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SPOUSAL SUPPORT AND COHABITATION: THE ECONOMIC NEEDS TEST IN NEVADA

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Nevada's statutory scheme regarding the payment of spousal support and/or alimony is silent as to whether the post-divorce cohabitation of the recipient spouse with a significant other automatically warrants the termination or modification of the decreed spousal support award. To address this issue, litigants and attorneys have long been relegated to arguing that post-divorce cohabitation is a "changed circumstance" under NRS 125.150(7), which would warrant the court's revisiting the spousal support issue. While the very recent case of *Gilman v. Gilman*, 1998 WL 166567 (Nev.), does not provide family law practitioners in this state with a bright line rule regarding post-divorce cohabitation, it at least, for the first time, provides the bar and the courts with a test by which the likelihood that cohabitation will qualify as a changed circumstance under the statute can be measured. This article will summarize the *Gilman* case and the "economic needs" test adopted therein and provide commentary as to the ramifications of this decision to the family law practitioner.

The Case

The Nevada Supreme Court decided *Gilman* on April 9, 1998, as a consolidated appeal of two cases from the Family Division of the Eighth Judicial District, *Gilman v. Gilman* and *Callahan v. Callahan*. In both cases, the District Court judges had denied the husbands' respective motions to terminate post-divorce spousal support based upon cohabitation. The differing facts of each of the underlying cases are important to the application of the newly adopted "economic needs" test and the disposition of the appeal.

In *Callahan*, the parties divorced in 1994 after a ten year marriage. The District Court ordered that the husband, Ken, pay the wife, Valerie, monthly spousal support until such time as Ken died or Valerie remarried. There was no reference to cohabitation in the final divorce decree. Approximately eighteen months after their divorce, Valerie and the parties' daughter moved from Las Vegas to Reno with her significant other, Chuck. Ken then filed a motion to terminate Valerie's spousal support based upon the allegation that Valerie's cohabitation with Chuck constituted a changed circumstance under NRS 125.150(7). At the hearing on Ken's motion, Valerie testified that although she and Chuck were romantically involved, they shared living expenses equally, she paid all of the daughter's expenses, and she signed promissory notes to Chuck anytime he loaned her money. The District Court denied Ken's motion and he appealed.

In *Gilman*, the parties, Richard and

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Report on Tonopah '99

Thanks to everyone who took the time to fill out your evaluation forms from Tonopah. Your comments and suggestions will be helpful in planning next year's seminars and activities.

The date has been chosen, so mark your calendars – March 18 - 20, 1999. We are hoping to expand our program by running several concurrent sessions, with a special workshop tailored to the needs of the solo family law practitioner, covering areas on law office management and computerization. Nuts & Bolts continues to be a success, and the response to the round table sessions was again very positive. We will offer Nuts & Bolts again for those of you who are new to the practice, and hope to have even more round table choices for all of you next year.

We are looking for dynamic speakers on a variety of topics. If any of you have heard an exceptional speaker on a topic that would be of interest to section members, please give me a call.

This year will mark our 10th **year in Tonopah, and special events will be planned! Watch for more information in the next NFLR. See you in Tonopah!**

Support cont.

Marjorie, had been married for twenty-seven years when they divorced in 1990. Unlike the Callahans, the Gilmans negotiated the spousal support terms of their divorce decree and agreed that Richard would pay Marjorie $1,500.00 per month in spousal support until such time as she died or remarried. The decree included a further negotiated term, however, which stated that "the court will consider the issue of spousal support in the event of co-habitation by [Marjorie] with an adult male who significantly contributes to her support." From 1991 to 1993, Marjorie lived off and on with her boyfriend, Tom, in his home in Las Vegas, paying him $400.00 per month rent and contributing somewhat to the expenses for food and telephone. Marjorie and Tom then moved to Massachusetts where Marjorie purchased a home using the proceeds from the sale of her former marital residence in Las Vegas. Tom had no ownership interest in the home, as it was titled in Marjorie's name alone.

Marjorie did not get a job in Massachusetts and lived off her spousal support and some supplementary income from a family trust. Tom obtained a job earning $8.00 per hour working for a car dealership. Rather than contributing to rent, food, or other monthly expenses at the Massachusetts home, however, Tom used his income to make his car payments and the mortgage payment on the home he still owned in Las Vegas. Marjorie and Tom maintained separate bank accounts and Marjorie loaned Tom money on occasion. Following Marjorie's relocation to Massachusetts with Tom, her ex-husband, Richard, filed a motion to terminate her spousal support award based upon changed circumstances. The District Court denied Richard's motion, stating that there was no presumption in Nevada that spousal support should terminate upon cohabitation and finding, in interpreting the negotiated cohabitation provision of the parties' divorce decree, that Tom had not significantly contributed to Marjorie's support. Richard appealed.

Adoption of the "Economic Needs" Test

In considering this consolidated appeal, the Supreme Court looked to other jurisdictions where the effect of post-divorce cohabitation on spousal support obligations was not specifically treated statutorily. The Court found that the majority rule in those jurisdictions was that "the right to receive spousal support becomes subject to modification or termination only if the recipient spouse's need for the support decreases as a result of the cohabitation." These jurisdictions have generally held that some amount of financial dependence upon the cohabitant by the alimony recipient war-

rants a reduction in the support. Likewise, support payments should be terminated or reduced to meet the recipient's actual needs in cases where it is found that those payments are also benefitting the third party cohabitant. Under the majority rule, or "economic needs" test, a factual examination as to the financial effects of the cohabitation on the recipient former spouse must be conducted to determine the amount of the spousal support reduction. Cohabitation in and of itself, without a demonstration of financial impact, is generally insufficient to warrant spousal support modification.

The Court found it important to note that the economic needs test properly addresses the fiscal and personal rights and needs of both the payor and recipient spouses in three ways. First, the test does not create a situation where cohabitation becomes a *per se* bar to further receipt of financial support from a former spouse. Because the district courts must look beyond the mere fact that cohabitation has occurred and concentrate instead on the financial ramifications of the cohabitation, "the test does not unduly impinge upon an individual's freedom to choose to cohabit."

Second, the test recognizes that cohabitants owe no legal duty of support to each other and affords the recipient spouse protection against the situation that may potentially be created by a break-up with the third party cohabitant. Presumably, the Court based this rationale upon the notion that the more financially dependent cohabitants are upon each other, the closer they may be to marriage, a circumstance which would undoubtedly terminate the spousal support. Were the Court to authorize the termination of spousal support merely upon the showing of cohabitation, the recipient spouse would be unprotected financially in the case of a break-up with the cohabitant.

Third, the economic needs test adequately treats the economic realities of cohabitation in association with fairness to the payor spouse. In examining the financial impact of cohabitation upon the recipient spouse, the district courts will necessarily consider the "economies of scale" that arise from a cohabiting situation. Sharing household expenses often allows cohabitants to live less expensively together than each would alone. Further, by looking to the actual needs of the cohabiting recipient spouse, the test acknowledges the possible situation of the spousal support going to subsidize third party cohabitants or "supporting ex-spouses who have significantly improved their financial situations."

Summarizing its adoption of the economic needs test, the Supreme Court went on to state that "the economic needs test fairly balances the rights of payor and payee spouses by permitting modification or termination of spousal support solely when financial circumstances so merit. The test coincides with Nevada's existing statutory 'changed circumstances' scheme and allows lower courts to focus upon the specific facts of each case, while retaining their substantial discretion when making spousal support modification decisions." Hence, under the adoption of the economic needs test in Nevada, a showing that a recipient spouse has an actual decreased financial need due to cohabitation with a third party *may* constitute changed circumstances upon which modification or termination of unaccrued support payments may be based.

Disposition

Applying the economic needs test to the Callahans's situation, the Supreme Court upheld the lower court's decision to deny Ken's motion to terminate his spousal support obligation to Valerie. The Court ruled that the District Court did not abuse its discretion in finding that the cohabitant's economic contributions to Valerie were not significant enough to warrant termination. Indeed, Ken presented almost no evidence at the hearing below that Valerie's actual financial needs had been reduced as a result of the cohabitation.

As to the Gilmans, the Supreme Court declined to apply the economic needs test at all, holding instead that the negotiated term in the parties' divorce decree regarding cohabitation was in actuality a contract to be interpreted under well settled rules of contract construction. The parties' divorce decree stated that "the court will consider the issue of spousal support in the event of cohabitation by [Marjorie] with an adult male *who significantly contributes to her support*." Hence, Richard's contention that his spousal support payments to Marjorie should be terminated because Marjorie was allegedly using that money to support her cohabitant, Tom, was without merit. Interpreting the contract, the Court stated that, under rules of contract construction, "when parties to a contract foresee a condition which may develop and provide in their contract a remedy for the happening of that condition, the presumption is that the parties intended the prescribed remedy as the sole remedy for that condition." Therefore, under the Gilmans's divorce decree/contract, the issue of spousal support was reviewable only if Marjorie's cohabitant were to significantly contribute to her support, not *vice versa*. The District Court's decision was, accordingly, upheld.

Comments

At first glance, *Gilman* is instructive in that in addresses both the litigated and negotiated awards of spousal support. The bar is fortunate to have this opinion as a resource for both situations. With regard to a litigated support award as faced by the Callahans, family law practitioners are now on notice as to their respective objectives in seeking or defending a modification of spousal support; the economic needs test will be employed by the court. The moving party under that situation must cite not only cohabitation *per se* as a changed circumstance under NRS 125.150(7), but must also point to the economic impact of the continuation or modification of the award. Specifically, the court will examine whether the financial needs of the recipient spouse have changed. If the recipient spouse is deriving significant financial support from his or her cohabitant, it is likely that there is a decreased actual financial need for the previously ordered support award. Further, if the recipient spouse is using his or her spousal support to support the third party cohabitant, then the payor spouse is obviously creating a financial surplus to the recipient and can point to this fact as a basis for a downward modification. Considering, however, that one of the bases upon which the Supreme Court saw fit to adopt the economic needs test was that it maintained the ability for the District Court to exercise its discretion in resolving requests for spousal support modification based upon the facts of the individual cases, sub-factors such as length of cohabitation will undoubtedly come into play.

Gilman also assures the family law practitioner that the terms of a negotiated divorce decree will continue to be construed

as a private contract even as to the issue of spousal support. Hence, the drafter of a negotiated divorce decree, which specifically identifies cohabitation of the recipient spouse as a circumstance under which modification of spousal support may be considered, must ensure that all possible economic circumstances created by the cohabitation have been considered before specifically addressing the issue in the decree of divorce. As demonstrated in the Gilman's situation, the court will strictly construe the specific language of any such agreement. Although negotiating such terms provides the parties with control over the issue, it is conceivable that not all permutations of the economic impact of cohabitation can possibly be considered prior to the execution of such an agreement. Of course, the negotiated decree that leaves the least to question will be the one that simply and bluntly states that the spousal support obligation automatically terminates upon the cohabitation of the recipient spouse. Short of that, however, parties may be freer to address whatever future cohabitation scenarios arise by leaving the negotiated divorce decree silent on the issue and allowing the court to apply the economic needs test in resolving the eventual motion for modification.

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MAGIERA V. LUERA: REEXAMINATION OF CHILDREN'S SURNAMES IN PATERNITY CASES

Bruce I. Shapiro, Las Vegas, Nevada

In *Magiera v. Luera*,[1] the Nevada Supreme Court concluded that a father is not entitled to have an out-of-wedlock child bear his surname *merely and solely* so that he may receive a "tangible benefit" for paying his child support.[2] *Magiera* involved a child born to unwed parents. The father acknowledged paternity and signed the child's birth certificate. The surname of the child, according to the birth certificate, reflected that of the mother. Following his acknowledgment of paternity, the father failed to stay current in his child support obligation and he did not seek visitation rights with the child until the child was three years old. When he was subsequently required to pay an increased child support obligation and to make payments on child support arrears, the father requested that the child's surname be change to his.[3]

When addressing the matter, the Nevada Supreme Court noted that under NRS 125B.020,[4] a father has a duty to support his child. The court ruled, however, that a father is entitled to "no tangible benefit" for fulfilling his responsibility to pay child support, and that "[t]he father has no greater right than the mother to have a child bear his surname.[5] The court also held that "the burden is on the party seeking the name change to prove, by clear and convincing evidence, that the substantial welfare of the child necessitates a name change."[6] The presumption and burden that the Nevada Supreme Court thus created, however, are troublesome. The decision creates a presumption that an out-of-wedlock child should bear the surname of the mother and creates a virtually impossible burden for a father to overcome.

Several years ago, an appeal was taken to the Nevada Supreme Court from a district court order that included this issue. The appellant, "Mother," and respondent, "Father,"[7] met while co- workers at a business in Las Vegas, Nevada. While Mother was married to another man, Mother and Father had a brief relationship that resulted in the birth of a child. Father believed that he was the biological father of the child, but Mother repeatedly denied Father's paternity and claimed that her husband was the child's biological father.

To maintain a relationship with the child after the parties' relationship ended, Father was forced to file a petition to establish paternity. Mother opposed the petition and counterclaimed that since she was married at the time of conception, her husband should be presumed to be the biological father. Mother also alleged that even if Father was the biological father of the child, he was unfit to have custody of the child because, among other unsubstantiated factors, he

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allegedly had a violent temper.

Over Mother's vigorous objections, Mother and Father were ordered to submit to genetic testing and the testing confirmed that Father was indeed the biological father of the child. The parties were then referred to the Family Mediation and Assessment Center for a full study. The study recommended that Father should have specific visitation with the child. Mother nevertheless persisted in her position that Father should have no contact with the child.

During the pendency of the action, Mother and her husband were divorced and Mother married man, who will hereinafter be called "Husband Number Two." The child's surname then became a major issue in the proceedings because Mother decided to give the child the surname of Husband Number Two. Mother did so without regard for the fact that she was not married to Husband Number Two at the time that the child was conceived, and without regard for the fact that Husband Number Two was not the child's biological father. When Father responded by requesting that the child bear his surname name, the district court, in an unusual compromise, ordered the child's name to be hyphenated to reflect both, the surname of Father, and the surname of Husband Number Two. Mother was ordered to cooperate in obtaining a new birth certificate that would reflect the child's new name and show that Father was the child's father. The court's order also gave Father unsupervised visitation the child. Mother reacted by making it clear that she had no intention of changing the child's name or of allowing Father unsupervised visitation. Mother appealed.

In pursuing her appeal, Mother failed to include the trial transcript in the record on appeal. Despite this, the Nevada Supreme Court, in an unpublished decision, reversed the district court order changing the child's surname, and opined that there was no "clear and compelling evidence in the record to show that the substantial welfare of the child necessitates the name change."

Application of *Magiera*

As noted above, the Nevada Supreme Court, in *Magiera*, held that the father of a child born out of wedlock, "has no greater right than the mother to have a child bear his surname."[8] If the father has no greater right than the mother to have the child bear his surname, however, it should therefore conversely follow *that a mother has no greater right than the father to have a child bear her surname*. *Magiera* should not be interpreted as holding that the mother is always entitled to have the child bear her surname. This argument aside, should not a father have a right to not have his child bear the surname of *another man*?

In *Magiera* the Nevada Supreme Court stated that the only relevant factor in determining the surname of a child is what is in the child's best interest.[9] The court also stated that the party attempting to change the child's name must "prove by clear and compelling evidence that the substantial welfare of the child necessitates a name change."[10] Since the mother is usually able to name a child born out-of-wedlock, the father will usually be in the position of seeking the name change and of having to meet the almost insurmountable burden of showing that the change is in the child's best interest.

Magiera should not be interpreted as creating a presumption that a child will bear the name that the mother is unilaterally free to give the child at birth. Why should fathers always have the burden of proving by clear and compelling evidence that their child should bear their surname? While this standard may have been fair under the facts in *Magiera*, where the father waited three years before initiating any action, failed to pay child support, and did not even exercise visitation with the child, it is not fair under many other circumstances, including the facts in the case described above.

In the above case, the father waited only two weeks after the birth of the child before filing his petition to establish paternity. It is not equitable for the *Magiera* standard to be applied after only two weeks. What is the court to look at in determining what is in the best interest of a child that is only two weeks old?

Discussion

The naming a child is one of the first and most important decisions parents make. A child's name reflects tradition and heritage.[11] The trial court has jurisdiction to decide this issue pursuant to NRS 125.480.[12] In fact, until recently, it was assumed as a matter of common understanding that children would bear their father's surname and this assumption was rarely contested.[13]

Courts in other jurisdictions have set forth many factors to be considered in determining a child's surname. Especially important among these factors is the length of time that the child has used a surname. If the child has used the surname for a negligible period, "other factors may be controlling."[14] Besides the length of time that a child has used a particular name, courts have also considered such factors as how the child's surname will affect the child's identity as a member of a household, how the child's surname will affect the child's relationship with each parent, what potential anxiety or embarrassment the child may experience if the child bears a different surname from the custodial parent, what preference the child may have regarding his surname, whether there was misconduct by one of the parents, failure to support the child, failure to maintain contact with the child, whether there were siblings of the child and whether the father attempted to influence or negotiate the child's name at birth.[15] The courts, however, have also acknowledged the difficulty of applying the best interest of the child standard to this issue.[16]

Some courts have held that the "presumption that the parent who exercises physical custody or sole legal custody should determine the surname of the child is firmly grounded in the judicial and legislative recognition that the custodial parent will act in the best interest of the child."[17] Some courts have found that if a name is important to the strengthening of the father-child relationship, it is just as important to the strengthening of the mother-child relationship.[18] This, however, fails to recognize that a father-child relationship may be "even more tenuous in the case of an unwed father who has never lived with his child and thus has lacked the opportunity to discharge his parental responsibilities on a day-to-day . . . Hence, society's interest in sustaining the custom of having the child bear the paternal surname is particularly urgent when the situation involves a child born out of wedlock."[19] Many of the cases that presented this issue to the courts, however, involved circumstances like those in *Magiera*, where the father's conduct was egregious and unsympathetic.[20]

In a case involving an infant child, it cannot be reasonably argued that it is contrary to the child's best interest for the child

to have the surname of either party. The district court, in hyphenating the child's name, was merely exercising its equitable powers to reach a compromise that it believed was in the best interest of the child and both parties. There is authority that if both parents have custody and cannot agree on a surname, the child should be given a hyphenated surname based on alphabetical order.[21]

Magiera may be distinguished from many cases. In *Magiera*, the child was three years old and, to some extent, already had an identity. The father waited three years and suddenly, without any apparent reason, wanted the child to bear his surname. In the case described above, however, Mother was married to one husband when she had an affair with Father and gave birth to the child at issue. Mother was subsequently divorce from her first husband and married Husband Number Two. She then alleged that because she and Husband Number Two may have children in the future, and because this would confuse the subject child, the subject child should bear the surname of Husband Number Two. Mother's embarrassment or inconvenience, however, is not a sufficient reason to deny the child father's surname.[22] Further, the stability of the child must be considered. Here, Mother was involved with three different men within a short period. The argument that her future children will have different names than the subject child therefore fails—Mother could easily divorce and marry again. Should Mother be permitted to change the child's name every time she changes relationships? Moreover, it is becoming common today for children living in the same household to have different names. Father, however, will always be the child's father and while the child shares his surname, the child will always have that identity. This is especially important in situations where the mother attempts to estrange the child from the father.

Conclusion

The law is clear that the sole consideration in determining a child's surname is the best interest standard. It should not, however, always be the burden of unwed fathers to prove by clear and compelling evidence that their child should bear his surname. It is submitted that the interests of both parents and the child can be served in paternity cases with a rebuttable presumption that favors a compound surname. "A dual name would help the child to identify with both parents, a state of mind psychologists say is essential."[23] It gives the child a sense of belonging, an identity with extended family, and maintains the integrity of the parents' identity.[24]

NOTES

[1] 106 Nev. 775, 802 P.2d 6 (1990).
[2] *Id*. at 777.
[3] *Id*. at 776.
[4] NRS 125B.020 states:
1. The parents of a child (in this chapter referred to as "the child") have a duty to provide the child necessary maintenance, health care, education and support.
2. They are also liable, in the event of the child's death, for its funeral expenses.
3. The father is also liable to pay the expenses of the mother's pregnancy and confinement.
4. The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

[5] 106 Nev. 775, 777, 802 P.2d 6 (1990).
[6] *Id*.
[7] The names of the parties involved in this action have been changed.
[8] *Magiera v. Luera*, 106 Nev. 775, 777, 802 P.2d 6 (1990).
[9] *Id*.
[10] *Id*.
[11] *Keegan v. Gudahl*, 525 N.W.2d 695, 697 (S.D. 1994).
[12] *See i.e., Keegan v. Gudahl,* 525 N.W.2d 695, 697 (S.D. 1994).
[13] *See generally Gubert v. Deremer*, 657 A.2d 856, 857-67 (N.J. 1995), for an historical review of this tradition. *See also* Pacheco, *Latino Surnames: Formal and Informal Forces in the United States Affecting Retention and Use of the Maternal Surname*, 18 T. Marshall L. Rev. 1 (1992); Note, "The Controversy Over Children's Surnames: Familial Autonomy, Equal Protection and the Child's Best Interest," 1979 Utah L. Rev. 303, 305; Seng, *Like Father, Like Child: The Rights of Parents in Their Children's Surnames*, 70 Va. L.Rev. 1303, 1323 (1984).
[14] *Re Marriage of Schiffman*, 620 P.2d 579, 581 (Cal. 1980).
[15] *Gubernat v. Deremer*, 657 A.2d 856, 867-68 (1995); *James v. Hopmann*, 907 P.2d 1098 (Okl. App. 1995); *Re Marriage of Schiffman*, 620 P.2d 579, 581 (Cal. 1980); Block v. Bartelt, 580 N.W.2d 152, 153 (S.D. 1998).
[16] *Gubernat v. Deremer*, 657 A.2d 856, 868 (1995).
[17] *Id*. at 869.
[18] *Garrison v. Knauss*, 637 N.E.2d 160, 161 (Ind. App. 1994).
[19] *D.R.S. v. R.S.H*., 412 N.E.2d 1257, 1264 (Ind. App. 1980). *See generally* Note, "Like Father Like Child: The Rights of Parents In Their Child's Surnames," 70 Vir. Law Rev. 1303, 1350 (1984).
[20] *D.R.S. v. R.S.H*., 412 N.E.2d 1257, 1264 (Ind. App. 1980).
[21] *Gubernat v. Deremer*, 657 A.2d 856, 869 (1995).
[22] *Laks v. Laks,* 540 P.2d 1277 (Ariz. Ct. App. 1975).
[23] Note, "Like Father, Like Child: The Rights of Parents In Their Child's Surnames," 70 Vir. Law Rev. 1303, 1350 (1984).
[24] *Id*. at 1348-49

"Willy, is that your sneaker in the living-room?"

PERSONALITY COLLISIONS IN THE LAW FIRM

By Jack N. Singer, Ph.D.

Managing interpersonal conflict in the busy law firm is among the most critical and important skills that employees on all levels of the organization can possess. Besides the obvious tension and inefficiency that unresolved conflict causes, the bottom line can be impacted because of negative consequences on morale and customer (i.e., client) service.

Such diverse factors as 1) unrealistic client expectations, 2) competition, 3) power/turf issues, 4) time demands, 5) legislative hurdles, 6) money/risk ratios, and 7) fear of downsizing produce fertile ground for the development of conflict. Moreover, advances in technology, along with economic and social pressures all magnify the potential for frustration and anger in the workplace.

Ignoring interpersonal conflict in the law office leads to serious problems; however, allowing conflict to surface and skillfully resolving it can be a platform for enhancing interpersonal trust, team building and creativity.

The good news is that administrators, managers, and human resources directors can easily learn conflict resolution strategies, put them into practice, and teach them to their employees.

The attorneys, of course, need to be exposed to these skills as well; however, they may be resistant to intervention from "subordinates" in the office. Often, an outside consulting psychologist is brought in to quickly diagnose the source of conflict in the firm and design skill development workshops to deal with the problem.

The following three-step program for assessing present conflict management style and implementing a resolution program is a successful, pro-active plan:

STEP 1. EVALUATING CONFLICT MANAGEMENT STYLE

Several self-assessment questionnaires have been developed over the years giving people insight into how they react in typical conflict situations. The insight derived from scoring these questionnaires provides an understanding of what "buttons" get pushed when each person is provoked.

STEP 2. IDENTIFYING CONFLICT MANAGEMENT BEHAVIORS

People resort to behavioral habits when experiencing conflict with others. These reactions include:

Non-productive behaviors, such as: confronting, dominating, defending, using sarcasm, hostile humor, repressing emotions, insisting on being right, stonewalling, and blaming;

Neutral behaviors, such as: avoiding, cooling off, apologizing, and giving in or backing off to avoid confrontation;

Positive behaviors, such as: active listening, empathizing, disarming, inquiring, using "I feel" statements, and recognizing how your internal dialogue impacts your emotional reactions.

The goal is to eliminate negative and neutral behaviors and practice positive confrontation reduction skills until they become new habits. On the average, these skills can be learned in only 21 days of concentrated practice!

STEP 3. LEARNING POWERFUL CONFRONTATION REDUCTION SKILLS

The Comfort Zone. The basic premise here is that conflict is inevitable and must be dealt with openly. Everyone involved must be afforded the opportunity to be heard in a safe, non-threatening atmosphere. Do not, however, involve more people in the process than you need to. Gossip about conflicts can undermine resolution strategies.

Active Listening**.** The key to all interpersonal communications is genuine listening, as opposed to defensive listening, where you plan your retort while the other person is talking to you.

In order to begin to really listen, paraphrase what the other person says in your own words, without judging, agreeing or disagreeing. Listen to and reflect the content, needs and feelings of the other person.

Next, ask for feedback to determine whether you interpreted correctly. If you have not, ask for clarification. Continue this process until you are sure that you have heard what the other person is saying and how he or she really feels emotionally.

Once you are certain that you understand the message and feelings expressed by the other person, respond. The other person then listens and paraphrases for you. This process continues until you have both clarified your positions and are certain that the other person really heard you and understands.

Empathizing**.** This involves putting yourself in the other person's shoes and trying to see the world through his or her eyes, taking into account cultural, racial, gender and experiential differences. Remember that one's perceptions may be inaccurate, but reality for that person is represented by those distorted perceptions.

Disarming**.** The fastest way to defuse an argument is to find some truth in what the other person is saying, even if you do not agree with the basic criticism or complaint. For example, saying "I can understand how you'd feel angry with me since you believed that I started the rumor" acknowledges and validates the angry person's feelings without actually agreeing with what was said. This opens the door to clarification, feedback and reconciliation.

Inquiring. By asking for clarification of ideas, needs and feelings you signal a feeling of respect and can then work toward mutual understanding and compromise. You also need to ask yourself hard questions, such as objectively seeing your role in provoking or prolonging the problem.

"I Feel" Statements**.** This is a primary skill in interpersonal communications. Expressing yourself with such statements as, "I feel angry because you seem to be avoiding me" is much more productive than the accusatory, "you made me angry and it's your fault that I've had a bad day at work today." In the first scenario, you take responsibility for your own feelings and share them; in the second, you escalate the confrontation by blaming and putting the person on the defensive.

In addition, you tell the other person specifically what you need that will make you feel good or what can be done to improve the relationship and avoid further misunderstandings and confrontations.

Internal Dialogue**.** The key to analyzing your vulnerability to being provoked into confrontations is to understand how your automatic thoughts, including your assumptions and conclusions, cause every emotional reaction.

When these thoughts are distorted, they lead to dramatic and unwarranted reactions. Examples of these distortions are:

• "I *should* win every case I'm involved in" (using should, must, and have to in judging your actions);

• "My boss *doesn't care* about me...only about my productivity" (reading your boss' mind about what he/she must be thinking and feeling);

• "They'll *probably eliminate* my job soon" (catastrophising or fortune telling about what negative things will happen to you in the future, despite no evidence to support your fear;

•and "*I'm stupid* for allowing this to happen to me" (negatively labeling yourself instead of describing your behavior as unfortunate or unproductive).

Once you learn about the distortion habits underlying your automatic thinking, you can learn how to challenge them and develop more rational, alternative thoughts. The end result is actually dissolving negative emotions and a healthy, more reasonable outlook on every situation in which you find yourself.

Interpersonal conflict is healthy when it brings a rich sharing of ideas, mutual respect and an understanding and appreciation of diverse opinions, needs, and values. Learning how you and your colleagues traditionally react in conflict situations and how to use confrontation reduction skills leads to greater trust, less stress, and more creativity.

Constructively addressing interpersonal conflicts in the office not only avoids the festering that can undermine the productivity and creativity of the office team, but it can ignite them in a positive way. New insights and opportunities are often the result!

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