

# Human Resources

## HEALING THE DYSFUNCTIONAL LAW FIRM



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Dysfunctional behavior can be an invisible problem that drains the firm of valuable resources. Sometimes administrators are asked to intervene but don't know quite how to be effective in remedying the situation. Although this would certainly include illegal behavior, this article focuses on those behaviors that involve people behaving legally, yet poorly toward one another. Co-workers often describe individuals who exhibit these behaviors with very colorful and descriptive words, many of which are synonymous with ogre and/or jerk.

Lawyers, knowingly or not, can create fear among colleagues and staff. This happens when the offending individual abuses his or her position of authority. Of course, it isn't always the lawyers who misbehave. Support staff can and do create their fair share of havoc. We recently worked with a firm that had a support staff member who would work only for selected individuals, rather than everyone to whom he assigned. We have even been asked by shareholding partners to intervene with firm administrators who demonstrated anger management problems!

Sometimes, dysfunctional deeds are aimed at specific individuals. Name-calling (various combinations of animals, body parts and animal body parts are popular), yelling and public humiliation are more common than one might expect. An individual whose bad behavior isn't necessarily aimed at anyone in particular is equally as fear provoking and destructive. Examples include slamming one's fists against doors, tables and walls, stomping, yelling at no one in particular, cursing, slamming down telephones, huffing about the office and throwing objects of various weights and sizes at walls and furniture. These behaviors are easily identified as problematic.

In other situations, however, bad behavior is much more difficult to identify. Sarcasm, "jokes" that are critical of other people, selectively ignoring people, speaking in condescending tones, refusing to ask people how they are or say hello and good-bye, and non-constructive criticism are often subtle forms of intimidation that are less likely to be recognized as damaging by those who are

engage in it. An example of the non-constructive criticism would be a comment such as, "Other people on the team don't really like you." Comments like this fail to serve the purpose of constructive criticism, which is to provide information necessary for an individual to improve in the execution of professional role(s) or duties.

Firm leadership may ignore dysfunctional behavior and it may go unresolved for years. There may be several reasons why. First, the behavior may not be perceived as problematic or even inappropriate. Leadership may underestimate the severity of the impact of dysfunctional behavior on the firm's bottom line. Often, partners mistakenly believe that the effect of such behavior has no real effect on the viability of the firm. This is incorrect.

Research indicates that individuals who are the recipients of volatile and/or hostile behavior can become so upset by the interaction that they may lose time significant amounts of work time trying to calm down after an incident. They intentionally slow down their work pace or stop working altogether as a form of retaliation. They also lose time worrying about the possibility of more negative interactions. This means that the assistant of a volatile lawyer may be absent from his or her workstation much more frequently than other assistants in the firm. Research also indicates that individuals intentionally avoid the instigator in anticipation of outbursts. Associates who do work for a volatile partner may check in less frequently and delay returning important work in an effort to avoid a distressing interaction.

Individuals also report that they intentionally withhold necessary information as a form of retaliation. Important phone messages may be reported as, "never received" or might be, "misplaced." Research also indicates that people call out sick more frequently. Finally, when they feel left with no other option, they quit.

But the lost productivity doesn't stop with just the recipient. Research indicates that everyone who witnesses or hears about these episodes also loses time worrying. So, if you have one individual in your firm who behaves badly and you have a fairly small organization, the problem could be affecting the productivity of every individual at your firm.

This type of behavior is often an invisible drain on the firm's profits. Hundreds of hours in productivity by attorneys and support staff can be lost. Additionally, the cost of losing a disheartened employee is substantial. Industry estimates indicate that if you lose one associate, the cost to the firm to replace that individual can be

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as high as \$400,000 . Think about a practice group with a difficult partner. A group in which the number of associates who rotate in and out over the course of years far exceeds attrition experienced in other practice groups. Costs to the firm could be staggering. If the firm is tolerating a difficult partner, he or she better be a great rainmaker in order to offset hidden costs!

Even when there is recognition that the problem person is having a negative impact, people rarely know how to address it. Occasionally, someone may say something along the lines of, "It has to stop." But, beyond that, individuals are at a loss. An attitude of defeated resignation may set in.

### Creating A Solution

The first step to finding an effective solution is to correctly identify the cause. Research indicates problem has two causes, not one as many might guess. The first cause is obvious: The bad behavior by the offending individual is creating dysfunction. The second cause is much less obvious: the system, or culture in which the individual works is also playing a role by permitting the behavior to happen in the first place.

Problems occur in a system/environment that tolerates it. When individuals in power turn a blind eye to problematic behavior, they become co-conspirators in creating the dysfunction. If firm leadership wants to eradicate these kinds of problems, the culture of the firm has to shift from one of looking away to staring the problem down. For some firm leaders it may mean a good hard look in the mirror. This can happen throughout the firm, or within smaller groups.

In every firm, there is the firm culture that everyone experiences. Within smaller practice groups and work teams, subcultures exist. Often people report that the most problematic person sits at the top of the firm hierarchy, making it nearly impossible to change the culture of the entire firm. Even if you can't change the firm culture, change within sub cultures can be very effective at enhancing functional behavior.

We at Kohn Communications define culture as having four aspects: values, vision, procedures and proof. Values are the strongly held beliefs that guide decision-making. Vision is a collection of goals that paint a picture of your future firm. Procedures are the official policies. Proof is management living up to the values, vision and procedures. In order for cultural change to be effective all four elements must clearly line up against inappropriate behavior. Espousing a value of civility among firm members and failing to enforce it with certain powerful individuals is in itself dysfunctional.

If leadership really wants to solve this problem, individuals in power positions need to send a message that the behavior will not be permitted regardless of who does it. This can mean creating a civility policy, either formally or informally and enforcing it evenly. Again, even if this is not realistic firm wide, a practice group leader can implement and enforce good behavior within a smaller culture.

If you are fortunate enough to work at a firm that embraces this throughout the organization, it can even mean action as drastic as firing a primary rainmaker. Don't scoff. We've seen it happen.

When thinking about the offender, it is easy to fall into the trap of blame and character assassination. Individuals who exhibit offensive behavior are often characterized as scoundrels or psychopaths. This is almost never the case. Usually, the individual suffers from an impoverished skill set. He or she lacks the necessary ability to appropriately regulate his or her behavior. Focusing on behavior is very different from blaming and offers hope for change. Many people think that for change to be effective a personality transplant must take place. This is not the case. The key is in raising the awareness of the individual by clearly defining specific behaviors that need to change. It's much more effective to say to someone, "You need to speak in mid-range tones. It is never permissible to raise your voice." Than to say, "You need to exhibit behavior that is more professional." One directive is clear and offers guidance to improve one's professional behavior. The other is vague, open to interpretation and non-constructive.

The second key to helping an individual to change behavior is to engage in a long-term intervention. It is not enough to have a meeting or two, or to mention problematic behavior only during performance reviews. If you really want to help someone change behavior, then a series of meetings at regular intervals is what is called for. Such meetings need not be elaborate or lengthy. You can meet with the individual for 20 minutes every other week to discuss change and progress. It's the ongoing accountability and sustained attention to the problem that enhance the probability of a successful outcome. It's important to know that you should expect backsliding. Change does not happen in a straightforward manner. It is nearly always an ongoing case of a few steps forward followed by one step back.

Implementing this two-pronged approach that focuses on modifying the culture (or subculture) within the firm and modifying the behavior of the individual creates the greatest likelihood that lasting change will occur. So next time a managing partner comes to you with a dysfunctional issue, invite him or her to sit with you and explain the kind of alliance you need. Together, the two of you can develop a realistic strategy that enhances the probability of functionality. 🇺🇸

***About the Author:** Jill Kohn, Ph.D. is a consultant for Kohn Communications. She specializes in helping individuals improve the quality of professional relationships. For tools designed to help increase functionality at work visit [www.kohncommunications.com](http://www.kohncommunications.com).*