Counseling Clients

Second-year student Daniel Navisky recounts his experiences on the Client Counseling team.

“Did you have trouble finding our office?”

It’s a silly question to ask when you are sitting in a drab law school study room, speaking to a fellow student while being watched and judged by practicing attorneys.

The truth is, I don’t have an office, nor does my friend Tiffany. We don’t even have cubicles. But we found ourselves leading off with this canned question scores of times in practice sessions and competitive match-ups over the course of the ABA Client Counseling Competition.

We started inauspiciously. Tiffany asked me if I wanted to be her partner in the BC Law internal competition, which is run by the Board of Student Advisors.

“What is it?” I asked.

“I’m not sure,” she replied. “But we can put it on our resume even if we lose.”

The thing is, we kept winning – multiple rounds at BC, the ABA regional competition, the early rounds of the nationals. We only lost in the national semi-finals when we went head to head with the eventual winners. And we were the only first year team.

There is much folklore about law school competitions – high oratory in moot court, dogged cross examination in mock trial, and strategic offers and counter offers in the negotiation competition. But as lawyers know, most legal practice is spent out of court.

What lawyers really do is navigate the myriad troubles, legal and personal, that arise with each new potential client, drawing out the real problems they face and crafting solutions to meet their needs. Being a lawyer is as much about being a counselor as knowing the law.

I remember the toughest problem Tiffany and I faced over the course of the three competitions. We were in the regional finals and a woman, played expertly by a professional actress, wanted to sign her son to a contract with a kickboxing agent to participate in matches around the world.

We spent a significant amount of time establishing a good rapport and pulling out the facts. And oh were there facts! At the age of twelve, her son had already been kickboxing for years. He was seriously injured by a blow to the head and went through extensive speech therapy to recover his ability to speak. But she wanted to sign the contract because it would solve her financial woes. And, of course, her estranged husband was opposed to the idea.

This was not the usual type of problem we faced in our romp through sports and entertainment law, last year’s subject area. It was hard enough getting clients to give us facts (they are told to withhold some), spot the relevant legal issues, determine the client’s goals and come up with legal and non-traditional solutions while at the same time sticking to our thirty minute time limit, broaching the subject of our fee structure and explaining confidentiality rules. Add
to this the particular affect that clients purposely brought with them – rude, flaky, obstinate, or emotional. Now, we were faced with a client that refused to take our advice.

"Don't sign the contract until we see it!" we said.

"So I'll go and meet the agent and assuming it seems okay then I'll sign it," she replied.

We tried again. "It's really in your best interest – not to mention your son's – to bring the contract to us first."

"Okay, so I'll go and sign it unless there's a problem."

Back and forth we went in this frustrating dance.

When it came time for our debriefing after the interview, Tiffany and I, still in character, assessed our client, talked over the legal issues – who is our client, would the contract be enforceable, what rights might the father have – and discussed next steps.

"I know we told her that we would mail her a letter detailing what we discussed today, but she didn't seem to get it," I said. "Let's messenger that letter to her so she gets it this afternoon, both to have one last crack at her and to defend ourselves. We don't want her to try and sue the law firm of Morris & Navisky even though we gave good advice.

That move ended up winning the finals, sending us to the national competition in Orange County, California. The competition judges, practicing attorneys and judicial figures, liked our extra layer of understanding of the dilemma we faced. Of course, these were lessons we learned from previous judges in earlier rounds who gave us sound guidance after each session.

With the help of our coach, BC Law professor Evangeline Sarda, we did more than learn techniques to winning a competition. We learned a method of listening and strategizing, we were taught professionalism and team work, and we developed and strengthened our interpersonal skills. If moot court is about pure intellectual reasoning, client counseling is about real life.

In a sea of casebooks, exams and outlines, this was the highlight of my 1L year. In the process, I breezed through my lawyering and professional responsibility class and honed skills that will make my impending job interviewing much more successful (provided I don't ask the interviewer if she had trouble finding her own office).

Naturally we were robbed in the semifinals in California. Professor Sarda, always the competitor, even thought about protesting the result. It was a success nonetheless. And, next year I'll be running the competition.

As Tiffany and I settled into our seats for the long flight back to Boston, I turned to her and said:

"Did you have trouble finding the plane?"

Her face lit up.

"I was about to ask you the same thing!"

*The Board of Advisors is looking for BC Law alumni who would be interested in serving as judges for various student competitions. For more information, please contact Emily at armstrem@bc.edu.*