

# Emotional Intelligence and Emotional Toxicity: Implications For Attorneys and Law Firms

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**Attorneys can benefit throughout their careers by developing and implementing the “emotional intelligence” concepts discussed in this article. The construct of emotional intelligence and its emotional competencies are explained and applied to areas of revenue, productivity, and the general well-being of a law firm and its employees.**

The successful practice of law does not rely solely on intellectual and technical abilities. A key area that may account for the level of an attorney's professional success is emotional intelligence (“EI”). EI has been described as “knowing one's emotions, managing emotions, motivating oneself, recognizing emotions in others, and handling relationships.”<sup>1</sup>

Over the course of their careers, attorneys can benefit from developing EI and associated skills. According to research on EI, individuals who are emotionally competent—generally possess key abilities to understand and manage themselves and others—have the most potential in the workplace.<sup>2</sup>

This article describes how the parameters for success are changing and how EI may facilitate a productive and profitable practice. The article also explains the construct of EI and its emotional competencies and applies EI to areas of revenue, productivity, and the general well-being of law firms and their employees.

## Emotional Competencies: Behavioral Skills

Numerous emotional skills, traits, and characteristics are associated with EI.<sup>3</sup> According to research in the area, indi-

viduals with higher EI have a strong base for the presence and development of emotional competencies—behavioral skills that boost performance in the workplace.<sup>4</sup>

Four clusters of emotional competencies have been identified, each of which encompasses a specific set of capabilities. These emotional competencies consist of: (1) self-awareness; (2) self-management; (3) social awareness; and (4) social skills.<sup>5</sup>

**Self-Awareness:** Contained in this cluster are emotional self-awareness, accurate self-assessment, and self-confidence.

**Self-Management:** This cluster is comprised of self-control, adaptability, conscientiousness, trustworthiness, initiative, and drive to achieve.

**Social Awareness:** Included in this cluster are the skills of empathy, service orientation, and organizational awareness.

**Social Skills:** This cluster incorporates skills of leadership, cultivating the development of others, influence, being a change catalyst, communication, conflict management, building bonds, teamwork, and collaboration.<sup>6</sup>

Research has shown that emotional competencies accounted for two-thirds of the distinctive characteristics of top performers. Technical skills and cognitive

abilities were responsible for the remaining one-third of high performance.<sup>7</sup>

## Economic Effects of EI

Studies have been conducted to determine the economic effects of high versus low EI in the workplace. To quantify these effects, researchers have examined characteristics that distinguish top performers from average and below-average performers.

One study found that in jobs of medium complexity (mechanics and sales clerks), a top performer with high EI was twelve times more productive than those at the bottom. The top performer was 85 percent more productive than an average performer.<sup>8</sup> The same study found that top performers with high EI in the most complex of jobs—such as account managers, lawyers, and doctors—out-produced average peers at a rate of 127 percent.<sup>9</sup>

In a study at a national insurance company, researchers found that insurance sales agents who were lacking in such emotional competencies as self-confidence, initiative, and empathy were selling policies that averaged premiums of \$54,000. Among sales agents who exhibited strength in at least five of eight key emotional competencies, policies sold were worth \$114,000 per top agent.<sup>10</sup> Emotional competencies generally accounted for two-thirds of the variance related to performance. However, at top-level positions, those competencies accounted for up to four-fifths of performance.<sup>11</sup> For this reason, the importance of EI in partners, managers, and administrators was magnified, as were its effects on revenue and employee retention.

A study of a large, multinational beverage firm found that when the firm hired division presidents according to standard protocol, there was a 50 percent turnover rate within the first two years.<sup>12</sup> Of those who left, poor performance was the most common factor. When the firm hired for the same positions on the basis of strong emotional competencies such as leadership, initiative, and self-confidence, only 6 percent left within two years. This study also found that 87 percent of the emotionally competent executives performed in the top third, and that such emotionally adept division leaders outperformed their counterparts by 15 to 20 percent.

The issue of turnover was compared to another EI-related economic factor for law practices: the cost of replacing employees. According to the multinational beverage study,

the minimum cost of replacing a technical or professional person is his or her direct salary for a year; the actual cost is two to three times the direct salary if the full cost of employment, including benefits and overhead, is added to the salary and if lost productivity is taken into account.<sup>13</sup>

One company estimated a loss of \$250,000 due to a single bad hire for an executive position.<sup>14</sup> As the previous studies noted, emotionally competent employees had lower rates of turnover, therefore saving their firms large sums in hiring and training costs. Thus, it follows that new attorneys, partners, and staff with high EI may greatly add to the productivity and the bottom line of a firm, whereas low and average performers (those with lower EI) may generate losses in revenue through poor performance and a high rate of turnover.

## Low EI: The Toxic Environment

Deficiencies in EI within a law firm can be detrimental to a law practice in numerous ways. Such deficiencies could create “emotionally toxic” work environments that hinder the atmosphere and, thus, its productivity. In law practices with high emotional toxicity, the damage can include “lower production, decreased morale, poor attitudes, and . . . [the loss of] valued employees.”<sup>15</sup> Across the board, emotional toxicity can render an organization ineffective, be destructive to its managers and employees, and create serious liabilities for the firm.<sup>16</sup>

## Characteristics of the Toxic Workplace

Many harmful emotional characteristics may be manifested by attorneys, partners, and staff in a firm. Although anyone with low EI may negatively impact the group, those individuals in leadership roles have the most destructive effects because co-workers most readily react to their attitudes, emotional states, and leadership styles. Typical emotional and behavioral shortcomings include: (1) being rigid and resistant to change;<sup>17</sup> (2) being either overly reactive or too distant emotionally; and (3) acting inconsistently when handling issues involving employees.<sup>18</sup>

Another aspect that creates toxicity is the presence of “blind spots” in an organization.<sup>19</sup> “Blind spots” are defined as deficiencies in self-awareness. In one study, blind spots had the largest impact when

they occurred among the attorneys of the firm. The most common were: (1) blind ambition, manifested in arrogance and extreme disregard for colleagues and subordinates; (2) setting of unrealistic goals for self and the group; (3) relentless striving that led to personal burnout; (4) driving others too hard by micromanaging instead of delegating; (5) power-hungry and self-serving attitudes; (6) an insatiable need for recognition—often being quick to take credit for victories and quick to blame others for mistakes; (7) preoccupation with appearances; and (8) the need to seem perfect (unable to accept deserved criticism or acknowledge personal weakness).<sup>20</sup>

Poor relationships not only hinder productivity and work climate, but also carry possible health and well-being implications for workers, especially when a poor relationship exists between supervisor and employee. Although emotional toxicity can take many forms within a workplace environment, its consequences are consistently far-reaching, potentially affecting the future of an entire firm.

Emotional toxicity often extends beyond the atmosphere and interactions within the firm. When toxic emotions build up throughout the day without resolution or release, partners, associates, and staff may take them home. Thus, dysfunctions at work could seriously impact personal relationships with family and friends.

## Manifestation of Emotional Toxicity in Law Firms

Law firms may be particularly vulnerable to emotional toxicity because the showing of feelings and emotions typically are frowned on in the legal profession. During the first days of law school, “lawyers are taught to suspend emotion in favor of cold, legal analysis.”<sup>21</sup> This avoidance of emotional communication and thought may lead to toxicity in the interactions between partners and associates, attorneys and administrative staff, client and attorney, and even attorney and family. Dysfunction in any of these relationships is likely to impinge on the firm’s functioning, growth, and image. Hence, such dysfunction will affect its bottom line.

In firms that are not reaching their potential, causes to consider include weak teamwork as well as poor interpersonal relationships among new attorneys, associates, or partners who have difficulty handling change.<sup>22</sup> According to one researcher, “of all the relationships we have at work, the one with our boss or supervisor has the greatest impact on our emotional and

physical health."<sup>23</sup> Thus, the EI of those highest in the organization have the greatest significance. In a law practice setting, the emotional deficiencies of the partners have the most impact.

Toxic partners or associates discourage members of the firm and create a distressing and hostile workplace. Consider the following description of a stereotypical toxic partner:

We've all encountered the "900 pound gorilla" partner who throws his weight around, intimidates other partners, excoriates hapless associates who displease him, and eviscerates the poor secretary who forgets a comma. We've seen him make embarrassing outbursts at partners' meetings, or tell off-color jokes, or beat a minor point to death.<sup>24</sup>

As this portrayal demonstrates, low EI in the toxic partner directly influences nearly everyone in the office. Many of these emotionally toxic traits and characteristics may negatively impact the work environment and curtail the success potential of law firms.

New attorneys often model themselves after a senior partner they view as successful. If that role model is emotionally toxic,

they may inadvertently start demonstrating toxic behavior as well. This could set up a culture in the firm that is vulnerable to all of the problems previously mentioned.

### ***Attorney-Client Relationships***

New attorneys not only should exhibit high EI in the office; they also should demonstrate it in relationships with clients. The relationship between attorney and client is both important and vulnerable. In legal matters, there is usually a significant emotional investment on the part of the client. Attorneys who fail to acknowledge and address this aspect of their relationships with clients may be cultivating negative situations for both parties. At the very least, they may create a situation where the client is less likely to hire or refer others to them in the future.

Often, clients are looking for empathy and a sense of justification. Unfortunately, as a Harvard law professor noted:

The general public perception is that lawyers are more unfeeling than they ought to be. Maybe we don't teach enough about the relationship between lawyer and client. The attorney may

overemphasize legal remedies; sometimes lawyers may be a little tone-deaf when it comes to what a client really wants.<sup>25</sup>

In instances when a new attorney neglects the needs of the client, is overly aggressive, or communicates poorly with the client about the case, there can be repercussions of formal claims filed against the attorney and his or her firm.

### **Solutions for Emotional Toxicity at Work**

Perhaps the most promising aspect of EI is that, with some effort, it can be learned, developed, and enhanced. There are a variety of ways to increase the overall EI of the firm, as well as develop the individual emotional competencies of new attorneys, partners, associates, and administrative staff. For example, options may include learning appropriate leadership styles, focusing on personal development, or arranging training workshops. Small improvements in any of the emotional competencies can help reduce emotional toxicity and create opportunities for growth and productivity in the firm.

## Leadership Styles

Attorneys with such characteristics as assertiveness, flexibility, self-control, empathy, and optimism are likely to be the most proficient in effectively leading their employees and their practices as a whole.<sup>26</sup> One commentator observed that great leaders "move" people, working through their emotions, igniting passions, and resonating with them.<sup>27</sup> New attorneys eventually will find themselves in leadership roles. Thus, they should consciously choose role models whose styles they wish to emulate.

The current partners of a law firm model various leadership styles, which differentially impact the productivity of the firm. As leaders, partners who work with high levels of EI are more effective because they set examples that foster a healthy and prosperous work environment. Partners must be willing to work on both their self-awareness and social awareness. These factors provide insight into their own leadership capabilities and help determine which skills should be applied to promote a healthy climate at their firm.

Firm partners, because of their position within the organization of power and natural influence, have the capability of leading associates and administrative staff to high levels of productivity and can set the tone for a positive working environment. Six leadership styles summon a combination of emotional competencies.<sup>28</sup> The appropriateness of a given style depends on the particular situation. The first four styles constitute positive ways of leading employees: visionary, coaching, affiliative, and democratic. The last two styles tend to be negative leadership procedures, except in acute cases: pacesetting and commanding.

**Visionary Leadership:** Visionary leadership has been determined to produce the most highly positive benefits. Partners who lead in this fashion "articulate where a group is going, but not how it will get there—setting people free to innovate, experiment, and take calculated risks."<sup>29</sup> Visionaries must have empathy, which is necessary to gauge the working environment and inspire colleagues and staff. If a firm is floundering and has lost sight of its mission, visionary leadership is effective in uniting the staff and refocusing the firm on its goals.

Research on firms that lead with vision in differing realms shows that they retain employees who are both satisfied with their work and proud of their firm.<sup>30</sup> Such practices as being open about the firm's fi-

nancial strategies, employing a "free market" that allows associates to seek the work that interests them, and being receptive to *pro bono* work are just a few examples of the visionary procedures of some of the top firms in the country.<sup>31</sup>

**Coaching Leadership:** Coaching is especially effective in the relationship between partner and associate. Coaching is equally effective in the ways in which a partner can help an associate develop potential and skills. Newer attorneys should align themselves early in their careers with partners who exhibit coaching style leadership behaviors.

Coaches spend time with associates and colleagues and help them recognize personal strengths and weaknesses, both in their jobs and outside lives. A coaching partner helps a new attorney establish goals and finds ways to challenge the attorney to foster development toward those goals. A survey of associates at four top law firms found that much of the firm's success and the contentment of its associates could be attributed to well-developed and implemented training programs.<sup>32</sup>

**Affiliative Leadership:** Partners who make use of the affiliative style of leadership are best able to strengthen networks and relationships within the firm, thus creating a harmonious working environment. New attorneys clearly benefit from partners with this style because supportive relationships reduce stress, improve health, and allow the new attorney to successfully cope with the stress and anxiety of learning the profession. For example, in a study of 179 firms, associates with a high-ranking firm attributed that firm's success to the model behavior of the partners. One comment was that the firm strove to "nurture a culture of respect." It is no coincidence that this firm had a high retention rate of associates, with only 3 percent reporting that they were looking for a new job.<sup>33</sup>

Affiliative leaders emphasize the importance of nurturing relationships and attending to the emotional needs of their staff. Accomplishing this style of leading requires a high degree of empathy, so that a leader can be in tune with the emotions of associates and administrative staff. In workplaces where morale is low, an affiliative leader can do much to lift spirits and boost performance.<sup>34</sup>

**Democratic Leadership:** In times of uncertainty, a democratic form of leadership can prove especially useful to enlist the input of everyone involved in the firm. This provides partners with perspectives

and issues that otherwise would not be taken into account. Democratic leadership is a teambuilding mechanism. Thus, a leader must have command of competencies such as teamwork, collaboration, and communication.<sup>35</sup> Giving associates and new attorneys a voice in decisions made by the firm creates a sense of control and a sense of ownership, both of which boost associate productivity.

Each of the four positive styles of leading generates varying benefits for the firm. Being socially aware aids a partner in discerning the best style to employ. Most leaders benefit by combining two or more of the styles, such as visionary and affiliative. This combination sets up a mission for the firm and provides a way to unify everyone toward that mission.

It is usually advisable to avoid negative leadership styles in the workplace, such as pacesetting and commanding. They tend to be used erroneously and often breed animosity toward both the leader and the task.<sup>36</sup> However, in limited circumstances, such leadership styles may be recommended.

**Pacesetting Leadership:** Pacesetting is the process of setting and demanding high standards of performance. It can be effective when used selectively. For example, pacesetting might be used to motivate a group of highly talented associates and partners who are working enthusiastically on a case. In this situation, pacesetting could assist the group in benchmarking their progress.

**Commanding Leadership:** The commanding style involves taking initiative and giving orders without explanations. It should be reserved for extreme cases, such as an urgent, high-profile case that triggers a feeling of crisis among partners and associates. By immediately assigning tasks, a commanding leader can help others stop feeling shocked and overwhelmed. It is best to use commanding leadership to initiate action and then switch to one of the more positive styles of leadership.

Partners should maintain constant self-awareness and social awareness, so that they may lead the firm in the most appropriate and profitable manner. Besides employing one or a combination of the six leadership styles, partners should venture to preserve an open system of communication, to treat the staff equitably, and to foster a trusting and nurturing environment in the workplace. Partners who succeed in enhancing their own EI and competencies will see reductions in the toxicity of their firms and improvements in

their personal performance, as well as the performance of the staff.

### ***What Everyone Can Do To Help***

As leaders, partners affect the greatest number of people within and outside the firm. Nonetheless, every associate and staff member in the firm may actively seek to develop and apply emotional competencies of their own. The firm can develop a systematic plan for enhancing the EI skill sets of the members.

Since the concept of EI emerged in the 1990s, businesses and psychologists have been aware of the need for organizational training and development. An array of available training programs currently exist that can assess the collective EI of the firm and implement means of developing emotional competencies in the staff. An ideal program would include a detailed, personalized analysis of the firm and a subsequent strategy for addressing major deficits in EI. Training sessions should be frequent and comprehensive. In other words, one brief workshop will not develop the information retention desired. Partners, associates, and administrative staff must be involved in a constant process of

awareness and learning to successfully build EI and reap its benefits. They also must demonstrate a willingness and passion for the training.

There also are informal ways to build EI skills and enhance relationships. New attorneys can develop their own plan of furthering their EI through self-assessment, identification of strengths and weakness, specification of goals, and engagement in the social support of others, while practicing and implementing new skills. It takes numerous repetitions for new behaviors to become "second nature."

Attending to and improving services for clients is the responsibility of everyone in the firm. Each interaction a client has with an individual in the office affects the firm's reputation. In the attorney-client relationship, the attorney must be aware of the emotions of the client and find ways to effectively manage the client's expectations. Retaining clients is vital not only to a firm's bottom line, but also to its survival. Partners, associates, and administrative staff who are keenly aware of the importance of being emotionally intelligent in their interactions with clients will be better able to avoid dysfunctional relationships.

New attorneys who find themselves in a toxic environment have a variety of options available to them. First, the new attorney may feel that he or she cannot go directly to the toxic senior attorney and practice good conflict management and feedback skills. Instead, the new attorney can confer with other partners and the legal administrator regarding interventions from the top. The managing partners have an obligation, both to the new attorney and to the firm as a whole, to intervene when a toxic senior attorney is creating a legal and fiscal liability for the firm.

Second, the new attorney can psychologically "inoculate" himself or herself from the effects of a toxic environment. Although the senior attorney's behavior may be unpleasant, it is not personal—even if it feels personal. Seeing the other person as unskillful, while at the same time in need of constructive feedback, allows the new attorney the psychological perspective of maintaining his or her own dignity and control. Third, demonstrating appropriate skills in the presence of an unskillful attorney may have a positive impact through modeling and social imitation.

## Conclusion

In a profession that typically advocates cognitive analysis, the legal world is susceptible to overlooking the importance of EI skills. Fortunately, EI and competencies can be learned, developed, and used to create a productive workplace environment. Law firms with high collective and individual EI have greater probability of success, in terms of productivity, profitability, and overall personal satisfaction.

## NOTES

1. Goleman, *Emotional Intelligence: Why It Can Matter More Than IQ* (New York, NY: Bantam Books, 1995) (hereafter, "EI: More Than IQ") at 43.

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3. *Id.*

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5. Goleman, Boyzatis, and McKee, *Primal Leadership: Realizing the Power of Emotional Intelligence* (Boston, MA: Harvard Business School Press, 2002) (hereafter, "Primal Leadership") at 39.

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7. Goleman, *Working With EI*, *supra*, note 4 at 31.

8. Hunter, Schmidt, and Judiesch, "Individual Differences in Output Variability as a Function of Job Complexity," 75 *J. of Applied Psychology* 28-42 (1990).

9. *Id.*

10. Goleman, *Working With EI*, *supra*, note 4 at 124-29.

11. *Id.* at 34.

12. McClelland, "Identifying Competencies with the Behavioral Event Interviews," 9(5) *Psychological Science* 336 (1998).

13. *Id.*

14. Goleman *et al.*, *Primal Leadership*, *supra*, note 5.

15. Glass, "Is EQ More Important Than IQ in Today's Business Environment?" 2(4) *Psychology for Business* (2001), available at <http://www.psychologyforbusiness.com/EQ.htm>.

16. Bacal, "Toxic Organizations—Welcome to the Fire of an Unhealthy Workplace" (2000), available at <http://www.performance-appraisals.org/Bacalsappraisalarticles/articles/toxicorgs.htm>.

17. Goleman, *EI: More Than IQ*, *supra*, note 1 at 65.

18. Bacal, *supra*, note 16.

19. Goleman, *Working With EI*, *supra*, note 4 at 65.

20. *Id.*

21. Drell, "Chilling Out," *ABA J.* 70-73 (Oct. 1994).

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*Matters* (2000), available at [http://www.pyramidresource.com/newsletters/2000oct\\_sm.pdf](http://www.pyramidresource.com/newsletters/2000oct_sm.pdf).

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25. Lambert, "The Emotional Path to Success," *Harvard Magazine: Online Edition* (Sept.-Oct. 1998) (quoting Harvard law professor, Todd Rakoff) available at <http://www.harvard-magazine.com/issues/so98/path.html>.

26. Goleman, *Working With EI*, *supra*, note 4 at 124-29.

27. Goleman *et al.*, *Primal Leadership*, *supra*, note 5 at 20.

28. *Id.* at 53-73.

29. *Id.* at 57.

30. Goleman *et al.*, *Primal Leadership*, *supra*, note 5.

31. Press, "Lessons from 10 Firms," *The American Lawyer* 99-109 (Oct. 2002), available at <http://www.law.com/jsp/article.jsp?id=1032128619454>.

32. *Id.*

33. *Id.* The firm, Debevoise & Plimpton LLP, was rated as the ninth-ranking firm for quality of life.

34. Goleman *et al.*, *Primal Leadership*, *supra*, note 5 at 64.

35. *Id.* at 67.

36. *Id.* at 71-80. ■