

Lessons from
The Godfather

By Daniel E. Cummins

Attorneys should make efforts to deal with each other in an objective and professional manner without descending into personal animosity and attacks.

Universal Principles and Practical Advice

Few movies are as revered or have reached such iconic status in American culture as the movies that make up *The Godfather* trilogy. Obviously, the great acting by many incredible actors in these films plays a major part in

achieving that status. But perhaps even more appealing is the writing behind the film, which has generated many lines that cannot only be considered quotable quotes but also, in a broader sense, universal principles of life. These universal principles are applicable to all walks of life, from the mob underworld to our noblest of professions, and they can provide practical instruction to all who are open to such advice. An application of some universal principles as enunciated by the great characters of *The Godfather* trilogy to the practice of law offers some sound advice and instruction.

“It’s not personal Sonny. It’s strictly business.”

Michael Corleone to Sonny Corleone in *The Godfather*

There may be nothing more important to the practice of law than the principle that decisions should never be motivated by personal or emotional animus, but rather, should always involve a sound, objective, business-like decision-making process. All

too often, attorneys take the actions and adverse positions of opposing counsel personally and retaliate without first thinking through and formulating an appropriate response on an objective basis and in accordance with the law and facts of cases.

The practice of law has unfortunately deteriorated to the absurd and reprehensible extent that formal written rules of civility are apparently required in an effort to maintain order between counsel. One reason that written rules may have become necessary for attorneys is that counsel are indeed ethically required to zealously advocate for their clients’ causes of action, which, in turn, can unfortunately invite emotions and personal animosity into the decision-making process and in dealings with opposing counsel. The key, of course, is to rise above personal issues and emotions and handle matters in a strictly business-like manner.

Litigating attorneys should also never take on the emotional trappings of their clients and should never let their personal



■ Daniel E. Cummins is an insurance defense/coverage attorney with the Scranton, Pennsylvania, law firm of Foley, Cogneetti, Comerford, Cimini & Cummins. His blog, Tort Talk, provides updates about Pennsylvania civil litigation and insurance law issues (<http://www.torttalk.com/>). A version of this article previously appeared in the August 29, 2005, edition of *Pennsylvania Law Weekly*.

opinions of opposing counsel or the quality of opponents' cases impede an objective application of the law to the facts of cases. In the big picture, attorneys are the representatives of their respective clients, and those clients generally are engaged in disputes that they cannot resolve amicably. An attorney cannot properly and professionally evaluate the pros and cons of a case if

Litigating attorneys

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his or her judgment is clouded by emotionally charged and negative feelings toward another attorney, that attorney's client, or that attorney's case or argument. Accordingly, if you find yourself unable to separate yourself from an emotional opinion of the case, it may be wise to run the case by another attorney, or even better a lay person, for a fresh and objective viewpoint.

It is particularly important to remain objective when evaluating cases for settlement purposes and in engaging in settlement negotiations. Emotions have no place during settlement negotiations, but they can run high and frustrate an objective evaluation of a case's range of value. Ultimately, in all cases, it's not personal. It's strictly business.

"Never hate your enemies—it affects your judgment"

Michael to Vincent Mancini in *The Godfather, Part III*

A corollary to the general rule that negative emotions have no place in the litigation process is that an attorney should never allow matters with the opposition to become personal. When someone allows his or her emotions to intrude into their dealings with opposing counsel, the ability to evaluate any and all issues that arise becomes clouded by feelings.

As difficult as it may be, an attorney must attempt to disassociate and remove negative feelings or animosity, even when warranted,

toward opposing counsel, an opposing client, a judge, or whomever that attorney is dealing with. Only then can an attorney properly evaluate or handle an issue.

Although sometimes easier said than done, an attorney should not allow an emotional viewpoint to cloud an evaluation of case issues. This is not to say that an attorney should not be passionate or should refrain from forcefully presenting his or her position on the case at hand. The key, rather, is to attempt to keep emotional responses, whether positive or negative, from clouding your judgment. After all, remember what happened to Sonny Corleone in *The Godfather* when he allowed his emotions to cloud his judgment and to best him.

"Keep your friends close, but your enemies closer"

Michael to Frankie Pentangeli in *The Godfather, Part II*

No advice may be as difficult to heed than to keep your enemies or adversaries close. Unfortunately, some adversaries practicing the law thrive on petty confrontation and routinely take matters to a personal, negative, and vexatious level. Those attorneys seem to enjoy attempting to push the buttons of opposing counsel and disrupting the normally smooth handling of cases. While boorish behavior has no place in the practice of law, usually you have no recourse against it. So, you must develop skills to deal with those attorneys effectively.

One way to deal with "enemies," or all hostile adversaries for that matter, is to keep them close. And one way to keep them close is to know the facts and law of cases better than they do. Excellent resources for quickly grasping the law when a case is referred to you is by a review of the issue presented as analyzed by a jurisdiction-specific practice guide or legal encyclopedia. (In the author's home state, for example, the *Pennsylvania Law Encyclopedia* or in Stephen Feldman's *The Pennsylvania Trial Guide*. You may also find cases on point with your case in the more specific *Negligence Instant Case Finder* by Glenn A. Troutman. Furthermore, in automobile accident and insurance litigation, someone can quickly secure an understanding of the applicable law from a review of Milford Meyer's *Pennsylvania Vehicle Negligence* and J. Ronca *et al.*'s *Pennsylvania Motor Vehicle Insurance 2d*. In terms of the

Rules of Civil Procedure and related forms, there are no better resources than *Goodrich-Amram 2d: Procedural Rules Service With Forms* and *Dunlap-Hannah Pennsylvania Forms*.)

It is important to remember as well that a case can only move forward by keeping opposing counsel close with continued communication. As aggravating as opposing counsel may become in such dealings, it never fails to remain in control of your own emotions and hit an opponent with kindness, good humor, and rational explanations supporting your position. Always confirm everything in writing with these types of attorneys as a further method to keep them under control. Again, a positive way to view a difficult situation with a difficult opponent is to remember that each communication will move the parties one step closer to the eventual resolution of the case, at which point you will no longer have to deal with that attorney or that matter.

"Fredo, you're my older brother and I love you. But don't ever take sides, with anyone, against the family again. Ever."

Michael to Fredo Corleone in *The Godfather*

The Rules of Professional Conduct require counsel to put a client's interests above all others in accordance with the law. As an attorney, you should never take actions or positions detrimental to the interests of a client unless, of course, you are ethically required to do so. Additionally, although an opposing case or client may be sympathetic, an attorney is ethically bound to put such emotions aside and to evaluate a case on an objective basis in the best interests of his or her own client. By expressing doubt or exhibiting a lack of confidence in a client's theory of a case or argument, an attorney can damage a case, at times fatally.

One consequential benefit of an unwavering loyalty, confidence, and belief in your client and his or her cause of action is the increased credibility for you and the case in the eyes of opposing counsel, the judge, and the jury. If an attorney does not publicly and convincingly exhibit his or her own belief in a client's case, no one else will. Raising and explaining away any weaknesses in a case, as opposed to attempting to hide or ignore them, will also enhance both your and the case's credibility.

Furthermore, part of fully representing your own client is placing yourself in the shoes of opposing counsel and immersing yourself in the facts of the case and the theory of the case from the other side's perspective. Unless and until you do so, you cannot fully appreciate the strengths and weaknesses of your own case.

Accordingly, when preparing your client for a deposition or trial testimony, you should submit the client to a possible cross-examination in an effort to prepare him or her for the same. While preparing for oral argument, first prepare the argument for your own client, and then compose the argument for the opposition. Only by doing both can you identify and address the problems and weak points in your own argument. Additionally, during your oral argument, or during your closing argument during a trial, it is wise to end your argument by advising the judge of the opposing arguments that you anticipate that your opponent will make, and then explaining to the judge or jury why such arguments should be rejected. You will raise your credibility by showing that you are not steadfastly and blindly presenting only your side of the case, but rather presenting both sides of the case and attempting to convince the judge or jury why your client's position is the fair and just position.

"I'm gonna make him an offer he can't refuse."

Don Corleone to Johnny Fontaine in *The Godfather*

In terms of settlement negotiations, you cannot sell something to someone that he or she does not want to buy. When negotiating with opposing counsel, again, put yourself in the position of that opposing counsel or client and attempt to frame settlement offers in the best light from that perspective.

For example, you can emphasize the value of settling a case early, as opposed to after many months of litigation, or after awaiting an opening in a court's schedule for a settlement conference or trial. You can raise the benefit of settling soon, in terms of interest on the settlement money, or the effect on the potential for delay damages. If the parties are engaged in a nonbinding mediation and have reached an impasse, perhaps offering to pay for the mediator's services can spark further discus-

sions leading to an ultimate resolution. By thinking of settlement from the other party's perspective and being creative and positive in framing your settlement offers, you may effectuate a settlement of a case within the range of value.

In trying to settle a case, attorneys will want to remember that emotions have no place in negotiations. If at all possible, check all emotions generated by a case or your interactions with the opposition before beginning settlement negotiations. Both parties should attempt to participate in settlement discussions in the most objective and business-like manner possible.

Attorneys should also take steps to control their clients and attempt to convince them to also put their emotions aside and to view a case—and the attorneys' advice about the value of a case—in a business-like manner. You should establish your client's reasonable and fair settlement position before commencing negotiations. Further, if you are not able to reach a resolution on your terms, the parties should simply move on to the next step in the litigation process. One way or another, a case will inevitably conclude at some point.

"I have always believed helping your fellow man is profitable in every sense, personally and bottom line."

Michael to reporters in *The Godfather, Part III*

Although Michael Corleone may have issued this statement with a sense of irony, helping your fellow man is, indeed, profitable in every sense. In addition to assisting all of our clients with their legal matters, an attorney may also profit on a personal level by taking on a pro bono case within the scope of his or her expertise whenever possible. Obviously, handling a pro bono case is not only viewed favorably by all, but it is also personally gratifying. Equally gratifying is the participation in and completion of volunteer activities in the community.

In addition to the altruistic reasons that support volunteering in the community, those activities have a consequent benefit as a source of networking and advertisement. By participating in charitable activities, you can meet many different people, as well as circulate your name or your firm's name with a positive light. Participating in volunteer activities may also go a long way

to slowly but surely improve the always tarnished public image of attorneys.

"...a man who doesn't spend time with his family can never be a real man."

Don Corleone to Johnny Fontaine in *The Godfather*

While the demands and pressure to bill an exorbitant number of required hours, or to spend many hours developing plaintiffs' cases, are great in the practice of law, no one can replace missed moments with his or her family. Many an experienced attorney with grown children has lamented the missed moments when their children were infants or toddlers, or the times that they could not make a little league game or recital because they were so engrossed with the practice of law. Life is short, and there are no second chances to recover priceless moments.

Whenever possible, seek a balance between work and life outside of work, and encourage others to seek it. It can be said that attorneys who develop their life outside of the practice of law, particularly with their families, but also through hobbies, recreational activities, and exploring creative outlets, are more productive when it comes to work than those who do not.

Obviously, practicing law is an extremely stressful, 24/7 profession. Some attorneys proudly, and sadly, boast that they rarely take time off from work. Such an attitude may prove counterproductive in the end. Spending and enjoying time with family tends to serve as a release from the pressures of work and lessen overall stress, which, in the end, may result in a healthy lifestyle overall. A healthy lifestyle, in turn, may render you a more productive and efficient attorney. In the end, all aspects of your life, both working and relaxing, will have benefits.

Conclusion

Understanding the universal principles enunciated by the great characters in *The Godfather* trilogy and applying them to your practice can improve your abilities and may also ease some of the stress generated in the profession. All in all, given the demands of the practice of the law, attorneys should make efforts to deal with

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each other in an objective and professional manner without descending into personal animosity and attacks. Ideally, we should treat others as we desire others to treat us, maintaining positive arguments supported

by the law and facts of cases, as opposed to attempting to pursue or defend claims through negative and emotionally charged tactics or personal attacks. In the words of Clemenza from *The Godfather*, we should metaphorically, “Leave the gun. Take the

cannoli.” In the end, by leaving behind a negative or personal handling of files and instead taking a positive, business-like approach to all cases, the practice of the law as a whole will benefit. 