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How Emotional Intelligence Can Benefit Transactional Attys

By **Frank Williamson and Mike Harrell** (February 4, 2020)

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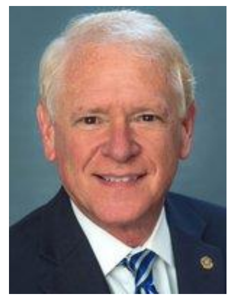

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Transactional lawyers can be thought of falling into two general categories — those who function as technicians and those who function as counselors.

The former strives to work as efficiently as possible, doing whatever the client asks whenever he asks it. The latter, on the other hand, takes additional time to guide his client through the complexities of a M&A deal that can go beyond contracts and negotiations, to achieve the best possible outcome with a suitable business partner.

It will take a lot of time and money for your client to sell a company, whether your client is the buyer or seller. So, if you find yourself on the counselor end of the spectrum, you should be using any tools at your disposal to facilitate a smoother and more harmonious process. One way to do that is to discuss the value of emotional intelligence within your client's organization and on the negotiating team. It can make the negotiation process more productive and pleasant while increasing post-deal stability.

But to invest in emotional intelligence, it's essential to understand what it is.

Emotional Intelligence Before a Deal

Emotional intelligence is the ability to monitor one's own and other people's emotions (self-awareness), take responsibility for one's behavior and well-being (self-management), consider and empathize with others' perspectives (social awareness) and use this knowledge to interact with others in a positive way (social skills). In the workplace, these principles can help team members respond to one another more effectively, which will increase participation, cooperation and collaboration.

Once an organization has invested in team emotional intelligence, executives often think differently about business negotiations. Suddenly, it's not only quantitative metrics that identify a company's value, but also qualitative metrics, such as a team's cohesion or resilience. That plays into the thought process behind business transactions on both the buying and selling sides.

Emotionally intelligent executives looking to sell will want to make sure their team, which they've carefully built into a productive and cohesive unit, is passed off to the right hands. Because emotionally intelligent teams understand each others' behaviors, stressors, communication styles and more, they generally improve their performance, make fewer mistakes and get better results. That, in turn, creates value for the seller, which is why the team itself should be considered a selling point when pitching a company for sale.

If your client is a prospective buyer, it will make a difference if, from the outset, they understand their organization at the level of emotions, motivators and communications styles. Before making any offers, you should ask your client about the organization's strengths and weaknesses, which team members work well together, which ones conflict

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and if any potential issues could arise by bringing another group of people onto the team. By evaluating the organization in this way, you'll be better equipped to assess prospective companies. At the same time, your client will have a more realistic sense of the changes that can come during post-deal integration.

Emotional Intelligence During the Negotiation Process

The business negotiation process almost seems geared to bring out people's stress behaviors. However, by developing the capacity for emotional intelligence in negotiations, those managing the negotiation process can make it easier to avoid conflict, encourage cooperation and respect the unique decision-making process of each person at the table. Here's how to incorporate emotional intelligence, in some common scenarios:

Avoiding Conflict in Difficult Conversations

When you have two parties trying to achieve at-times-contradictory goals, there are going to be moments of tension. In these situations, you can channel emotional intelligence principles by maintaining a consistently curious stance and adjusting your approach based on the personalities of the people involved. This learning mentality can be used whether you're in a group conversation or a one-on-one interaction. If something comes up that makes the conversation difficult, continue to ask questions and stay focused on respectfully listening, even if you feel offended or frustrated by the responses. It's crucial to prioritize information gathering over making sure your side gets heard.

Preventing a Party From Leaving the Negotiating Table

It's preferable to keep all parties in the conversation than to navigate the much tougher situation of reapproaching somebody who has left the negotiating table. Ultimately, each party wants to know you're hearing them and considering their ideas.

We recently read a lawyer's letter to a client that accomplished this masterfully. It acknowledged an existing problem and the party's intent to solve it, explaining in detail the facts and costs of their proposed (and complicated) solution. The letter closed by leaving the issue open for both sides to have a problem-solving conversation. In doing so, it used emotional intelligence to clear the air for both parties to move forward respectfully and productively.

Knowing When to Address Issues in One-on-One Settings

Business negotiations are, by and large, a team sport. Key players on one side will generally have the highest amount of interaction with their counterparts on the other side: Lawyers talk to lawyers; executives talk to executives; and investment bankers talk to investment bankers. Typically, conversations will involve a minimum of three people on each side.

However, not every aspect of a deal is best handled this way. Sometimes there's a term that causes frustration for one side and is confusing for the other. Emotional intelligence can be a helpful tool in these situations, where it can be brought into a one-on-one conversation to talk through and clarify whatever the sticking points are and avoid any potential embarrassment. That can pave the way for both teams to reconvene and resolve the issue together.

Designing a Schedule That Leaves the Right Level of Flexibility

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In terms of pacing a deal, our general rule of thumb is “as fast as possible, but no faster.” Every deal is unique, and getting to the finish line requires an awareness of each party’s constraints (such as a customer contract that needs approval to transfer) and outside deadlines (such as the need to complete a deal within the current fiscal year).

That may mean that a deal comes together over several weeks, several months or even longer. The key to keeping both parties emotionally invested is to have transparent communication from the outset.

Emotional Intelligence During Post-Merger Integration

Once the papers are signed and the deal is complete, the hard work begins to integrate the two companies. It’s admittedly a challenging process to merge organizations, add new leaders and create new workflows. Executives can sometimes hold too tightly to how a plan looks on paper while failing to recognize team members as multidimensional individuals with strengths, weaknesses, interests and needs.

However, managers applying team emotional intelligence can design teams that take into account the skill set of each team member, their communication style, the personalities they work best with and the settings in which they’re most effective. If leaders are purposeful about creating a well-functioning team from the beginning, team members will better understand how to interact with and support each other — which will go a long way toward overcoming the natural hiccups that can come from merging two organizations.

The M&A process naturally brings changes to an organization that can be complicated for both executives and employees. Consider counseling your client on the importance of a healthy team behind the organization. That will result in a more stable and supported team throughout and after the transaction process.

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