

Friday, June 22, 2007

"I like when you swear."

In the end, the best fight for and alongside the client comes from fighting to harmonize the client's situation. Plenty of people think I am intense (I prefer to call it passionate), as much as I endeavor to be a t'ai chi peaceful warrior. I address this more here. Sometimes a client will freak out when my honest answer -- I only give honest answers, or else no answer at all -- about my assessment of their case is not as rosy as they want to hear. In the instances where I then win their case or get a result within the framework they hoped for, sometimes I will heartily congratulate them and say "You have survived the roller coaster of Katz" or "Perhaps watching me at work is like watching sausages being made; the sausage may be delicious (if it's a vegetarian sausage, at least) but you don't want to witness the disgusting sausage-making process." Recently, I obtained a dismissal -- on the trial date -- for a client who very much deserved a dismissal. The case made him very anxious. As we both relished the dismissal after leaving the courthouse, I complained about the "f---ing persecutor" (I've been calling many of them persecutors for years, although often less jocularly than a public defender lawyer using that moniker longer than I) for not bothering telling me our case, which was set for trial, would be dismissed when I asked how many witnesses he had (whereby he answered "one"), and then having him tell the judge just ten minutes later that our case was being dismissed. I apologized to my client for swearing -- which I often have much fun doing with my law partner, Jay, after hours when we're the only ones left at the office, as part of keeping our humor engines running, from the sophomoric and buffoonish to the more ready for prime time. My client reminded me that he didn't mind, and that it put him at ease when I inadvertently did the same thing in my office the first time we met. In response to being told that in my office, I said: "I need to write a sticky note to figure out which visitors will be put at ease with four-letter words." At my first law firm -- my favorite partner, from whom I learned much and who encouraged my path to success -- swore often, ordinarily getting a big laugh, and never directing it at or about anyone. I first heard legends of his swearing, but months passed without me hearing a swear from him, until we were talking about a case, and the four-letter words rolled off his tongue. I felt I had graduated to gain his confidence, on a much lesser level than Caine waiting seemingly forever to be invited into the Shaolin temple. The idea is not to swear for the purpose of putting people at ease. The idea, for me, is to let my guard down with my allies and clients, because I like it when I can let my guard down safely, and because it can put others at ease and have them trust me better, at least when I do not go over the edge with it all. My guard is up more in court, where I have never sworn or said "persecutor" on the record (although I wonder if such a slip of the tongue is merely waiting to happen); however, the jury will trust a lawyer more who lets his or her guard down while being ready with sufficient firepower. Many people stereotype lawyers as taking themselves too seriously, feeling too self important, and being aloof. Many lawyers are this way; or perhaps many law professors are the worst offenders. I remind people, though, that before I became a lawyer, I was a human being, and that I continue being so. I have no interest in being a self-important lawyer, but to be a lawyer to fight for what I believe to be right, including helping ordinary people against the uneven and too often abused power of government, police and prosecutors, and big corporations. In Latin America, many refer to lawyers as "doctor" -- a law degree is a juris doctor -- but I am not so sure this always is meant as a sign of respect as much as for creating a distance from those lawyers perceived to have actively or passively contributed to the rampant historical human rights violations and judicial corruption in many Latin American countries. Fortunately, Jay and I took the opposite approach, by making ourselves very approachable to all people early on. For instance, on our 1998-2000 weekly Spanish-language radio show "Legalmente Hablando: Donde su causa es nuestra causa" ("Legally Speaking, where your cause is our cause"), I quickly became referred to as "gato" or "gatito", the Spanish word for cat, kitten, or Katz, my last name. It is easier to approach a little cat than a doctor. Jay has never needed a nickname, because people automatically see he is a teddy bear. Recently on a trial lawyers listserv, some personal injury lawyers were bemoaning how some cheesy advertising lawyers were sucking clients away from them. Then, in the middle of this spirited discussion -- where I mainly responded with my views in this "don't touch that dial" blog entry -- someone pointed out that a reason many injury victims call advertising lawyers who act silly or even greedy while engaging the audience, is that such lawyers have demonstrated they do not take themselves too seriously. I understand that many people are scared to be contacting a lawyer for the first time; in their time of need, many may feel out of sorts knocking on a lawyer's proverbial mahogany doors. Fortunately, a lawyer need not act like a buffoon to connect with clients and others. The lawyer just needs to be real, to shed his or her armor, and to give from the heart. In the lawyer's office, this is easier to do. It must also be done in the courtroom, where, instead of wearing a suit of armor, the lawyer should be ready to use the power of chi in battling to harmonize the situation for the client. Jon Katz.

Posted by Jon Katz in Persuasion at 00:15

Great post. I've had the same experience as most of my clients loosen up and seem to like it if I drop a "f-bomb" or two. The challenge is to train myself to avoid saying it when something unexpected happens and I'm in the car with my ten year old though.

I interviewed for a federal public defender job in Wyoming once and they had a list of 3 rules on the wall. The last one, which said "no swearing," was crossed out and the receptionist told me they figured out you couldn't run a public defender's office with that rule, so they "repealed" it.

Also, in the book "Chasing Ghosts" he opens by forewarning that profanity just goes with combat. I guess there is something about going into combat or going into jail that makes swearing not only tolerable but even therapeutic.

Anonymous on Jun 22 2007, 16:56

Thanks dtarrell, for your comment. On the one hand, I don't look for four-letter words to replace a varied vocabulary. On the other hand, sometime nothing conveys my meaning like a choice four-letter word. Have a great week. Jon

Anonymous on Jun 24 2007, 21:36