

“Emotion” in the Court

By Anique Gonzalez

At least once in everyone’s life there comes a time when a decision is made purely on emotion. Whether it involves agreeing to see the ex-boyfriend or ex-girlfriend even though you know you really shouldn’t, buying those expensive but fabulous stiletto heels, or eating that dessert after already indulging in a four- or five-course meal, sometimes you just let your brain take a break while your heart takes over.

In most instances there are few catastrophic outcomes as even the worst of decisions made on emotion often have reversible solutions. For example, you stop seeing the ex (again), take the shoes back, or exercise even more vigorously and for a longer period of time the next time you work out. However, the results of some decisions made purely on emotion can be much more costly, elongated, and burdensome because some decisions based purely on emotion result in two parties ending up in court.

A new study conducted by London-based Field Fisher Waterhouse has revealed that even in the legal sector sometimes the heart wins out. According to the survey, 47% of those polled admitted that personal dislike directly resulted in costly corporate litigation. What’s more, two-thirds of respondents admitted that emotion and personal pride would most likely stall amicable solutions between parties during negotiations.

Interestingly, 73% of respondents charged that the acceleration of disputes was tied to the fact that parties focus too extensively on points of principle, further resulting in a lack of successful negotiations. Another cause is linked to the fact that 88% of those polled said that unrealistic expectations can serve to disrupt dialogues between parties.

Of particular note, 79% of the attorneys and corporate executives who responded admitted that dispute resolutions are managed poorly by most organizations. Results of the survey suggest that the cause of this is related to the fact that emotion impacts many of these decisions, resulting in “non-commercial concerns driving companies into disputes and acting as a barrier to effective resolution.”

Peter Stewart, chief of the firm’s commercial litigation practice, said, “One of the major factors contributing to the escalation of disputes is the emotion involved. Whether it’s personal pride, dislike of the other side, or a point of principle, these emotions will inevitably distract from rational decision making.”

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Underscoring the importance of approaching legal situations objectively and rationally, he added, "Lawyers need to understand the impact that emotion can have on decision making. They should provide an accurate assessment of the facts and give confident advice on the real merits of the case."

Conducted in April 2007 by Lighthouse Global Limited, the survey reviewed the opinions of 75 UK in-house attorneys and corporate executives. The study attempted to identify the impact emotion has on dispute resolution.

On the Net

Field Fisher Waterhouse
www.ffw.com/Default.aspx