The Preparation of Narcissistic Witnesses

Shortly after the July issue of TJE published, we received an email from an attorney-reader in response to the Christie Brinkley / Peter Cook divorce coverage wherein the court-appointed psychologist described Peter Cook, as a "narcissist with an insatiable ego who needs constant reassurance that he is a terrific guy" (CBS News.com, 7/8/2008). "I wonder”, wrote our reader, “how trial consultants would recommend proceeding with a narcissistic witness”.

We asked three experienced trial consultants with different professional backgrounds to share their ideas about working with these difficult witnesses: Doug Keene (psychology), Charli Morris (communication), and Lisa DeCaro (theater). They describe their individual approaches with narcissistic witnesses on the following pages.

"I’m Better Than I Need To Be!”: Preparing Narcissistic Witnesses

by Douglas L. Keene

“I need you to come in and prep this witness before I kill him!”

A few years ago a client called me and said his expert witness was making him crazy. The engineer had been hired to consult and then testify in a patent dispute, and was so proud of his idea of how to present his work that he was refusing to take any direction whatsoever. In this case, it meant that he was determined to tell a story that non-engineers could not possibly understand. Not surprisingly, the attitude that came along with his story reeked of, “If you don’t understand what I am saying, you are not worthy.” My frazzled client truly wanted to punch him.
So. Is he a narcissist? Is he just insecure? Is he just a jerk? How do you bring him around?

What is narcissism?

While we all know what narcissism looks like to us, there are some very specific definitions it makes sense to review. In psychological terms, a narcissistic person is prideful and grandiose, feels unique and special, is vain and self-centered, and craves attention and admiration. A clinical diagnosis requires careful attention and specialized training. In real life, though, we usually identify them much more easily, and it boils down to the realization that, “(S)he is an insensitive, arrogant @$*%#!”. [I have just spared you six years of graduate training.]

What is egotistical to some is nothing more than positive self esteem to others. The most commonly administered test in clinical psychology is the Minnesota Multiphasic Personality Inventory or the MMPI (Hathaway and McKinley, 1942). When it was updated in 1989, one of the items that had shifted the most was a telling comment on American culture. A statement that in the past was rarely admitted was now commonly endorsed. The statement was “I am an important person.” What would have seemed narcissistic and prideful in the 1940s had turned into a statement of positive self-worth. Or, to slide back into psychobabble, it is healthy narcissism. This is different from unhealthy narcissism, which can make otherwise friendly trial lawyers want to punch you. I will focus on three degrees of narcissism: healthy narcissism, traumatic narcissism, and characterological narcissism. Over the course of a career as a litigator, you will manage witnesses in each category. Getting the best testimony from any witness requires that you understand them and know how to teach them.

Which is which?

1) Healthy Narcissism is what allows you to maintain your self-esteem when the world is giving you a bad time. It is essential if a witness is going to stay upright during an aggressive cross-examination. Frequently, these witnesses enjoy the challenge of testimony. They can need reminding not to get carried away with what they might see as ‘the game of testimony’, but overall they can be worked with. The problems arise with the next two (and more severe) types of narcissism.

2) Traumatic Narcissism is very common in civil litigation, for understandable reasons. If you are a plaintiff, you are being accused of not deserving the recovery you are seeking. If you are a defendant, you are being accused of doing something so wrong that you caused serious harm to someone else. Both situations can leave the party feeling emotionally wounded.

It can be hard to understand why a witness is defensive about the slightest criticism, but if you look more closely, these witnesses tend to be people who feel disrespected and vulnerable. They may be the kind of person who feels responsible for everything (a burdensome form of narcissism), and they may be depressed. Anything that increases that sense of vulnerability—like the prospect of a contentious cross-examination—causes them to over-react.

Think of narcissism as a seeming abundance of self-confidence and self-esteem in one who is actually very fragile. When their self-image is shattered, the resulting trauma (which some call ‘narcissistic injury’) causes them to become self-protectively defensive.

For example, a plaintiff in a car wreck is being accused by the defense of causing his own injury, which is an intolerable idea to him. He is being accused of malingering or exaggerating claims of pain and disability, which he feels is adding insult to injury. In a different case, a defendant is being accused of breaching a contract and causing financial ruin to the plaintiff. The defendant is frustrated and angry, because she feels like she bent over backward to try to resolve the issues, and now the plaintiff is abusing her for those efforts.
3) **Characterological Narcissism** is the kind of narcissism that makes you want to punch someone. These individuals aren’t narcissistic because their self-image is being shattered—they act this way because it is simply who they are. In their own minds, they are marvelous people, worthy of special privileges and the admiring attention of others. They insist that they know what is best, they refuse to compromise, they think people who disagree with them are stupid, evil, or against them, and they don’t change. Ever. This is often called a character ‘feature’. Your best efforts to comfort them, cajole them, and change them are for naught. Your time is better spent herding cats than trying to make them different people. But you *can* make them better witnesses.

**How can you tell the difference?**

One simple strategy for sorting this out doesn’t take very long. Here is what you do: Be nice to them. Be supportive. Listen to their story. Don’t fan the flames of their biggest grievances, but let them know that you feel their distress and that you respect them. Do that for 10 or 15 minutes, and see what happens. If they are traumatized they will start to feel safer, and they will become more open to your suggestions. They will calm down.

If, on the other hand they are more characterological, they will respond to your thoughtfulness by becoming more agitated and morally indignant. Their sense of entitlement and desire for vengeance often escalates. They will not take what you say as reassuring, they will take your kindness as evidence that their entrenchment is justified. “Now you finally understand, so you must see how right I am.”

An additional strategy for making the assessment between traumatic narcissism and characterological narcissism is through the use of focus groups. When reviewing or observing focus group reactions:

1. A narcissistically traumatized person will hear criticism and realize that to achieve his goals he will have to come across differently. It is an eye-opening experience.

2. A characterological narcissist will insist that the jurors were stupid, or that they would feel differently if they had more information. It confirms the view that the world is against them.

**And what do you do?**

Pay attention to the type and degree of narcissism and tailor your interventions accordingly.

**Healthy narcissism:**

People who are operating with healthy narcissism want to be well received and well liked, so they tend to take advice well if it is couched in terms of, “You will be understood better if...”; “The jury is going to really like it if you...”; or “Your unique sense of fashion is likely to be misinterpreted by some members of the jury”.

**Traumatic narcissism:**

Witnesses who are narcissistically wounded or traumatized need some comfort and support, and then you move into “reality-check mode”. They need to understand that there is a limit to what a jury will understand in the brief time the court permits, but it will be enough. In a rational way, plot out goals for what needs to be accomplished in their testimony, what questions and answers will be best understood, and what answers create confusion or open up unnecessary cans of worms.

One of the messages that wounded witnesses struggle with the most is, “The jury will never understand everything you have gone through.” Ironically, it is a great affirmation to any witness with narcissistic tendencies, and has the added virtue of being completely true. You can tell them that their story is going to be told through the famous Rule of Three, that instead of itemizing every complaint, or every symptom, or every effort that was made, that you give examples, and the jury will know that these are merely indicators of the larger situation.
Characterological narcissism:

The strategy for preparing characterological witnesses can require some creativity, but it is simple. The solution is to redirect them, but not to correct them. In the example of the witness my client wanted to punch, I realized that he was not merely a geeky engineer with poor social skills (who, by the way, can often be shaped up into wonderful witnesses)—he was a full-blown characterological narcissist.

The client had liked that about him when he was hired, because he was so certain about what the solution was, and how it would be proven. The testimony was going to be hellish because he was in love with his own ideas, and insisted on explaining every technical nuance of the findings.

What I explained to him is that this phase of his work is completely different than what he had been doing; the research part was over, and we are now moving on. He is the absolute best expert in the world in that engineering phase, but he is a gifted rookie in this new one. The goal now is to become a great teacher of average 9th graders. This is his audience. His findings had to be tailored to meet the needs of his students or he would not succeed at the task. He didn’t enjoy it, but it was a frame of reference that he couldn’t dispute, and ultimately he testified successfully.

The challenge with the characterological narcissist is to get them to answer questions with an external perspective that they can comprehend, instead of speaking from their own internal frame of reference that the world finds annoying. You get much further with them if you never correct them or say that they are wrong (which only prompts an argument from them), but ask them if their 9th grade class is likely to understand what they just said. You can insist that 9th graders will get lost in all of those words, which is the same as saying “settle down and cut the jargon”, but they won’t take it so personally.

Another strategy is to insist that the witness rehearse testimony as if the only person that needed to clearly and completely understand the answer is…his mother. What would Mom understand, and what tone of voice would you use when you explain it to her?

If it is a witness who insists on sharing every minute detail of their story, ask them who the least patient person is that they really like, in spite of their impatience. Have them rehearse testimony that would avoid the irritation of this favorite critic. Would George be tapping his foot? Would George be wishing you would get to the point?

The least successful strategy for dealing with narcissistic people of any type is to explain to them that they are getting it wrong, and to tell them to do it differently. It creates a power struggle that will only bring frustration. They will not take your wise counsel. Instead, back up, be nice, redirect them, and redefine their task in terms that will elicit a more likable witness.

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