

Developing Emotional Intelligence to Avoid Traps in a Litigation Practice

By Katherine Y. Fergus and Bronwyn L. Roberts

Successfully navigating the journey from litigation associate to trial attorney is a daunting task, particularly as a young litigation associate juggling the competing goals of trying to please everyone and not making a mistake along the way. The following list of “traps” is taken from 20 years of collective experience and is offered as a guide for professional development.

Trap One: Leaving the networking and marketing to the “professionals.” It is true that you will not get billable-hour credit for pursuing networking opportunities to develop new business. That being said, if you wait too long to refine these skills and to lay the groundwork for future rain-making, you will find yourself scrambling for clients 10 years out of law school. Developing networking and marketing skills at an early stage in your career is immensely important but takes your own initiative because many firms do not have formal avenues to foster associate networking and marketing opportunities. Keep current with friends and classmates from law school and frequent bar association events. Keeping up these connections will make it that much easier to pitch business from them later on as your peers climb their own corporate ladders in their respective fields. Take these opportunities to learn how to read and understand the interests and needs of potential clients. Once you have mastered and feel comfortable using these skills, you will be well on your way to creating a client base of your own.

Trap Two: Ignoring performance-related feedback. At the end of a year filled with thousands of billable hours, late nights, and missed personal events, it can be disheartening to receive a performance review that criticizes an aspect of your year's performance. Put aside any “rebuttal” you may have to those criticisms and use your annual performance review for your own best interests by both internalizing and externalizing that critique in the year

ahead. “Internalize” the review by treating it as more than simply the firm's assessment of your skills; treat it instead as an opportunity for you to reflect on what you succeeded on during the year and what you could have done better. “Externalize” your formal review by circling back to your supervising lawyers to ensure that you understand the criticism and welcome it as a chance to address that criticism as opportunities present themselves during the coming year. Further, do not accept a review that is nothing more than a pat on the back. Demonstrate your interest in professional development by encouraging your supervising attorneys to give you at least one piece of negative feedback so that you can build on your skills.

Trap Three: Avoiding the most difficult assignments. Difficult assignments give you the opportunity to grow and present unique opportunities for you to make a positive impression on your colleagues. How you perform on the most difficult assignments is what your colleagues will remember most and will set you apart as the go-to person. Foster your desire to be the go-to person by always saying yes to assignments to the extent that time permits. Be mindful of everyone's time constraints, including your own. There are 24 hours in a day, and you do not want to be in a position of failing to complete an assignment on time because you did not manage your time appropriately.

Trap Four: Using forms indiscriminately. In your early years of practice, you will likely receive an assignment to draft a pleading that you have never drafted before. To complete this assignment, you may be inclined to simply search the firm's computer database or ask your colleagues for forms to use as a model. Although it is perfectly acceptable to access forms so as not to reinvent the wheel, do not simply adopt the form as your own. Forms can be outdated, case-specific, and even, on occasion, erroneously drafted, even if

drafted by the most respected of your colleagues. Nothing can replace your independent review of the procedural rules and the case law, even if it is just to confirm that the form was appropriately drafted and is consistent with the current case law. Always be prepared to answer the question of *why* you drafted a document in a particular way.

Trap Five: Being one-dimensional. Too many of us have given up on our personal interests, abandoned our social lives, and/or neglected our family lives as part of our tunnel vision to become “better lawyers.” This is perhaps the most painful trap a litigator, or any lawyer, can fall into. Not only are you less interesting a person to others for having no life outside of the office walls, but you are also likely less happy with yourself. Having a life outside the office gives you perspective and may actually assist you in being a better lawyer. For example, getting involved in your condominium association may give you firsthand experience with zoning and environmental laws while introducing you to local politics. You may be able to parlay this experience into a marketing opportunity, such as an article.

Trap Six: Not taking time off. As important as being a well-rounded person is, it is equally important to be rested and not withering from the stresses of the practice of law. To that end, take a vacation a few times a year (not just a weekend away) and return to the practice rested, refreshed, and motivated to address your clients' needs.

Trap Seven: Relying on the firm exclusively to develop and train you. You are in charge of your own professional development. Make sure you develop in the practice area of your choosing by regularly attending continuing legal education courses and bar events, perhaps even sitting on a subcommittee in an area in which you are particularly interested. Seek out significant assignments in your prac-

tice area that involve tasks that you have yet to take on. You should also develop a business plan for yourself that you review and update yearly to see your accomplishments and to set new goals. Put the plan into place to achieve your professional, business, and educational goals.

Trap Eight: Isolating yourself from others. Do not forget that you work in a firm surrounded by lawyers with different practice areas who are well qualified to assist you. Your practice will grow with both the support of a mentor, who can give you practice advice, and other colleagues, who can assist you in areas of the law with which you may not be familiar. These colleagues are excellent referral sources for you within the firm, but they need to be reminded of who you are and what you can do. For example, when a colleague sends an email that asks a litigation question, be the first to answer or otherwise offer your assistance in finding the answer, even if it means that you may have to spend some nonbillable time looking up a few cases or statutes. Reaching out to colleagues will assist you in developing mutually bene-

ficial working relationships with them.

Trap Nine: Thinking of yourself as self-sufficient. To develop skills and build a litigation practice, it is vital that you learn how to delegate to others who can support you and whom you can trust. By delegating to support staff on smaller matters, you give them the opportunity to prove themselves worthy of a bigger matter or project. Be mindful, however, that while others (whether they be secretaries, paralegals, support staff, or more junior lawyers) report to you, you need to be somebody whom people want to work with. You do not need to be everyone's best friend in the office. You must, however, be able to work effectively with others. It is imperative that you give appropriate and constructive feedback (of both a positive and negative nature). A successful delegator shows appreciation for efforts, particularly in a time crunch.

Trap Ten: Becoming a "worker bee." Avoid becoming a back-office employee. Although it is important to have excellent research and writing skills, avoid being pegged as a research and writing associate.

Make sure that you develop and become the full-service trial attorney who has experience not only by being the number two chair but also by demonstrating that you can be the number one chair. Seek experience on larger cases by offering to depose fact witnesses and, in smaller cases, by being the person advising the client, making strategy decisions, and arguing before the court. 1

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