

NOSCE TE IPSUM:

Being Authentic with the Trier of Fact

ALI-CLE
Eminent Domain and Land Value Litigation 2023
Condemnation 101
Austin, TX

By:
Clint Schumacher, Esq.
Dawson & Sodd, PLLC
Dallas, TX
Email: clint@dawsonsodd.com
Tel: (214) 373-8181

Christian F. Torgrimson, Esq.
Parker Poe Adams & Bernstein, LLP
Atlanta, GA
Email: christiantorgrimson@parkerpoe.com
Tel: 404.665.1232

Cringe. It's that feeling you get whether it be in the back of your mind or in the pit of your stomach when you know someone is faking it. The unease that comes when you know someone is not being authentic. Like when you witness the presentation of evidence at a trial or hearing and thought that the attorney or, worse yet, the witness was just playing a role. Or when you receive a hollow offer of support or feedback from a co-worker instead of a direct instruction or honest opinion. Or offer one to your spouse (guilty!).¹ Or when a fellow attorney picks up a hobby that they know the client is interested in but that the colleague has absolutely no interest in doing. When you hear yourself saying one thing when your inner voice says the exact opposite (or shouts it

¹ This was Clint's admission. Christian would never do this!
PPAB 8556083v1

loudly in your brain). Or even when you agree to an event or join in for dinner after work when you would rather do anything else.

Why is it important to be authentic? Put simply – living life with integrity and authenticity brings fulfillment and happiness. Stephen Joseph, Ph.D. writes in “*Why are Authentic People Happier?*” that there are three reasons why authenticity leads to happiness.² First, people who are authentic are more likely to be following their own path versus a path chosen for them. Second, people who are authentic tend to be able to withstand the pressures from others to be their “adaptive self.” Finally, authentic people usually have more meaningful and genuine relationships, both personally and professionally.

What does it mean to be authentic? Authenticity is: “congruence between our deeper values and beliefs (i.e., a “true self”) and our actions.”³ Being “authentic” – it sounds simple but is easier said than done. Particularly since most people juggle multiple hats as an employee, spouse, parent, child, friend, and family member and often oscillate between different demeanors and personality tendencies. However, even as most people move between roles, it is still possible to find one’s true self.

To start – how does one be “authentic”? To be authentic, you must be in touch with who you are. So – how do you figure out who YOU are? First, you identify your core values. Below is a list of questions adapted from Trial by Human by Nick Rowley and Steven Halteman that were designed to help the reader identify their core values.

1. Who am I?
2. What am I?
3. What are things I am the most afraid of? Why?
4. What do I really care about? Money? Fame? Myself? Other people?

² Stephen Joseph Ph.D., *Why Are Authentic People Happier*, Psychology Today (December 8, 2019), <https://www.psychologytoday.com/us/blog/what-doesnt-kill-us/201912/why-are-authentic-people-happier>.

³ Ryan Smerek, Ph.D., *What Does It Mean to Be Authentic?*, Psychology Today (January 8, 2019), <https://psychologytoday.com/us/blog/learning-at-work/201901/what-does-it-mean-to-be-authentic>.

5. How selfish am I? Why? Is it OK to be a selfish as I am? Why?
6. Do I like my current professional life, or do I want to change it? Why?
7. What are the things I just like most about myself? Why?
8. What are the things I like least about myself? Why?
9. What is the best thing about me?
10. What is the worst thing about me as a person (not physical appearance, but rather what is beneath the surface)?
11. How do other people see me?
12. Do I show others, including jurors, my true self? Do I even know my true self?
13. What are the experiences in life that brought me to where I am and made me the way I am?
14. What are the things I want to change about myself? Why?
15. What do I want most of my life?
16. If I could push a button and make my life different tomorrow? How would it be? Why?
17. Am I mostly happy or sad? What makes me this way?

Once you have identified your core values, it is important to separate your *adaptive* self from your *authentic* self. We were molded as children by our parents, teachers, religions, peers, and society to "fit in." As a result, we developed beliefs, thoughts, emotions, and behaviors that are not always authentic. This is the "adaptive self"—the self that prioritizes fitting in, getting along, and generally doing what we're told. This self is not without value and purpose. The adaptive self is what helps us be functioning members of society. The "authentic self" is the self that prioritizes living according to your values, pursuing your purpose, and fighting for the causes you care about.

The next step in finding one's authentic self is getting comfortable with who your authentic self is and the imperfections that accompany it. It is tough – accepting the ugly imperfections that most make herculean efforts to hide. But being authentic is not synonymous with being perfect or

being the best possible version of you.⁴ A person cannot be their most authentic self if they only embrace the parts of themselves that they like and hide “the ugly”. Curated perfection is not authentic. Christine Carter wrote in *Five Ways to be Fully Authentic* that, “the only thing to do with all out imperfections is to accept them with forgiveness and compassion... This does not mean that we are resigned to never growing or overcoming our weaknesses. It just means that we can be our truer selves on this path.” This acceptance of all aspects of oneself is how one achieves authenticity and results in a happier and healthier individual who can culture better connections with their peers.⁵

Once you have identified your core values, separated your adaptive self from your authentic self, and made peace with your imperfections – now what? It is time to reflect and dig deeper. Self-reflection is a difficult task and one that many people often shy from. It is time consuming and difficult to know where to start. The Enneagram of Personality (the “*Enneagram*”) is one of the many personality diagnostics that has made self-reflection more constructive and digestible. The Enneagram is a system of personality typing that categorizes how people interpret their surroundings and manage their emotions.⁶ It breaks down nine personality types based on an motivations and fears that guide actions and decisions and is a helpful tool for self-reflection because it squarely identifies opportunities for development for each personality type. It is considered a powerful tool for understanding core motivations, preferred conflict resolution, team dynamics, leadership, and emotional intelligence.⁷

⁴ Christine Carter, *Five Ways to be Fully Authentic*, Greater Good Magazine (June 21, 2017), https://greatergood.berkeley.edu/article/item/five_ways_to_be_fully_authentic.

⁵ Christine Carter, *Five Ways to be Fully Authentic*, Greater Good Magazine (June 21, 2017), https://greatergood.berkeley.edu/article/item/five_ways_to_be_fully_authentic.

⁶ Molly Owns and Christa Hardin, *What is the Enneagram of Personality*, Truity, <https://www.truity.com/enneagram/what-is-enneagram>

⁷ *Id.*

Being authentic will make you more relatable and will build a deeper connection with clients. The legal profession has historically eclipsed “out of office” personas and interests in favor of more vanilla and professional demeanors. The internet, social media, and the COVID-19 pandemic accelerated efforts to humanize lawyers.⁸ Formality is waning as clients increasingly seek personal connections with their attorneys outside of purely substantive legal work. For example, “one lawyer recounted getting work from a prospect after she noted on his LinkedIn profile that he plays in a community band. He had already been under consideration but she plays in a band, too, and appreciated the commonality.”⁹ While most attorneys are not hired strictly because the client finds a commonality that resonates with them, these commonalities can be the domino that pushes a client through the door and help forge an authentic relationship with the client.

There are three key efforts that can help create an authentic relationship with a client. First, connecting to your client’s story by taking the time to get to know your client, actively listening to your client, and taking sincere efforts to learn how to tell your client’s story. Listening requires caring and being present. One must also identify the client’s authenticities and how those authenticities will connect in the courtroom. Second, finding the authentic value in the story that the trier of fact will connect to. Third, creating authentic relationships with other witnesses who are important parts of the story and who will help tell the story to the trier of fact. Finding your authentic self and culturing an authentic relationship with your client will equate to more success before a trier of fact.

Finally – how will being authentic and having an authentic relationship with a client equate to success before a trier of fact? Inauthenticity is emotionally draining and ultimately

⁸ Sally J. Schmidt, *To Build a Stronger Personal Connection with Clients, Highlight Common Interests*, Attorney At Work, <https://www.attorneyatwork.com/highlight-common-interests-with-clients-to-build-stronger-personal-connection>.

⁹ *Id.*

undermines professional performance.¹⁰ Colin J. Diamond and Henrik P. Patel, attorneys with White & Case, LLP, outlined that self-awareness and effective vulnerability were qualities necessary in order to become a more authentic attorney in *Bringing Authenticity to the Practice of Law*.¹¹ In order to be self-aware, one must circle back to the initial steps of identifying your core values and your authentic self. For many people, being vulnerable *is* putting forth their authentic self. Most people's reaction to vulnerability and authenticity is to feel that the individual is trustworthy. By establishing with the trier of fact that you are trustworthy, you are more likely to secure a successful verdict.

When you connect with your client and your client's story in a true and authentic way, that story oozes out of you in the courtroom. It is noticeable. And, not just in words, but in the depth of your emotion, the way you talk about them, the way you interact in the courtroom. The jury sees it all and a faked connection will be sniffed out like a bloodhound on a scent.

Famed trial lawyer Gerry Spence used to say, "it all begins with you."¹² The person who can feel, who has their humanity, and who is willing and unafraid to show it translates into powerful advocacy. Being authentic means truly feeling your own emotions and being able to empathize with others – your client, the jury, the opposing expert. *Why are they here? What are they thinking? What is their motivation?* When you find your own authentic self and are honest with yourself and with others, you can communicate truth in a sincere way. Those are the warriors that can take up a client's cause and convince the finder of fact of the justness in your case. When we learn to identify and embrace "the good, the bad, and the ugly" in ourselves, we can better understand and communicate with the humans that we will need to vote for justice for our clients.

¹⁰ Colin J. Diamond and Henrik P. Patel, *Bringing Authenticity to the Practice of Law*, American Bar Association (July 27, 2022) https://www.americanbar.org/groups/business_law/publications/blt/2022/08/authenticity/.

¹¹ *Id.*

¹² Win Your Case by Gerry Spence should be required reading for every trial lawyer.

“The human, the whole you, the ‘brutally honest’ you, the one who wants to be a successful trial lawyer and better human being and is willing to continuously struggle to get there—that is where we must start.”¹³

In sum, it takes time and effort to find and nurture your authentic self. It is a process that can be lengthy but there are numerous tools available, including the Enneagram or the reflective questions in this paper, that can be helpful to uncover your authentic self. The time and effort to discover your authentic self and to learn how to differentiate between your authentic self and your adaptive self will help create more authentic relationships with clients. It is an investment in yourself and your practice, which will in turn, that will help you connect with clients who will gravitate towards attorneys with whom they can have an authentic relationship. Learning and connecting to their story will help you tell that story in a more powerful way and better serve the clients that have placed their trust in you. At the end of the day, if you are reading this paper, that’s probably why you do what you do. Here’s to your authentic self. *Nosce te ipsum.*

¹³ Quoted from Trial by Human, p. 8.
PPAB 8556083v1