

# FAMILY LAW: ABOVE AND BEYOND THE CALL OF DUTY

MARIA CRISTINA GONZÁLEZ\*

## *Introduction*

Family law practitioners play a delicate and important role in the lives of clients and their families. As lawyers, we have a duty and an obligation to listen to and understand the client's legal needs, while competently advocating to meet their goals and expectations. But how often do we really pay attention to the mental and spiritual needs of our clients to achieve their goal? Chances are we generally do not, since our own emotional baggage has been left unchecked. We have mastered the skill of tuning out the "red herrings" by trimming the excess, non-essential emotional noise that not only clouds our ability

---

\* J.D., St. Thomas University School of Law, Miami, Florida; Family Law practitioner. I would like to thank former Dean John Makdisi, former Associate Dean Jay Silver, and all of my amazing law professors who played an integral part in my legal education. I am humbled and honored to have been invited to write for this special edition of the Law Review in honor of the Makdisis, and I would like to express my sincere admiration, appreciation, and love for Professor June Mary Makdisi with a rather unusual—if à propos—following dedication:

A gentle breeze flowed through the law school breezeway, but I was too busy to notice its caress and whispers of awareness and change. Instead, I chain smoked, drank excessive coffee, crammed information, and passed my exams. Any spare time was devoted to feeding my dark abyss of sadness, insecurity, despair, anger and control in a never ending custody saga starring my, then, six-year-old son as the victim. And along came Professor June Mary Makdisi, my foundational angel of law, theory and practice teaching me Family Law in the midst of my real and raw pain. How dare she answer my questions with a question, "what are your thoughts"? How dare she stimulate the notion of two sides to every story and make me surrender to the concept of "best interest of the child"? Your challenge was accepted. Although I still chain smoke, and drink endless amounts of coffee, I am now more mindful of the breeze, and I cannot tell you how surreal and comforting it is to know that my now 24-year-old son has been taught Torts by YOU! Eternally grateful.

to properly frame the issues, but impedes our ability to have lunch before dinner time. We take diligent notes so we do not forget the important facts of the case, and create “to-do” lists of pleadings to file, issues to research, and items we want discovered. Our minds and fingers work quickly to conspire in “one-upping” our opposition as we aggressively purge our client’s emotions on paper, and play the victim role at trial. But what if we paused for a moment to really know and understand our client’s true needs beyond the scope of our duties as lawyers? This article invites family law practitioners to quiet our own souls by incorporating spirituality or mindful tactics into our own lives first. To go beyond the hourly rate, automated advice and performance, and dig deep inside ourselves to heal and increase our own level of awareness in order to extend consciousness to others. In doing so, we will plant a seed of long-term success and rewards for our clients, while nurturing and maturing the soul of the lawyer in the process.

### *A Moral Philosophy*

The United States’ is an adversarial legal system promoting truth and justice. As lawyers, we play an integral part of the system, and regardless of the area of law practiced, we are bound by our respective state’s set of codes or laws which guide and govern our conduct.<sup>1</sup> “The[se] [r]ules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules.”<sup>2</sup> “[A] lawyer is also guided by personal conscience and the approbation of professional peers . . . striv[ing] to attain the highest level of skill, to improve the law and the legal profession.”<sup>3</sup>

The legal community is replete with scholarly journals and essays that provoke intellectual thought about—and academic

---

<sup>1</sup> Such as the Oath of Admission, the Rules of Professional Conduct, as well as the relevant judicial opinions. *Ethics*, THE FLORIDA BAR, <https://www.floridabar.org/ethics/> (last visited March 30, 2019).

<sup>2</sup> MODEL RULES OF PROF’L CONDUCT ¶ 16 (AM. BAR ASS’N 2019).

<sup>3</sup> *Id.* at ¶ 7.

discussion of—a more moral society through the practice of law.<sup>4</sup> These writings range from historical moral philosophies, and rules of conduct and their origins, to practical and basic principles of reconciling and improving moral practice. For instance, *A Proposal for the Moral Practice of Law* recognizes that lawyers instinctually fall into one of two categories, the zealous advocate or the crusader of truth and integrity. Some lawyers believe that the inevitable pain of a moral lawyering is the ability to manipulate, persuade, negotiate and serve as the “alter ego” of the client, sometimes blending in shades of client truth, while coloring inside the lines of ethics, and the personal morals of an attorney are inconsequential to the representation.<sup>5</sup> Other lawyers would never be able to represent a client whose moral philosophies are contrary to theirs (i.e., excluding evidence that is against client interest, although not specifically prohibited by law).<sup>6</sup> Both extremes, each having merit in its own right, compete and struggle in the quagmires of morality and ethics, requiring from us a philosophy of moral practice that achieves balance and reconciliation.<sup>7</sup> One could therefore logically conclude that a properly paired lawyer and client will act in concert to attain what is mutually considered moral and just, and never feel the moral pains

---

<sup>4</sup> See, e.g., Kathleen S. Bean, *A Proposal for the Moral Practice of Law*, 12 J. LEG. PROF. 49 (1987); Carl E. Schneider, *Moral Discourse and the Transformation of American Family Law*, 83 MICH. L. REV. 1803 (1985); Robert F. Blomquist, *Law and Spirituality: Some First Thoughts on an Emerging Relation*, 71 UMKC L. REV. 583 (2003); Edmond N. Cahn, *Morals and Law: The Growth of Aristotle's Legal Theory*, 65 HARV. L. REV. 363 (1951).

<sup>5</sup> Richard A. Matasar, *The Pain of Moral Lawyering*, 75 IOWA L. REV. 975 (1990).

<sup>6</sup> Robert J. Muise, *Professional Responsibility for Catholic Lawyers: The Judgment of Conscience*, 71 NOTRE DAME L. REV. 771, 772 (1996) (a properly calibrated moral conscience is critical to making moral and ethical decisions).

<sup>7</sup> See Bean, *supra* note 4. Zealous Advocates may struggle with the moral stress and consequences of their actions. Truth and integrity lawyer may struggle with the idea that they were not strong enough advocates. Proposed philosophy for the zealous advocate is to devote pro bono hours, or donate to legal services, advocate to change laws that will promote zealous advocacy to even the playing field. Proposed philosophy for the truth and integrity lawyer is to raise the level of truth in the laws, advising the client of how he/she practices; and what the notions of truth and integrity is, which may conflict with the client's best interest, refuse to accept representation.

of lawyering. “A system is only as moral as each of its parts.”<sup>8</sup>

As family practitioners, we are especially summoned to a higher standard of practice by observing and incorporating the Bounds of Advocacy into the methodology of moral representation. The Bounds of Advocacy not only runs parallel to the Rules of Professional Conduct but offers a recalibrated moral compass in navigating the most emotional seas known to mankind, where zealous advocacy is highly discouraged, and a moral conscientious philosophy to practice is fully embraced.<sup>9</sup> A family law practitioner understands that the break-up of the family may have a divisive, economical and emotional impact on the lives of the client, and all the tangential parts of the once formed whole.<sup>10</sup> We are called to advocate for our client’s immediate and long-term needs while taking into account the best interest of the children, whenever children are involved. We are encouraged to sharpen our counseling skills in order to minimize conflict and set the tone for expeditious, constructive and amicable dispute resolutions whenever possible.

### *Alternative Lawyering Requires Self-Assessment*

Conscious efforts have and continue to be made to improve the practice using alternative dispute resolutions in family law cases, making family the front and center, and collaborative law is a prime example of one of these efforts.<sup>11</sup> The idea is to promote transparency

---

<sup>8</sup> *Id.* at 68.

<sup>9</sup> FLA. BAR FAMILY LAW SECTION, BOUNDS OF ADVOCACY: GOALS FOR FAMILY LAWYERS IN FLORIDA (2004), <http://familylawfla.org/wp-content/uploads/2015/12/Family-Law-Bounds-of-advocacy.pdf> (Guidelines directing a higher level of practice promoting civility amongst lawyers; problem-solving approach for minimal emotional and financial trauma to the family, and most importantly considering the best interest of the children as this is in the best interest of the client) [hereinafter Bounds of Advocacy].

<sup>10</sup> *Id.* at 3 (“The break-up of a family will be felt not only by the couple but also by other family members and often by friends and others with personal or business relationships with the parties”).

<sup>11</sup> Robert Joseph Merlin, *The Collaborative Law Process Rules: This Is How We Do It*, 92 FLA. B.J. 36 (2018) (a voluntary, holistic, process where clients agree not to go to Court, and together with their respective trained collaborative attorneys

between the parties with quick resolve and humane efforts in order to minimize expense while constructing—rather than destructing—family.<sup>12</sup>

While the majority of the legal community recognizes the need for an alternative practice, there is still resistance from lawyers and judges alike.<sup>13</sup> There is an unwillingness to leave behind the comfort zone of well-settled, traditional, adversarial roles as representatives and arbiters and venture into the unknown.<sup>14</sup> Money is probably the most important and realistic factor. While it may be considered cost-effective in the long run, the immediate cost of collaborative practice is not readily affordable for the average client,<sup>15</sup> and there is also the risk that, if collaborative negotiations fall apart, the professionals involved must withdraw as they are disqualified from appearing before the Court, ultimately forcing clients to start all over again with new counsel and experts, resulting in more fees and costs to the

---

and the necessary collaborative professionals (i.e. mental health and accounting professionals) work together in team approach to resolve family matters using an interest-based model to effectuate a win-win settlement). *See also* Marsha B. Freeman, *Florida Collaborative Family Law: The Good, the Bad, and the (Hopefully) Getting Better*, 11 FLA. COASTAL L. REV. 237 (2010). *See also* Pamela J.P. Donison, Esq., *Collaborative Practices*, in TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW 172-207 (Marjorie A. Silver, ed. 2017). *See also* Marjorie A. Silver, *Love Hate, and Other Emotional Interference in the Lawyer/Client Relationship*, 6 CLINICAL L. REV. 259, 263 (1999). Codified in Florida on March 9, 2016, the Collaborative Law Process Act makes Florida the 15th state to enact a collaborative law statute. *See* STEVEN SCOTT STEPHENS, FLORIDA FAMILY LAW § 15:4 (2018).

<sup>12</sup> Freeman, *supra* note 11, at 239.

<sup>13</sup> *Id.* at 245.

<sup>14</sup> *Id.* at 241 (“Attorneys’ roles in collaborative suits can sometimes be unclear, overly broad or even conflicted with clients’ interests”). *See also* Elizabeth F. Beyer, *A Pragmatic Look at Mediation and Collaborative Law As Alternatives to Family Law Litigation*, 40 ST. MARY’S L.J. 303, 321 (2008).

<sup>15</sup> J. Herbie DiFonzo, *A Vision for Collaborative Practice: The Final Report of the Hofstra Collaborative Law Conference*, 38 HOFSTRA L. REV. 569, 572 (2009). *See also* Beyer, *supra* note 14, at 319 (“[V]ery few collaborative divorce professionals have focused on ways to penetrate the underserved and otherwise unrepresented market”); Thomas D. Barton, *A Review of Forrest S. Mosten, Collaborative Divorce Handbook*, HARVARD NEGOTIATION LAW REVIEW (Dec. 28, 2009), <http://www.hnlr.org/2009/12/collaborative-divorce-a-model-for-effective-problem-solving-and-prevention/>.

client.<sup>16</sup> Some attorneys are concerned about the impact that collaborative law has to their livelihood.<sup>17</sup> After all, the more litigation, the more money a lawyer makes. Notwithstanding, more and more family lawyers, including notoriously adversarial lawyers, are jumping onto the movement, which begs the question of whether the newly underlying motive may be more of a self-serving agenda geared toward marketability and profitability,<sup>18</sup> rather than embracing the true spirit of the movement itself of “keeping consciousness.”<sup>19</sup>

We should therefore do a moral inventory of the self, take stock, and consciously examine why we elect to practice in the field of family law. In doing so, we may unmask our true motives in resisting change, or experience a sudden “inspiration” to apply alternative dispute resolution methods to our delicate practice. Self-awareness is, thus, a compulsory requirement for lawyers to effectively counsel clients, in order to embrace and maximize the results of positive systemic changes of alternative lawyering in family law, and ultimately serving to bring meaning to the practice.<sup>20</sup>

A family lawyer’s role has been compared to that of “a physician who diagnoses the causes of the patient’s pain and counsels the patient about a variety of treatments before undertaking treatment.”<sup>21</sup> Most patients do not want to be treated by an outwardly ill doctor, whose sickness may interfere or further impair the health of the patient. The same holds true for legal practitioners in this delicate area of the law who fails to acquire, develop or perfect emotional intelligence<sup>22</sup> or address their own psychological or mental health

---

<sup>16</sup> See Fla. Fam. L.R.C.P. 12.745.

<sup>17</sup> Freeman, *supra* note 11, at 242.

<sup>18</sup> Beyer, *supra* note 14, at 336 (a growing number of collaborative law groups form creating a “tightly knit” network and referral system for layer, thus the organized marketing push of collaborative process, benefitting the lawyers, and not the clients).

<sup>19</sup> Living Peace Institute, *LPI Podcast Episode 2 - Stu Webb*, YOUTUBE (Feb. 15, 2018), <https://www.youtube.com/watch?v=YJYGPHY7bts>.

<sup>20</sup> See Joseph G. Allegretti, *In A Dark Wood: Dante As A Spiritual Guide for Lawyers*, 17 ST. THOMAS L. REV. 875, 876 (2005).

<sup>21</sup> Bounds of Advocacy, *supra* note 9, at 5.

<sup>22</sup> Jan Salisbury M.S., *Emotional Intelligence in Law Practice*, 53 ADVOCATE (IDAHO) 38 (2010) (referring to emotional intelligence as the control and

issues.<sup>23</sup>

It is said that “95% of families are dysfunctional, and the other 5% are in denial.”<sup>24</sup> It is, therefore, an impossibility not to identify with clients and become aware of our own dysfunctions in the process of the representation.<sup>25</sup> We must look inward at our personal and professional lives for self-actualization,<sup>26</sup> in order to give our “best self” to the client and “familiarize ourselves with psychological concepts, not to become therapists, but to become better

---

management of emotions which can be learned). It comprises four key components:

1. Self-Awareness: the ability to recognize and understand your moods, emotions, and drives as well as our impact on others;
2. Self-Management: the ability to control one’s moods, emotions and stress as well as such characteristics self-confidence, adaptability;
3. Social Awareness: the ability to have accurate empathy for others, understand diverse perspectives and cultures and organizations;
4. Relationship Management: the ability to develop and influence others, build bonds and collaborate on teams, and manage conflict and change. Often called professionalism, or people skills, these complex competencies make a difference in our efficacy as professionals.

*Id.*

<sup>23</sup> Silver, *supra* note 11, at 263 (“Human beings carry emotional baggage from early relationships and unload that baggage in the relationships they form later in life”). See also Deborah Cassens Weiss, *Lawyers Rank Highest on ‘Loneliness Scale’*, *Studies Find*, ABA JOURNAL (April 3, 2018), [http://www.abajournal.com/news/article/lawyers\\_rank\\_highest\\_on\\_loneliness\\_scale\\_study\\_finds](http://www.abajournal.com/news/article/lawyers_rank_highest_on_loneliness_scale_study_finds); Jeena Cho, *Can We Finally Talk About the Big Elephant in the Room? Mental Health of Lawyers*, ABOVE THE LAW (Feb. 8, 2016), <https://abovethelaw.com/2016/02/can-we-finally-talk-about-the-elephant-in-the-room-mental-health-of-lawyers/>; Laura Rothstein, *Law Students and Lawyers with Mental Health and Substance Abuse Problems: Protecting the Public and the Individual This Article Is Dedicated to the Memory of Stanley Herr and His Unrelenting Work on This Issue*, 69 U. PITT. L. REV. 531 (2008).

<sup>24</sup> Rosemary Madruga, *Adult Children of Dysfunctional Families*, ROSEMARYMADRUGABLOG, <http://www.rosemarymadrugamft.com/blog/2017/4/5/dysfunctional-families> (last visited March 30, 2019).

<sup>25</sup> See *id.*

<sup>26</sup> Silver, *supra* note 11, at 259.

counselors.”<sup>27</sup>

*Alternative Lawyering: A Spiritual and Mindful Journey*

*Is there a spirituality for the profession which would reach the very act of lawyering that could then be understood as a spiritual mission, a vocation which could honor God and men?*<sup>28</sup>

Spirituality is a rather amorphous concept. While religion entails a set of beliefs, rituals, and practices within an organization, spirituality may simply involve a “reverence” for life.<sup>29</sup> It may be grounded in tradition and religious beliefs, or rooted in a deep relationship with God, or a “higher power that transcends the self.”<sup>30</sup> Spirituality is a “safe word,” translating into the universal language of divine love in a pluralistic society<sup>31</sup> that displays “the eternal human yearning to be connected with something larger than the ego.”<sup>32</sup> In secular contexts, it can be seen as the “cultural evolution” of consciousness through mindful practice<sup>33</sup> for “the release of the human spirit.”<sup>34</sup>

---

<sup>27</sup> *Id.*

<sup>28</sup> Peter J. Riga, *Spirituality of Lawyering*, 40 CATH. LAW. 295, 296 (2001).

<sup>29</sup> Thomas R. McCormick, *Spirituality and Medicine*, ETHICS IN MEDICINE (April 2014), <https://depts.washington.edu/bioethx/topics/spirit.html> (last modified: August 7, 2014).

<sup>30</sup> *Id.*

<sup>31</sup> The U.S. religious demographics in 2014 were 70.6% Christian (i.e. Protestant; Catholic; Orthodox Christian; Mormon; Jehovah Witness; Other Christian); 5.9 % Non-Christian (i.e. Jewish; Muslim; Hindu; Buddhist; other faiths and world religions); 22.8 % Unaffiliated (Atheist; Agnostic; Nothing in Particular); .6% Unknown/refused. See Pew Research Center, *America's Changing Religious Landscape*, PEWFORUM (May 12, 2015), <http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>.

<sup>32</sup> Palmer, Parker, J. & Parker Palmer, *Teaching with Heart and Soul: Reflections on Spirituality in Teacher Education*, 54 J. TEACHER EDUC. 376 (2003).

<sup>33</sup> Bruce Peterson, *Problem-Solving Courts and the Evolution of the Court System*, in TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW 378-379 (Marjorie A. Silver, ed. 2017).

<sup>34</sup> Marjorie A. Silver, *Introduction: What's Spirituality Got To Do With It*, in



Research shows that religion and spirituality are associated positively with better health and overall psychological wellbeing.<sup>35</sup> Yet, lawyers are in great spiritual crisis and are incredibly sad.<sup>36</sup> In order to find spirituality, a lawyer can either attain same from other's experiences, or through personal crossroads, journey and conversion.<sup>37</sup> Contemplative practices,<sup>38</sup> like prayer<sup>39</sup> or meditation, serve as tools for self-reflection, emotional intelligence, moral discernment in all stages of the journey<sup>40</sup> to fully integrate consciousness<sup>41</sup> into our lives as professionals. The results—groups like the Project for Integrating Spirituality, Law and Politics (PISLAP), comprised of journeyed lawyers, law professors, law students, and legal workers congruently working toward mindful transformative social change founded in the spirit so that conscious justice can be achieved within the context of love.<sup>42</sup>

---

TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW 1, 4 (Marjorie A. Silver ed. 2017).

<sup>35</sup> McCormick, *supra* note 29.

<sup>36</sup> Allegretti, *supra* note 20, at 876.

<sup>37</sup> *Id.* at 877 (describing a lawyer's three step journey to spirituality, by wittingly comparing it to the Medieval poem, *The Divine Comedy*, by Dante Alighieri: (1) lawyer lost; (2) journey through hell and journey of self-discovery; (3) arriving home—true destiny).

<sup>38</sup> See generally Jeanne Anselmo and Victor Goode, *Contemplative Practice for Social Justice Lawyering: From the Cushion to the Very Heart of the Struggle*, in TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW 337-376 (Marjorie A. Silver, ed. 2017); See also Gregory A. Kalscheur, S.J., *Ignatian Spirituality and the Life of the Lawyer: Finding God in All Things-Even in the Ordinary Practice of the Law*, 46 J. CATH. LEGAL STUD. 7, 18 (2007) (based on St. Ignatius of Loyola spiritual exercises—*contemplatio ad amorem*, or the Contemplation to Attain Love).

<sup>39</sup> Riga, *supra* note 28, at 296.

<sup>40</sup> See generally Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535 (2011).

<sup>41</sup> *Id.* at 538.

<sup>42</sup> See generally TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW (Marjorie A. Silver, ed. 2017) (compilation of essays from various members of the legal profession advocating for a “beloved community”); Touro Law Center, *Transforming Justice, Lawyers, and the Practice of Law*, YOUTUBE (Sept. 27, 2017), <https://youtu.be/sqBTloQQn7U>; Legal-O-Cities, *Restorative Justice*, YOUTUBE (Aug. 23, 2018), <https://youtu.be/1tS2Hwt4vPQ> (explaining the

When the family law practitioner applies principles of spirituality and mindfulness in life, he or she begins experiencing personal and professional satisfaction. Relationships will improve and services to the client will be holistically conscious.<sup>43</sup>

*Attempt at a Conscious and Spiritually-Driven Family Law Practice*

*Come after me, and I will make you fishers of men.*

MATTHEW 4:19

Family law has become for me more than a profession: it is the quintessential vocational gift, wrapped with the opportunity to revisit past transgressions of self and others with the continual opportunity to make it right.

Some experiences lived and events perceived leave strong, long-lasting negative imprints that require constant assessment, reassessment and reprogramming of the self. My life has been a piece of cake so far, when compared to the lives of many people I have come to know or been in contact with. Yet, when chaos strikes, there is no greater pain or more justified anger than my own. I wallow in self-pity and blame. I will release a tantrum, setting free the cursing sailor. I will smoke until my mouth is as dry as sandpaper. I will repeatedly hash and rehash my problem to all willing and unwilling participants. In fact, I will literally draw ears when no human or animal ear is around. Then I remember what I was supposed to have put into practice—self-awareness, consciousness and discernment—concepts acquired while knocking on numerous doors looking for answers to questions I did not even know I had. From Sunday mass, to bible studies, to spiritual retreats, to co-dependency groups, to mindful psychology classes, to individual therapy, countless of self-help books, meditative yoga, great mentors, family and friends—

---

restorative justice movement).

<sup>43</sup> Lucia Ann Silecchia, *Integrating Spiritual Perspectives with the Law School Experience: An Essay and an Invitation*, 37 SAN DIEGO L. REV. 167, 186-192 (2000).

something is bound to stick. For these doors to open, all that was required of me was: (1) the strong desire to heal emotional wounds; (2) an open mind; and (3) a humble ego.

I have been a sole family law practitioner since 2005. Nothing will make you more spiritual and grateful than hanging your own shingle and making it past the first five years when neither advertising nor attending network functions is a part of the referral system. It is worth emphasizing that I am not, by any stretch of the imagination, the sage or guru of discipline and self-control—friends, family, and colleagues can quickly attest to that, and while I am likely at the bottom of the totem pole of enlightenment, I have “experienced”—and continue “experiencing”—God in my life. Believing in God is not easy for most lawyers, especially when logic and reason take over, but it is nonetheless an encounter that is felt, even if not articulated - rooted in love in its purest form. If I think too much, I am faced with the struggles to bridge moral relativism with absolute truth. It can become a daunting task to untangle the webs of confusion in entering the labyrinth of thought and, thankfully, I am neither a theologian, nor a philosopher. I am simply a person working with humble gratitude, striving to live a life of service to self and others knowing too well, both personally and professionally, that words and deeds coming from the spirit are contagious enough to resonate and penetrate the most stubborn souls, causing ripple effects on family and community.

Throughout my years of practice, I have come to learn that adversity in ordinary family cases yields unnecessary expense, delay, and emotional stress on both client and lawyer. Therefore, it is essential to set the tone from the outset and establish mutual expectations. We are problem solvers, not trouble makers, and court intervention is sought when it is impossible or impracticable to resolve the case by any other means.

It is imperative that the client disclose to me “the good, the bad, and the ugly” during initial intake, and I often block three hours per client, so that they are afforded ample opportunity to become comfortable, let their guard down, and freely express all derailed emotions of sadness, fear, frustration, anger and guilt. I will stay in the moment by listening attentively, acknowledging their feelings and

empathizing accordingly, fully connected and engaged. This is their time to have the confidential cathartic tantrum with no filters. I will then redirect with candid advice and speak from the heart with no self-serving agenda, except to educate through love and reflection to instill peace and encourage growth. For instance, if a client has been wronged and is fueled by a strong desire for revenge, I will sometimes say, “dirt does not come off with dirt, but you have the right to see for yourself,” or I may go on to tell a story I once heard at an Al-Anon<sup>44</sup> convention:

A lady went to throw a garbage bag full of garbage at the entrance of the neighbor’s house. The neighbor who saw this filled a garbage bag full of apples and went to leave it at the door of the offending neighbor with a note that said, “one always gives from what one has.”<sup>45</sup>

Humor is an extremely important part of the process, and my clients will not leave the office until we both laugh over some absurd anecdote about myself, followed by an innocuously silly demand.<sup>46</sup> By the time the clients are ready to leave the office, we will hug, and if the client notices, they may comment on the inspirational quotes or prayers that hang inconspicuously on my wall.<sup>47</sup>

---

<sup>44</sup> Al-Anon is a mutual support program for people whose lives have been affected by someone else’s drinking”. It follows a comparable 12-step program similar to Alcoholics Anonymous (AA). See AL-ANON, <https://al-anon.org/>.

<sup>45</sup> I am unsure where the story actually originates from. However, Salvador Valadez Fernandez, a popular Al-Anon speaker on co-dependency issues, often tells this story at conferences done in Spanish meant for reflection due its layers of interpretation (i.e., individual conduct should not be dependent on the other’s conduct; love and forgive despite wrongdoing; and, of course, the passive aggressive approach, “kill them with kindness,” which although not motivated by love, nonetheless minimizes conflict when we do not engage). The story is posted in Spanish in a personal blog by Nia, *Palabras Del Alma*, NANCY1108BLOG (Sept. 2010), <http://nancy1108.blogspot.com/2010/09/amor.htm>. I have translated it from the original Spanish.

<sup>46</sup> “Very important, ALWAYS, ALWAYS tell me if I have a pen mark on my face; mismatched shoes; or a rip on my skirt”; “High-Five me, we are the DREAM TEAM, as such, we must wear matching colors at all proceedings”.

<sup>47</sup> Prayers: Serenity Prayer; and Peace Prayer of Saint Francis; Quotes: “Be the Good”; and my most favorite quote attributed to Mother Teresa:

Feeling spiritual with my clients is one thing, feeling spiritual with opposing counsel, highly unlikely, but not impossible.<sup>48</sup> Nothing is more effective than an expeditious resolution where the lawyers are courteous with each other, fully cooperate in stabilizing and addressing the client or family's immediate needs and fully comply with financial disclosure, mutually retaining the same experts to minimize costs, and informally or formally mediating the case without negotiation antics. Although a rare phenomenon, an exemplary and virtuous settlement occurs when both clients want the best for one another, and both will actively and proactively seek to ensure that the rights of the other are protected, or when both clients request that everyone break into prayer before they commence settlement discussion so that God works through the lawyers to achieve a fair settlement in accordance with divine law. These are examples of real accounts of conscious settlements.

Unfortunately, the majority of lawyers, regardless of practice area, are competitive by nature, myself included, and our egos are far from domesticated, especially when we feel bullied, or that our clients are being bullied. This is usually when all hell breaks loose. Spirituality, what? "ATTENTION EVERYONE—the giants

---

*Do it Anyway*

People are often unreasonable, irrational, and self-centered. Forgive them anyway.

If you are kind, people may accuse you of selfish, ulterior motives. Be kind anyway.

If you are successful, you will win some unfaithful friends and some genuine enemies. Succeed anyway.

If you are honest and sincere people may deceive you. Be honest and sincere anyway.

What you spend years creating, others could destroy overnight. Create anyway.

If you find serenity and happiness, some may be jealous. Be happy anyway.

The good you do today, will often be forgotten. Do good anyway.

Give the best you have, and it will never be enough. Give your best anyway.

In the final analysis, it is between you and God. It was never between you and them anyway.

<sup>48</sup> I am laughing as I write this.

have now entered the arena and we will fight!"; "Give me my lance, so we can dance!" An uproar of pleadings and motions commence flying back and forth, no consideration of time, weekends or holidays. Each lawyer racing to file or get to the judge first. Who will be the victor and wear the other side down first? And when the parties have shed their last drop of money, the sharks will swim away by withdrawing. This is a sad—but often true—reality of family law practice and betrays a lawyer's inability to tame the ego. My inability to tame my ego. It takes remarkable restraint not to engage when confronted with the unreasonable, antagonistic, and aggressive opposition.<sup>49</sup> Therefore, it is essential to pause before making the decision to litigate.<sup>50</sup> We must acquire and put into practice mindful tactics, spiritual or otherwise, which will replace the instinctual reciprocal attacks with a calm, strategic plan of action through conscious litigation.<sup>51</sup> Conscious litigation also requires the Court's impartial participation, detached from politics, with sufficient time allocated to the parties, and applying sanctions when it is clearly appropriate to do so.

I was involved in a high conflict divorce case, *pro bono*, that lasted about two years in litigation with the only point of contention being a house. Adult children were split amongst themselves and from their parents. Unfortunately, the other side "won" the house, not because of a court-entered Final Judgment, but because my client passed away during the course of litigation. Fortunately, my client

---

<sup>49</sup> Jan Salisbury M.S., *Emotional Intelligence in Law Practice*, THE ADVOCATE 38-9 (2010), <http://www.salisburyconsulting.net/Portals/0/EI%20in%20Law%20Practice.pdf> (quoting Aristotle: "To be angry is simple, but to be angry with the right person, in the right way, at the right time, and for the right reason is not simple").

<sup>50</sup> Antonio Spadaro, S.J., *A Big Heart Open to God: An Interview with Pope Francis*, AMERICA THE JESUIT REVIEW (September 30, 2013), <https://www.americamagazine.org/faith/2013/09/30/big-heart-open-god-interview-pope-francis> (interview of Pope Francis where he cautions against hasty decisions—whatever comes to mind first is usually a rash and hasty decision).

<sup>51</sup> Conscious litigation is cost-effective litigation, disconnected from frustration and aggression, with pleadings or motions that maintain decorum. It is appearing before the Court with reasonable requests and offering logical solutions or alternatives for discerned ruling, and consideration of sanctions whenever applicable against the lawyer and the client for vexatious litigation tactics.

received the grace of forgiveness and experienced peace with her children near the end of her life, and I was invited to be near her friends and family to pray by her bedside the day before she passed.

Everyone left behind learned a valuable lesson, including the attorneys. For the clients: too much time and energy were wasted in fighting for property that sooner or later will be left behind; we fight for children like property, with the likelihood that our children will become estranged from toxic parents. For the adult children: too much time is wasted on unprocessed resentment and reproach, with the likelihood of repeating toxic patterns of learned behavior from the parents. For the family law practitioners: we are presented with possibilities of healing families every time we represent a client with love. Such awareness, even if by one person at a time, eventually builds a conscious society. Let's clear our own baggage and walk the journey together; a journey where going above the call of duty becomes the ordinary standard in this practice.