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The Only Way to Win is Not To Play: A Post-Divorce Case Study

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Originally published in Summer 2011 by
The Los Angeles Psychologist

My office phone rang at 6:25 p.m. on February 13th. I was just packing up my briefcase to leave for the night. When I picked up the phone, the voice on the other end sounded desperate. “My ex-wife is crazy, but people don’t see it right away. She makes my life a living hell, and I can’t get her to stop. Now, her new husband is taking me to court.”

The caller, Donald¹, was the 45-year-old father of two teenagers. He had been divorced for almost 10 years, but he was still the target of daily harassment and constant threats of re-litigation of custody issues from his ex-spouse, Marla.

As Donald described it, Marla’s behavior and emotional stability had quickly changed within the first year of what ultimately was a seven-year marriage. What had been a sexy, exciting courtship, where Donald had been lauded by Marla as her “savior,” had rapidly devolved into an emotional rollercoaster for Donald. Marla seemed perpetually to be in an argument with someone—her family members, her revolving door of friends, her co-workers, the teachers at school. Donald described that Marla could become angry “at the drop of a hat.” Her moods quickly changed from sad, to angry, to elated, and back again, within a matter of hours. Marla was always accusing Donald of planning to abandon her. For Donald, who was a screenwriter, her enduring sarcasm and constant belittling of his writing and his ability to support their family were paralyzing. Most of all, whenever anything went wrong in their life, regardless of the circumstances, Donald was blamed for the problem.

Even after Donald gathered the strength to divorce Marla, her harassment and emotional abuse continued through a three-year legal battle in which Marla falsely accused Donald of sexually abusing their son and of hiding assets. She ultimately wore Donald down through hearings and depositions to the point where he agreed to a less-than-favorable settlement as a way to end the litigation.

Donald had hoped that the divorce settlement, in which he continued to have custody of the two children approximately 40% of the time, would bring some relative peace to his life. Now, 10 years later, he had obtained little true relief, besides

the ability to live in his own home and to dictate larger portions of his own life. His interactions with Marla left him defensive and feeling helpless. As his sole coping strategy, he had taught himself to simply “give in” to Marla’s demands. Nevertheless, the conflicts with Marla typically started with an unreasonable demand made by Marla, a logical refusal or explanation offered by Donald, then an unreasonable emotional response by Marla, to which Donald reacted defensively. When Marla would then change course and viciously criticize Donald’s defensiveness and his inability to handle the matter “rationally,” Donald would typically capitulate on the issue.

This time, Marla was demanding that Donald be required to communicate with her on a daily basis, by either e-mail, text messaging, or telephone call. Marla claimed that their teenaged children required daily “conferences” between their parents to avoid having them fall behind in school “and in life.” Marla had conscripted her new husband, who was a criminal law attorney, to represent her for free. Her new husband had given Donald notice of an *ex parte*, or emergency, hearing scheduled for the next day. The fact that the *ex parte* hearing was to occur on Valentine’s Day apparently had been “overlooked” by Marla and her new husband. Marla and her attorney/husband were asking the Court to dictate a communication schedule between the parents and to set up “penalties” in the event that the schedule was not maintained.

I took down some more history and information from Donald and promised to meet him at the courthouse the next morning at 8:30. The hearing was presided over by a new judge, who had just completed a rotation in traffic court and who had attended a one-week seminar on family law. I argued that daily communication was not necessary in most cases and certainly not in the situation where two teenage children were doing well. I also argued that there were no specific “emergencies” in need of immediate attention from either the parents or the Court. I attempted to give the judge a flavor of how Marla had used continuing contacts and interactions in a negative and abusive way. However, the opposing side’s argument that “good co-parenting requires constant communication” apparently struck a chord with what the judge had just learned in family law boot camp. My client and his ex-wife were ordered to remain in “daily contact” with regard to the children, and my client was given a four-hour window in which he was required to respond to any emails sent by his ex-wife.

¹The client’s name and identifying information have been modified, with his explicit, written consent, to protect the client’s confidentiality and the attorney-client privilege.

FEATURED ARTICLES

Donald and I agreed that, for a short time, he would forward every email that he received from Marla to me, with a sample draft response that I would revise for him. In this way, Donald would hopefully learn a new and more effective way to deal with Marla. Likewise, I explained to Donald that the prior pattern, where Marla denigrated him, refused to follow logic, became increasingly emotional in the communication, and then ultimately berated him for responding emotionally himself, had to stop. I explained that the only way to “win” with a person like Marla was to try to keep things as simple as possible and not to try to convince her she was wrong using either logic or emotional arguments. Both would ultimately fail. Donald’s prior attorney had insisted that he respond to every email to make sure that there was a “record” of which, if any, of Marla’s allegations were “true.” However, I explained that Donald could not “play” Marla’s accusation-and-defense game and still hope to feel good at the end. Instead, we would, together, look at each issue presented as a simple “yes” or “no” decision to be made, which would be communicated in a non-defensive and also non-explanatory manner.

Finally, I suggested to Donald that Marla’s efforts to keep him “involved” with her and her choice of Valentine’s Day to go to Court were not accidents or coincidences but were ways to keep him “close” even though they were divorced. Donald agreed to enter into individual therapy with a psychologist who had experience in contested divorces, as well as a particular acuity with personality disorders. Donald, his therapist, and I signed the appropriate waivers so that his therapist and I could conference to make sure we were providing coordinated support for Donald.

For six months, I reviewed daily emails from Marla to Donald and proposed simple responses. Donald and I would briefly confer on the responses. For example, one early interaction looked like this:

Marla: “[Our son] is going to need an SAT tutor because you have never taken the time to work with him on homework and also because you are too easy on him and let him stay up late, so he doesn’t do as well in school as he could be doing. I’ve talked to you about this several times previously, but you never get back to me. We are running out of time. If [our son] doesn’t get into a good college, it will be all your fault.”

Donald’s suggested response: “I already talked to [our son]. He’s not sure what he wants to do. He may not want to go straight to college. Maybe he’s not the A+ student that you want him to be. And, by the way, we haven’t talked about this before, I do spend time with [our son] on his homework, he doesn’t stay up too late at my house, and I’m not going to be blamed for everything.”

My suggested response: “O.K. I’ll talk to [our son].”

In this particular instance, the parties’ son wanted to have an SAT tutor and asked his father if he could have the tutoring at his father’s home, because he felt he could concentrate better there.

The final communication from Donald to Marla on this issue was: “[Our son] would like to have an SAT tutor. I’ve set it up. I’ll get you the invoices so you can reimburse me for your half.”

After a time, Donald’s suggested responses got more and more simple, avoided a revisiting or correction of the historical record, and also put more and more power over the decisions directly into his children’s hands. Soon, Donald’s suggested responses were almost identical to what I would have proposed. By not giving Marla anything to fulminate about, Donald had also managed to avoid being “taken to Court” by his ex-wife and her in-house, pro bono counsel. Likewise, when Donald refused to play the “mouse,” Marla became less and less interested in trying to play the “cat.” Her emails decreased in frequency to something close to one per week.

Donald, with some excellent therapy, also was able to separate his own view of himself and his abilities from the opinions of others, most significantly his ex-wife. He gradually became more confident in other social situations. Donald’s children enjoyed the active role in their own life decisions that their father offered them, and the children learned by observation that they, too, could sometimes avoid their mother’s emotional outbursts by “refusing to play the game.”

Summer 2024 Postscript

It is now about 13 years after publication of this piece, and I remain in touch with this client. His children have now graduated college, and he is happily remarried (and I wrote his prenuptial agreement). He has wonderful relationships with his children, who all returned to the Los Angeles area after graduation.

For a period of time from about 2011 through 2016, the client maintained his “psychological separation” from his long-term ex spouse, and was independently managing his time with his two children, with little to no interference from the ex-spouse.

However, when the parties’ daughter went to college, she became estranged from my client. She stopped returning phone calls. She would not answer emails or text messages. She refused to schedule visits with him when she returned to California for her school breaks. He contacted me, and wanted to re-retain me for help in navigating this new, and troubling development. However, there was no “legal solution” I could offer, because his children were both now in their majority, and the court no longer had any jurisdiction over the matter. So, I referred the client to a new therapist (his former therapist had since retired), and guided him to someone with a good deal of experience in post-divorce relationships. As I had done before, I arranged for mutual releases between the client, me and the new therapist, so I could help wherever possible.

Working with his therapist, Donald reported that no troubling event with his daughter had transpired, nor had there been any change in how he treated his daughter. When the therapist

“Post-Divorce” continued on page 13

FEATURED ARTICLES

sion issues. He helps foster a culture of respect, understanding, and acceptance of diverse perspectives among employees. As in all of his work, Dr. Sue's approach to organizational consulting is grounded in psychological theory and research, with a focus on practical interventions that can lead to tangible improvements in workplace dynamics and employee satisfaction. His work has had a significant impact nationally and abroad on how organizations approach diversity and inclusion.

Microaggressions & Microinterventions

Harvard-trained African American psychiatrist Chester Pierce coined the term "microaggression," and documented the cardiovascular and mental health toll of the accumulation of subtle, often unintentional forms of discrimination and derogation directed at marginalized groups (Pierce, 1970). Dr. Sue furthered an understanding of microaggressions, by conducting his own research into their nature, documenting their psychological harm, and developing a classification system for them. He bases much of his work on empirical research, which focuses primarily on racism, but he readily acknowledges sexism, heterosexism, and other "-isms" as harmful personal and institutional sources of microaggressions (Sue, 2010; Sue & Spanierman, 2020). More recently, he has developed a psychosocial-intervention training program to reduce the occurrences and effects of microaggressions. His goal is to "disarm and dismantle" not only microaggressions, but macroaggressions as well (Sue, 2021).

Dr. Sue is the recipient of countless awards and honors, including the Gold Medal Award for Life Achievement in Psychology in the Public Interest in 201 He was advisor to President Clinton, and has held numerous positions in the APA, influencing its positions and practice directives on multicultural issues, and was president of Division 45, the Society for the Psychological Study of Culture, Ethnicity and Race. With over 150 publications, he is the most frequently cited multicultural scholar. He continues to author the most widely used textbook on multicultural psychology, "Counseling the Culturally Diverse," now in its 9th edition (Sue, Sue, Neville & Smith, 2022). His work is widely used in academic and applied settings nationally and internationally. Dr. Sue has held various faculty positions, including those at Univeristy of California-Berkeley and Columbia University, where he maintains his long standing professorship of psychology at Teachers College.

Dr. Sue exemplifies the best of our profession. We are honored to have him as our featured speaker at this year's LACPA convention on October 26th. ▲

Cris Scaglione, Ph.D. is a clinical psychologist specializing in neuropsychology. She works with co-occurring physical and psychological struggles, and supports multicultural (including disabled and LGBTQ+) wellness from a biopsychosocial perspective.

References are available on the LACPA Website www.lacpa.org.

"Post-Divorce" continued from page 7

eventually discovered that Donald's former mother-in-law was paying for the child's college tuition, room, and board, she and I both encouraged Donald to do some of his own "investigation" with his daughter. We wanted to see if there was any resentment about his not paying for her college expenses – notwithstanding the fact that his career had plateaued and he did not have the money to contribute much at all.

We later learned that Marla had re-inserted herself between Donald and their daughter, repeatedly promoting the idea that Donald was "freeloading" and "not carrying his own weight." The therapist first focused on the fact that Donald could and should have a direct relationship with his adult daughter, and that he did not have to go through his ex-spouse to try to reach her. Thereafter, the therapist's work with Donald focused on maintaining his complete disengagement from Marla, gently and honestly asking his daughter if she was in any way "bothered" that he was not paying for her college, and learning how to allow his daughter to vent her feelings without getting defensive. ▲

David J. Glass, J.D., Ph.D., has worked as a therapist and as a divorce attorney in a career spanning close to three decades. He concentrates his law practice on high-stakes custody litigation. He is the Editor of The Los Angeles Psychologist, and has appeared as an expert on Good Morning America, NBC News, AP News, and in People magazine. His book, Moving On was an Amazon bestseller. He currently hosts TheHourGLASSPodcast, focusing on the intersection of family law and psychology on Apple+, Spotify, and YouTube.

References are available on the LACPA Website www.lacpa.org.

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