basis. We deal with angry clients, aggressive attorneys, overworked court staff, and others who have caught the anger bug—hostility is contagious if we don’t inoculate ourselves.

Opposing counsel may appear to take on his/her clients’ antagonism and dump it on you or your client. Lawyering is not for the fainthearted. For us to survive or at the least prevent ulcers or heart attacks and relieve great stress, we need to take effective precautions and stay conscious about how we are feeling, reacting and communicating. Lawyer civility towards each other has been addressed in court rules and discussed at length on many of my list serve groups. The January 2013 issue of the American Bar Association Journal addressed attorney civility on its magazine cover. There is a picture of two male attorneys standing face to face in an adversarial stance with their neckties tied to each other; the cover title is “Keeping it Civil”. The article is called “You’re Out of Order!: Dealing with the Costs of Incivility in the Legal Profession,” addresses the escalating concerns with lawyer discourtesy. Astoundingly, several state Supreme courts have had to issue opinions that are strictly based on lawyer rudeness.

Lawyers are not the only ones who are disrespectful. All of us have had difficult clients who are extremely offensive. People in disputes are frustrated, resentful and antagonistic—that’s to be expected. So given that upfront, what are some tips for the New Year so we can avoid absorbing the animosity? As a mediator, I often work with the antipathy of all parties toward each other. Here are some of the approaches that help me to stay calm in the eye of the storm:

1. Before phoning or meeting with a *prickly* person, focus on calming and positively infusing your body.
 - a. Visualize yourself and that person smiling and acting cordial
 - b. Close your eyes, take slow deep breaths into your solar plexus
2. Prepare an agenda for the discussion which does not attack the other party or his/her client. Focus on the issues, not the arguments.
3. No matter what is said to you or how you are attacked, don’t respond in like kind. You may wish to say, “Let’s be positive and mutually respectful” Don’t get mad, but at the same time, don’t ignore rude behavior. Respond, don’t react.
4. Ask open-ended questions to find out the other party’s concerns and reasons for such concerns.
5. Give the other party the chance to talk first so you will understand. LISTEN, LISTEN, and LISTEN without interruption. Even if what is said is offensive, annoying, nasty, or a lie.
6. Take notes of what is said- don’t be thinking of your response

7. Repeat back what you heard in a NON-AGGRESSIVE neutral manner “Let me see if I heard this correctly- you said (try to reframe so that his/her hostile words are replaced with more neutral statements).
8. Ask if you understood correctly- If you haven’t he/she will clarify. If so, now you can ask more questions.
9. Because you have shown you are listening without engaging in the rudeness, and you have heard what was said, this will usually calm the other party down. Your composed approach will be contagious too.
10. Talk more quietly and slower – and ask to have your say. Remind the other party that you courteously listened and you politely request that he/she do the same.
11. Set your boundaries in the most courteous and respectful manner.
12. Keep repeating the process above until you have each expressed the issues of concern.
13. Agree with the aggressor whenever you can- whenever it is genuine—i.e. You are right- this has been a big loss for your client.” Although we see the cause differently, let’s see what we can do to work together to resolve this”.
14. Recognize and remember that the difficult person as a human being who has fears, needs, and problems just as you do. If possible move beyond the professional issues to find out a little about his/her family/hobbies, etc without invading privacy.
15. Stay conscious of how you are feeling – if you start to react with anger you will feel it first in your body- stop yourself and breathe slowly into your solar plexus, pausing before you respond.

It only takes only one conscious person in a conflicting situation to de-escalate the conflict. That person is you. We can’t control anyone else but ourselves, and that is tough enough! So in this New Year, let’s intend to focus on our own approach and our own responses to be respectful, civil and kind to one another. Together we can “keep it civil” and create a more enjoyable new year for us all.

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