

Client Centered Practice

What is Their *Story*?

Series of scenes edited from the movie
Amistad

directed by Steven Spielberg

nominated for four Academy Awards
in 97

including best supporting actor for
Anthony Hopkins' portrayal of former
US President John Quincy Adams

**Amistad is based on the true story of a
slave ship mutiny in 1839 and
The subsequent U.S. Supreme Court
decision in 1841**

- By 1839 international slave trade was illegal under US and British treaties
- However slavery continued in the South through the purchase of African descendants born into slavery
- Anti-slavery (Abolitionist) movement in the North threatened national unity
- Eventually led to the Civil War in 1860

Cast of Characters

Cinque:

- a West African captured by Spanish slave traders in 1839
- brought to Cuba, where he was sold into a life of plantation labor
- On the way to the plantation, he broke free of his shackles and with 52 other Africans took over the slave ship, *Amistad*

- Lewis Tappan: A leader of the abolitionist movement
- Theodore Joadson (Morgan Freeman): ex-slave also active in the abolitionist movement
- Roger S. Baldwin: represents Cinque at trial

- John Quincy Adams (Anthony Hopkins): former President, represents Cinque in Supreme Court
 - Son of the 2nd President, John Adams, who was a leader of the American Revolution
 - Served one term as President (1825-29)
 - Then served in Congress
- In 1839 he was 72 years old

Scene 1

Takes place immediately after a chaotic hearing at the federal courthouse

- Tappan tried to present a writ of habeas corpus to release the prisoners
- He was rebuffed by the judge, who pointed out that Tappan was not a lawyer
- Naval officers who brought the Amistad to shore made salvage claims for the ship and its "cargo."
- Surviving Spaniards, Ruiz and Montes, claim ownership of the prisoners.
- U.S. Secretary of State, pursuant to a treaty agreement, claims the ship and its cargo on behalf of the Queen of Spain.

- As Tappan and Joadson leave the courthouse
- They are approached by a scruffy looking young man
- Who introduces himself as
 - Roger S. Baldwin, attorney at law ...

- I sent my former solicitor packing
- because SHE WOULDN'T LISTEN
- "That is absolutely fundamental; this was my case, only I knew the full circumstances."

2000 Research Study

Law Society of England & Wales

(discussed in Cunningham, What Clients Want)

- Hillary Sommerlad & David Wall: Legally Aided Clients and Their Solicitors: Qualitative Perspectives on Quality and Legal Aid
- Interviewed 44 clients of 21 different solicitors in the north of England.
- 50% said that they had previously used a solicitor whom they did not like.
- The most common complaint was lack of respect, followed by a lack of interest in the client, and then poor communication.

- I went to [my current solicitor] because of her reputation and expertise
- she is a part-time registrar and has a big reputation as a specialist in this area
- but SHE JUST DOESN'T LISTEN.

- She listens for part of what I have to say, and then interrupts, saying something like
- 'OK, I've got the picture, what we'll do is ...'
- and she hasn't really got the picture, she's only got half the facts.
- I think it's partly because she so busy and also because she's simply not used to giving clients a voice.

- What's more she has actually made me frightened of expressing my views.
- I am about to change to another solicitor.

Explaining

- “At my first meeting with [my current solicitor] ... I was impressed by his natural ability to talk about technical things with knowledge, but on a level that I could understand.
 - we actually talked and he explained in clear language
 - Other people just had a job to do, but [he] took time to clearly explain technical things.
 - He explained how the system works.”
- “She speaks of legal matters in a way that is knowledgeable and she explains it well.”
- “She communicates clearly. She puts things in layman’s terms.”

- “They must be able to give you time. If solicitors haven’t got enough time, they can’t get enough out of you. You have to have time to be able to ***tell your story.***”
- I like my current solicitor because I “can have a chat with her, I trust her The other solicitor — I was just a file for him, but for her I’m a real person and that comes across in court.”
- “ I wanted the law to be explained. ... The way the solicitor views the client is important. He has to be interested in our views.”
- “I never liked him. ... we couldn’t have had a solicitor like him for this; I think he was perfectly competent, but there was no sympathy.”

- For many clients, their engagement with the law was not simply about achieving a result.
- Their responses indicated that the process itself was important.
- Empathy and respect were not luxury items
- But fundamental to the service.

What do clients most care about?

CLIENT PERCEPTIONS OF LITIGATION

WHAT COUNTS: PROCESS OR RESULT?

Tom Tyler, *Trial Magazine* (1988)

- Clients care most about the process
 - having their problems or disputes settled in a way that they view as fair
- second most important is achieving a fair settlement
- least important factor is the number of assets they end up winning.

PLAINTIFFS AND THE PROCESS OF LITIGATION:

An Analysis of the Perceptions of Plaintiffs
Following their Experience of Litigation

Tania Matruglio

**CIVIL JUSTICE RESEARCH CENTRE
Australia 1994**

■ Chart

Australia: LawCover Study

- LawCover: Australia's largest indemnity insurer for lawyers
- Commissioned a Risk Management Project
- Sample from over 2000 claims
- Extensive & confidential interview with each lawyer
- In most cases also interviewed the lawyer who defended the claim.

Major Causes of Claims

- *not* dissatisfaction with outcome
- handling of the client relationship
- failure to
 - listen to the client
 - ask appropriate questions
 - explain relevant aspects of the matter

Australia: Client Satisfaction with Specialists' Services

- Widespread client satisfaction with the specialists' legal knowledge and skills
- Consistent evidence of client dissatisfaction with the provision of services

Different ideas of competence

- Practitioners and clients were selecting divergent indicators of performance
- Practitioners concentrated on knowledge and skills to deliver outcomes
- Clients expected both competence and positive results
- But were disappointed by the process of getting there

Clients complained about

- Inaccessibility
- Lack of communication
- Lack of empathy and understanding
- Lack of respect

What is their *story*?

- What does Adams mean by “their story”?
- “What is their Story” somehow connected with “who” they are

Mandela on Oliver Tambo

- “spent a great deal of time with each client,
 - not so much for “professional reasons”
 - but because he was a man of limitless compassion and patience.
- He became involved in their lives.”

Stringfellow

- “it is important to have known clients as person before the case arose ...
- to have been accepted by them,
- to have lived in the same place and similar circumstances,
- and to expect continued relationships after the particular case is closed”

Ammar: the Georgia Justice Project

Ben's Wedding

- We have worked with Ben for over ten years. Five years in prison and five years out of prison.
- He was sixteen-years old and, quite unfortunately, he grew up in prison.
- We were with him throughout his case.
- We visited him during his mandatory five-year term in prison.
- He started working for GJP's in-house business (New Horizon Landscaping) within a week of being released from prison.

- At his wedding, ten years after interviewing a scared kid in jail, I feel nothing but pride.
- He is marrying the mother of his children and he is in the best place I have seen him in years.
- As Ben's grandfather performed the ceremony and about one hundred or so friends and family gathered around, I saw a community.
- I saw the lines blur between lawyer and client, employee and employer.
- Client turned counselor turned supervisor turned friend.
- It is this vision of community that keeps me going.
- After almost fourteen years of doing this work, Ben's wedding provided a glimpse – a confirmation, really – of our goal.

Value of Experience for Client Communication

- Study by Prof. Avrom Sherr (U of London)
- 143 actual 1st interviews
 - 24 % trainee solicitors
 - 76% experienced solicitors
 - 70% at least 6 years
 - 23% more than 11 years
- High percentages of ineffective interviews
 - Experienced solicitors generally no better

Common Problems with All Solicitors

(Sherr Study)

- 51% failed to get the client's agreement to advice or plan of action
- 76% failed to confirm with client the solicitor's understanding of the facts
- 85% failed to ask before ending whether there was anything else the client wanted to discuss

Where There Were Differences Between New and Experienced Solicitors

- Experienced solicitors
 - Used less legalese
 - Better at “filling in the gaps”
 - Rated their own interview performance higher than did trainee solicitors
- But the clients saw no difference in performance between trainees and experienced solicitors