Overview

- WHAT
- HOW
- WHY
- TRADITIONAL vs. CLIENT–CENTERED
CANONS OF ETHICS

Rule 3-106

- **CANON 6 – A Lawyer Should Represent a Client Competently**
  ETHICAL CONSIDERATION 6-1 – Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his practice and should accept employment only in matters which he is or intends to become competent to handle.

Rule 3-107

- **CANON 7 – A Lawyer Should Represent a Client Zealously Within the Bounds of the Law**
  ETHICAL CONSIDERATION 7-1 – The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The professional responsibility of a lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law, to seek any lawful objective through legally permissible means, and to present for adjudication any lawful claim, issue, or defense.
What is it?

- Client-centered counseling is a critical component of client-centered lawyering.
- Client-centered counseling may be defined as a legal counseling process designed to foster client–decision–making.

It’s goal is not only to provide opportunities for clients to make decisions themselves but also to enhance the likelihood that the decisions are truly the client’s and not the lawyers. ¹

Simply Put: let the client call the shots.

- What?! Who’s in control here, the trained, brilliant, experienced, lawyer or the client?

- What about the competent, zealous representation I’m ethically bound to render?
Since the 1970’s legal scholars and theorist have argued the benefits of client-centered lawyering over the more traditional lawyer-client representation.

They feel that as a result of our legal professional training, lawyers have the tendency to over value the client’s legal rights and interest and may lose sight of the client as a whole being.

In other words, the lawyer tends to put more emphasis on the *zealous* protection of the client’s legal rights than seeing the client and the issues which brought him to the point of needing legal representation.
One of the leading proponents of client–centered representation, states if a lawyer is not careful, a client’s human problem(s) can disappear, and the client can appear instead as a bundle of legal rights and interest – the client’s relationships with others, reputation and standing in the community, values and commitments that the client wants to honor – can fade into the background as the client’s legal rights and interest come more sharply into focus.\(^2\)

Now that I know what?

- Is this model better than the traditional lawyer-client model?
- Am I using or have used this model? If not, should I?
- How do I put aside my ego to fully listen and act upon my client’s wishes, regardless of whether I believe, or don’t, those wishes are in his best interest?
**HOW**

- Communicate with the client. Let him know that you are committed to him and the case.
- Spend time with the client – get to know him (background, what he likes, how he got to this point).
- Listen to, and hear, what the client is saying.
- Show a little compassion (yes, I’m a lawyer, a professional, but I’m also human).
- Ask the client what he wants/expects the outcome to be.
BUT ISN’T THIS WHAT WE SHOULD DO ANYWAY?
Leading traditional model proponents Abbe Smith, William Montross, and Monroe Freedman, suggest that the traditional model of lawyer–client devotion to the client’s legal rights and interest is fundamentally client–centered in the sense that it places fidelity to client at the center of the lawyer’s professional duties.³

The traditional model insist, for example, that when other professional duties, such as candor to the tribunal, conflict with duties owed to the client, the lawyer’s loyalty to the client must prevail.4

According to Freedman and Smith, the “ethics of zeal” is “pervasive in lawyers’ professional responsibilities”; it “infuses all the lawyer’s other ethical obligations with ‘entire devotion to the interest of the client’.”\(^5\)

\(^5\) Id. @ 71
Primary area(s) of practice – criminal, civil, family law, estate planning, juvenile, etc.

Will/does the client–centered model work better in criminal matters or civil matters? i.e., clients charged with quality of life offenses; clients suffering from mental health or substance abuse illnesses; minor clients.

Client who can’t decide what to do (constantly changes his mind) or insist on ‘my lawyer’ telling me what to do.

Or the client who has decided what to do even before he seeks your advice – and won’t change his mind no matter what!

Do the vehicle and or method of payment make a difference in the model you utilize? Should it? i.e., private cases vs. court appointed cases.

The client wants to change his will because he found out his spouse is cheating.
Katherine Kruse suggest that the goal of shaping representation around the values of clients provides an opportunity for legal representation to redeem itself without compromising the core values of client loyalty and service that lie at the heart of legal professionalism.

She states attention to client values may not, in the end, provide salvation from the competitive and self-interest culture of American society.

But before we give up on the professional values of client loyalty and service, we ought to see what it would like if lawyers actually represented their clients, rather than zealously pursued their clients’ legal interest.6

Client–Centered vs. Traditional

- It is our professional duty to ensure that our clients’ rights, and yes dignity, are protected and honored.
So, CLIENT–CENTERED or TRADITIONAL which model is better?

- Case by case bases
- You/your client decide
Though there is extensive information in the form of literature, articles, videos, etc., on Client–Centered Representation, Katherine R. Kruse appears to be a leading authority on the subject. For a comprehensive discussion on the model see:


- Beyond Lawyering: How holistic representation makes for good policy, better lawyers, and more satisfied clients by Robin G. Steinberg, Executive Director, Bronx Defenders
Contact

Linda J. Dees
Attorney at Law
lj220@bellsouth.net
404 402–8536