

# HOW TO BE

BY MICHAEL P. MORRISON

**Michael P. Morrison** is an attorney with Russo Russo & Slania PC in Tucson. And he's open to any holiday party invitations that may be forthcoming.

According to the psychoanalytic theory of Transactional Analysis (“I’m OK, You’re OK”), almost everybody has grown up with low self-worth. This is because, says the theory, children are inescapably inferior to adults because of their lack of size and motor skills. The child internalizes this feeling of helplessness and retains it into adulthood.

Result? We think we are worthless; no one would love us if they knew who we really were. That is why you don’t have any friends. It has nothing to do with your arrogance or your self-centered attitude or your inability to recognize that other people feel pain, too. You’re a great person. Really.

The nature of the legal profession exacerbates these feelings of worthlessness. First, unless you work at Snell & Wilmer, you practice law all alone. You may be able to discuss what happened later with a supportive colleague, but, either in court or at deposition, you are all by your worthless self. Inside you feel like a fool; outside, everybody hopes you act like one. We try not only to win but to humiliate the opposing lawyer. We lie in wait for the poor soul who didn’t read the local rule and forgot to file an affidavit with the motion. We wait until the hearing before pointing it out to him.

There are some lawyers who have avoided forming this overwhelming feeling of worthlessness. These folks, however, have what we psychologists refer to as Borderline Personality Disorder—Sociopathy. In lay terms, they have no conscience.

You may recognize them by their overwhelming desire to win and a disconcerting inability to connect with other humans. They have cruel, lifeless eyes, like a shark’s. But unless you are, say, Ted



# POPULAR



Bundy, who has not tried a case in some time, I believe, this problem need not concern you. Do not think, however, you can use the techniques in this article to make friends with a sociopathic

lawyer. No, you mustn't try to pet this doggy. Just identify and get away.

For all other attorneys, though, all you need are these simple



guidelines to help you find your way through the dark forest of lawyer loneliness into popularity's golden light. Personal hygiene should do the rest.

### 1. Don't Object.

When you object to a question posed by your adversary, you are impliedly telling him, and anyone around, that he is either too dumb to formulate an appropriate question or he is trying to cheat. Either way, it hurts. Do you really think he wants to pal around with you after that?

The best course is to stop objecting altogether. You don't know what the form of the question is supposed to be anyway.

Let's do one together:

Opposing counsel asks his client in front of the jury, "Margaret, the doctor said you were paralyzed for life, right?" Is this leading? Yes. Is it hearsay? Sure. Do you object? Of course not.

You might be worried about the risk to your client in allowing inadmissible testimony into evidence. Stop worrying. First, your client is not the one who will be sitting alone at the Chandler, Tullar Christmas party. Second, the jury probably isn't listening anyway. Finally, the witness has sworn to tell the truth. If it's the truth, why would you want to object?

### 2. My Client Did It.

This also has application to those attorneys who do not go to court but rather sit at their desks and reproduce forms on the computer. Even these non-lawyers will find themselves in a situation where they might have to give opposing counsel bad news. Once again, your opponent will internalize this; he will be ashamed as a result. He will associate this feeling with you, especially if he thinks you had any part in the decision. In any case, you are looking at a big, empty table at the Chandler, Tullar Christmas party.

Don't panic; blame it on your client. When Mr. Opponent calls, you say something like, "Darn it, John, I am so angry at my unreasonable client. He won't let me include your change to the contract. I really want to. Please don't be mad." At least this lets your adversary know you are on his side.

My readers who were on law review are asking themselves, "But what if my client finds out?" He can't. Ethical rules prohibit the opposing lawyer from communicating with your client. For once, the ethical rule is our friend. But just to be safe, don't schedule any meetings with them both together.

There used to be an ethical rule that required an attorney to be a zealous advocate for his client. This rule has been abrogated by something called the Zlaket Rules. I went to a class that explained them. Under the Zlaket Rules, we only owe a duty to

the other lawyer. This dovetails nicely with our effort to be liked by him.

### 3. Compliment Your Opponent.

"You work out, don't you?" "I think the judge is kind of afraid of you." "I like your shoes."

Everybody loves a puppy. This guy will be waving hello to you at the courthouse like he was on fire.

### 4. Self-Deprecate.

Opposite of number 3. "I don't understand this stuff." "The last time I had a jury trial I fainted." "I wish I could have gotten into medical school."

'Nuff said.

### 5. Lose.

This is a killer. Nothing makes Mr. Opponent feel better than winning.

The trick here is not letting your opponent know you threw the game. Subtlety is your watchword. File a response to his Motion for Summary Judgment, but soft-pedal it. I find frequent use of the word "admittedly" creates an implicit tone of defeat. Try not to cite a lot of legal authority; if you must, cite cases out of Louisiana. At oral argument, slump your shoulders and speak in a low voice. Apologize for taking so much time. Heartily congratulate your adversary after he wins and tell him you really learned a lot.

Once again, don't worry about the duty to your client. The Zlaket Rules require you to help opposing counsel win.



Well, I could go on and on, but you get the idea. A couple of caveats, though:

- Don't be surprised if your partners get jealous. They will show their envy by asking why you never win anything or why clients only come to you once. Do what your Mom told you to do with the bullies: Ignore them and they will eventually form their own firm.
- Watch the entries on your time sheet. "Prepare for and shop for Eisenhower jacket for plaintiff's atty" might not sit well with your office administrator. Just put something like "Conference at Nordstrom's."

If you try even some of these suggestions, expect to be honked and hollered at by lawyers all over town. Look, clients and bar complaints come and go; a smile from Jack Redhair is forever.

See you at the Chandler, Tullar Christmas party.