

The 3 Ps to Residential Real Estate Transactions: Paper, People, and Property

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INTRODUCTION

This past year I had the privilege of preparing submissions for my student's bar admission. Like most exceptionally competent thorough researchers, I grabbed "my facebook" (which is what my mother calls my iPad) and went onto "the Google" (which most people, except for my mother, call "the internet"). I was searching for a quote about lawyers. I wanted to find a quote that would create pause for thought; a saying that would inspire my student's family and friends to believe he was on the cusp of a great career; a concise line to remind my colleagues that as lawyers, we are a privileged lot to be invited by clients into their lives. I was thinking a quote by Winston Churchill or Martin Luther King Jr. or even (gaud forbid) a Mel Gibson or Kevin Costner movie would easily materialize and upon hearing grand words of wisdom about lawyers, the courtroom would feel transformed.

"Quotes about lawyers", "Good Lawyer", and "Lawyer Quotes" proved to be the most disappointing search terms I've ever presented to the Google. I didn't find what I was looking for, but instead was directed to hundreds of websites with bad lawyer jokes, links to bizarrely creative lawyer marketing campaigns, and client blogs about high conflict divorce. So, what did I do? I didn't try harder and certainly didn't take my mom's advice and search the same terms on Kijijis; I altogether changed my strategy. If I couldn't make my student and his family feel good about the career he had chosen, I could at least embarrass him. I therefore focussed on his mommy pressed pants, mommy made lunches, mommy made bed, and mommy chauffeur.

What I learned from this exercise, however, is that a "good lawyer", according to the general public, is hard to find. Clients report¹ they are:

- "bossed around" by lawyers who fail to keep commitments;
- not being heard by their lawyer;
- constantly interrupted and misunderstood by their lawyer;
- receiving corrective feedback from their lawyer;
- spoken to by their lawyer in inaccessible language;

¹ Wilcox Hudson, Esther. (2006) Meeting the Service Challenge: Dealing With Difficult Clients. *Legal Education Society of Alberta*, p.16

- receive conflicting messages from their lawyer; and
- pay too much to deal with a “know it all”;

I find these experiences quite hard to believe, given I work with so many exceptionally competent kind engaged lawyers who are really great people and professionals because they consistently put their client’s interests above all others. How is it that their names and profiles didn’t pop up anywhere when I asked the google to find “good lawyer”? Obviously a search optimization expert might add some value in the conversation here, but I believe this disconnect is because of a larger very simple problem: Clients believe that quality interactions with lawyers are those that conform to the client’s requirements and expectations. Clients expect to understand the transaction process, they want to anticipate when and what they need to do so that they feel they have a measure of control, and they want their relationships with their various advisors to be preserved along the way. Lawyers hold a different perception. We expect to get timely registration of our documents, in a painless manner without real or perceived trauma to our staff, and receive a fair sum along the way. A good real estate file for lawyers is when the deal isn’t complicated, instructions come from a normal lender, we have enough time to put the deal together, and the clients are worldly enough to understand how the taxes work.

It would seem, therefore, that even though we may be doing great work for our clients, they don’t know what we are doing, or they sometimes expect that we should be doing something else. We’re simply not on the same page as our clients. As David Maier explains in his book, *True Professionalism*, “*The primary sources of quality failure in the professions are miscommunication and misunderstanding between the client and the professional. In turn, the largest single component of this miscommunication is over how “success” for the matter is to be defined. Professionals think they know what clients want of them, but frequently this differs from what the client truly wants*”².

In the paper that follows, I will offer some tips and advice about how real estate lawyers can approach their work so that client and lawyer expectations are better aligned. I’ve confined my comments to residential real estate work and to the transactions themselves. I don’t have any professional expertise about marketing a real estate practice. I simply want to share some modest changes I have made to my own practice that have caused my clients to be appear more satisfied

² Maister, David H. 1997 *True Professionalism: The Courage to Care About your People, Your clients and Your Career*. The Free Press. P. 467