

Transforming Conflict

Offering Peaceful Solutions as an Alternative to the Adversarial Legal System

by Constance d'Angelis

Walking out of the courtroom in February 2000, I was beset by both bitter and sweet emotions. We had presented an excellent case where the other side had not, and I expected that we would win. The judge would render his decision within a week or so. The sweetness of the feelings of winning subsided as the angst of a core nagging in my midsection smacked of a bitter taste that something wasn't right. This case should never have come here. It should never be in court.

Excusing myself from my husband and law partner I quickly crossed the threshold of the women's restroom just down the hall from the courtroom where I had spent the last week of my life. The restroom was large with two couches in the lobby area. I sat on the one with the silk Ficus tree behind it. The space was empty and would remain so because most onlookers had left the courthouse. The trial had been held in the historic courthouse due to lack of space in the usual 'new' Clearwater, Florida, Sixth Judicial Circuit Court facilities next door.

What have I done? I believe in the result, but the means are all wrong. My thoughts plagued me. "There must be another way." I muttered.

As a lawyer in the Schiavo case, a dispute that would entice the nation and the world, I found a perplexing truth emerging within my consciousness. Courts are established to resolve conflict, yet as an officer of the Court, following the rules, I have contributed to an exacerbation of conflict, not resolution. The dispute between Terri Schiavo's husband, her parents and siblings was mounting. By winning in Court, the losers have been humiliated, disregarded, and dishonored. More rancor will result. A family at war. There must be another way.

Upwards of ten appeals would be filed in both State and Federal Courts in the five years that followed. Knowing that the governor of the State of Florida would become engaged in the matter and after the first appeal to the Second District Court of Appeals in Florida, I left. I left my husband, home and law practice. Healing had to take place and healing comes through forgiveness.

Throughout the legal wrangling that sparked extraordinary media attention there were no abuses of the legal system. It is the system itself that is flawed.

The United States legal system is an outgrowth of the English law and equity courts. Courts are established with the requirement that disputes between people are resolved by a tribunal that finds which side is right, and which side is wrong. The Judicial system creates a winner and a loser. Advocates for each side of a dispute argue their position, discredit their opponents, and provide evidence to prove their points. The system, by definition, is an adversarial structure. The system replaces physical challenges such as dueling or hand-to-hand combat to solve conflict. Yet, the result is similar. There is a winner and loser albeit; neither of the parties loses his life in the process.

There are rules that keep the system orderly. As the system expands, there are more rules. More rules and complexity assist in the need for more lawyers to represent the litigants - those who file or defend lawsuits. The United States supports approximately nine hundred and seventy thousand attorneys, seventy percent of entire world population of lawyers.

Attorneys at Law are trained as adversaries, and operate within the adversarial system that we have in this country.

Is it any wonder that about thirty six million lawsuits are filed each year, or that litigation attorneys are termed 'hired guns?'

What is the problem with this type of system? A perfect example lies in the events surrounding the Schiavo case.

First, trials are public. They are public displays of attorneys' skill, or lack thereof, and the war between the opponents that result in a winner and a loser.

When the media gets interested in a specific ordeal the conflict can take on a life of its own. The greater the adversity, violence, and vendetta, the greater the media interest. The expansion of media coverage furthers both litigant and lawyer's entrenchment within their legal position. The deeper the commitment to a position, the more difficult to find a common ground between the warring parties. The result: no possibility of agreement, or

settlement. A lawyer's dream.

Engaging in public debate regarding accusation and blame seems to both disgust and tantalize the general public. Observing a battle, and promoting one side or the other, seems to appeal to a salacious human sense that is tapped by those who benefit from selling sensationalism.

Second, there is a question of whether it's possible for the truth to come out of this display. One must remember, that 'truth' is not the litigant's objective in an adversarial civil matter. Each side's objective is to 'win,' just as the goal of combat is victory.

The judge or jury is charged with finding the truth, and there are rules that must be followed as to what evidence is received, and how that evidence is considered. Once a ruling is made, the appeals courts may decide whether the rules were adhered to, or not. If a mistake in the application of the law or rules is found, the appeals court may overturn the ruling or return the matter to the trial court to reconsider a specific mistake.

Third, the appeals courts do not have the authority to retry the case, or rehash the evidence presented to the trial tribunal, whether a judge or a jury. Why is this important?

Again, an example from the Schiavo case.

The trial court made a ruling at the first trial, which established that Theresa Marie Schiavo existed in a persistent vegetative state. The Second District Court of Appeals affirmed that ruling. More appeals followed. Only after the claim that there was additional evidence that had not been considered by the lower court was the appeals court allowed to order a new trial. The issues that could be presented in the new trial were limited and well defined.

In the 2002 trial ordered by the Appeals Court, it was required that the evidence presented to the trial judge must meet the burden that new diagnostic techniques or treatment "would significantly improve the quality of her (Terri's) life." The Schindlers lost again.

There could not be an entire new trial because the civil law system does not allow it. Only in criminal matters where the death penalty is imposed, and

where there is an allegation of 'incompetent counsel' may an appeals court order an entirely new trial.

The obvious conclusion given the manner within which the civil adversarial system works is that the skill, cunning and strategy of the lawyers often determine who wins and who loses. In the Schiavo case, once the original trial was won, there was little possibility that the ruling could be overturned within the legal system in place.

That did not deter avid proponents of agendas that sought to blame and accuse, spreading an air of resentment, which further magnified the family disaster that leads to the fourth occurrence that militates against adversity in resolving disputes.

When allegations are made using words such as 'murderer;' expressing disgust by referring to the situation as a 'carnival,' 'sideshow,' and 'media circus; labeling those who disagree with ending tube feeding as 'fundamentalist freaks' or 'evangelical mullahs;' and deeming elected officials as 'self-righteous hypocrites' there is not much chance of empathy or mutuality of factions on any front.

Fifth, whatever the real societal issue in this case, whether it could be concern regarding how we as a society view the value of our lives, or feel about judging the value of another's life, might never be brought to the forefront. In the Schiavo case, it appears that the adversarial forum has been shown to wreak more havoc, and create more chaos than an orderly community approach to the issue.

As co-counsel on the winning side of the Schiavo case I contributed to the debacle that resulted. As previously mentioned, I agree that tube feeding in this situation should have been halted, but the means does not justify the end. In the years between the first trial and now, I have searched my soul with the intention of forgiving myself for my contribution to family chaos, confusion and rancor that was exalted to worldwide exposure.

Critical to forgiveness of self is the forgiveness of all others involved. It was necessary for me to forgive my former husband and law partner, litigants, lawyers, media, politicians, and especially the legal system, for the role each played in the divisiveness.

Forgiveness does not mean forgetfulness. Remembering is a key component necessary to avoid repeating a mistake, and in seeking alternatives to an identified error.

It is possible to choose another way.

As students of Science of Mind, recognizing the philosophy of Ernest Holmes, we know that we must begin with ourselves. We know that by changing our minds, we change our lives. If we continue to do things the same way, we're going to get the same results.

Pondering how Science of Mind philosophy could make a difference in solving disputes, I realized that every conflict is a doorway. Through the choices we make when confronted with difficult situations we can choose spiritual growth or we can choose dissention. Making the 'right' choice allows for successful win:win solutions, and personal growth. The door is there for us to walk through, or not.

Overcoming everyday challenges of life builds a framework for making integrity-based choices. Then, when a dramatic issue presents itself, clarity and empowerment assist in making a responsible decision.

It's common in business to look for win:win solutions because the emotions and unresolved issues that accompany family situations are minimal or non-existent. This is a good place to practice peaceful solution remedy. Here's an example.

A contractor friend purchased a piece of property. He sought to buy sixty-six acres of lakefront real property in a pristine and desirable location in Maine. He was confronted with numerous difficult situations. The land was involved in a Probate Court matter; there were beneficiaries who didn't want to sell, and there were beavers that had built a dam that was flooding a road on an adjacent property owner's land. The solution to keeping the road from flooding was to remove the beavers and their dam. This solution had been employed in the past, and the beavers kept coming back. My friend listened and acknowledged concerns, talked with others, and came up with a different solution. A pipe could be placed within the dam to allow water to flow, avoiding the flooding and keeping the Beavers and their structure intact. The recalcitrant beneficiaries were pleased with the plan to keep the area environmentally friendly, and agreed to sell the land. Cooperation between

government agencies, environmental groups and property owners ensued. Everyone wins, including the beavers.

Dramatic examples of solutions that provide win:win results are not necessary. Everyday choices of honor, and seeking win:win solutions maintain an undercurrent of peace in the face of chaos and war.

Especially important is how we deal with our families and children.

Although close, continuing relationships, chiefly family ties, are critical to societal health, and individual responsibility, disputes within these relationships are more difficult to handle due to their emotional nature. Adversarial resolution to family conflict fuels often illogical, and profoundly intense emotions and feelings, and is ineffective in both resolving the discord, and contributing to societal health and individual responsibility. Providing more compassionate and honest approaches through cooperation and collaboration is an effective manner of tempering the strife so that deeply personal issues can be addressed without destruction. Disputes are solved from where they arise, that is, within the individual and by acting on the cause of the problem rather than the effect or symptoms, resolution can be achieved.

The Schiavo case gives us an example of what we don't want. What we want to avoid in our lives. Everyday people make choices that create win:win solutions and rise above the fray of hidden agendas, and the win at all costs mentality.

Celebrate the positive. Move focus to that which we want in our lives, and away from that which feels sordid and repugnant. Through this intention we can create a meeting of the minds. A powerful meeting that makes a difference.

Here's an affirmative prayer (spiritual mind treatment) for peaceful solutions. Say it, feel it, believe it and know that Spirit imprints your prayers.

Peaceful Solutions

There's one Power in this Universe.

That Power is within me.

I accept the Power of the Most High in my life now.

I know that peaceful solution to conflicts that occur in my life is my birthright.

I dispel thoughts of war, and adversity that may be part of the race consciousness, knowing that the almighty Power of this Universe, God, seeks expression through peaceful solution.

I accept that conflicts occur and acknowledge that I am protected from falling victim to a warlike mentality.

I seek win:win solutions, and avoid the trap of tying myself to an outcome that harms myself or others.

I am entitled to peace in my life, and see it wherever I go.

Thank you Spirit for the recognition that I am a peaceful, spiritual being, and that my human experience is one of transcendent loyalty to peace.

And So It Is.