

## Caveat Emptor: On Dealing with Lawyers

Catherine S. Fichten, Ph.D.

**W**hat you don't know about dealing with lawyers can hurt you! Until recently, all of my professional contacts with lawyers were in the context of therapist-patient. I do not do custody or psycho-legal evaluations. So there was no need to learn about being hired by a lawyer. Right? Wrong! Very wrong.

This is what happened. I was approached by a respected lawyer who was retained by a former patient. His client (my former patient) felt that I had information relevant to his court case. Therefore, could I inform him—the lawyer—about my fees and conditions.

In addition to providing fee information, I indicated that I needed signed consent from my former patient. I also noted that, because this patient failed to pay some bills in the past, I wanted to be sure that my fees for this new service would be paid, and paid promptly. Therefore, I told the lawyer, I wanted him to be responsible for my fees, not my former patient. The lawyer agreed to pay my fees, and that, I thought at the time, was that.

We all know that sometimes, what a patient means, and what the therapist understands him to have said, differ. In therapy, we are alert to this issue of different meanings and realities, and clarify our assumptions. When it came to being hired by a lawyer, it is clear, **in retrospect**, that this is what I should have done. But I'm getting ahead of myself.

I met with the lawyer several times and provided the information he requested. But when I sent my bills, nothing happened. I continued to provide services, and sent more bills. After all, he had agreed, at the outset, that he was responsible for my fees and that

he would pay them. When asked about the delay, he said that he was not questioning the amount, or the basis for my fees. Nor was he questioning the value of my information—in fact, he said my “evidence” was likely to help his client win the case. It was that he was having trouble collecting from his client, who was in arrears. So I must be patient. OK, I thought, give it 30 days. By 90 and 120 days, I was quite upset; I was calling and sending reminders regularly and thinking of hiring a lawyer.

That's when I learned that the lawyer had been fired by my former patient and that his fees had not been paid. No surprise there, the best predictor of future behaviour being past behaviour. Therefore, the lawyer informed me, he had no further obligation as regards my fees (big surprise). I

out, I thought that the person hiring me was responsible. I did not think that I needed to inquire about how the lawyer was being paid, if he was paid at all. My former patient's case was high profile; it concerned a very controversial social, ethical, and legal problem. Being educated by L.A. Law, when I thought about the matter of fees, I thought it possible that the case may have been taken on a contingency or pro bono basis. I certainly did not think that it concerned me, or that it was my business to ask.

What I did not know was that the law stipulates that when a consultant is hired on behalf of a client, the lawyer is **never** liable for the consultant's fees, although he or she may be responsible for paying the consultant by acting as “middle man.” The lawyer I was

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should deal directly with my former patient, he said.

My education on the matter of working as a consultant for a lawyer was long and painful. I had numerous acrimonious phone calls from my former patient, who stressed that **he** did not hire me, that the lawyer was harassing him for my fees, and that he never agreed to pay me anything. My former patient was absolutely right - according to my understanding of the situation—and I had no problem agreeing with him. In fact, I had gone to great lengths to prevent this very occurrence. Or so I had thought.

Who did I think was responsible for my fees? Wrongly, it turns

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My case had a surprisingly happy ending. Possibly because this was small claims court, the judge who heard the case was not impressed by precedents. A few months later, the cheque from the lawyer, was, indeed “in the mail.”

So what can one learn from my painful education about dealing with lawyers? You may choose not to work for them. If you do agree to work for a lawyer,

*Please see Caveat Emptor, page 9*



# Let Your Keyboard Do the Walking Through the DSM-IV

Brian R. Smith

By now, most you have your copy of the latest Diagnostic and Statistical Manual of Mental Disorders (DSM-IV). I think it's fair to assume that a few of you haven't gone through it with much attention.

Let's face it, it's big. Its got lots and lots of information and, while the index is quite good, particularly if you know precisely what you're looking for, you have to flip and scan quite a number of pages to find things.

But what if you only have a vague idea about something, or, you have a few symptoms that you'd like to check but dislike having to flip through and compare several sections at once. Well, the Electronic Edition of the DSM-IV may be the answer for you.

American Psychiatric Press has released the complete DSM-IV in a computer format. It's quite a nice program which brings all the text to your computer screen with the advantage of being able to perform searches throughout the text.

The Macintosh version was reviewed for this article, but ver-

sions are available for Windows and MS-DOS (\$89.95 US each). However, be advised that you will need a minimum of 4 MB of RAM and 7 MB of hard disk space to get any of the versions up and running.

The opening screen presents you with the various major sections of the DSM-IV (see Figure 1). From here you enter in the words that you want to use for your search. You can enter single terms or multiple ones, the latter is useful if you want to look for text related to multiple symptoms.

The top part of the screen allows you to restrict your search to specific sections of the DSM or to conduct the search throughout the whole text. One nice feature is the ability to specify the precision of your search parameters. This can mean locating text that contains at least one term, locating text that has all of the specified terms (anywhere and in any order), finding text with the search terms within 5 words of each other (in order), or having the search terms appear adjacent to each other.

As you can see, this could be very useful if you wanted to find whether there was any reference

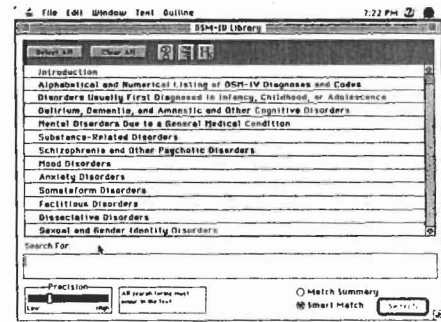


Figure 1. Opening screen where a search is initiated.

in the DSM to a specific set of symptoms that you might want to search for.

All the usual extra features are there, such being able to print selected sections, saving them for later use, and, in the case of the Mac and Windows version, the ability to cut and paste text into other documents.

Figure 2 shows you some retrieved text from a typical search. The search engine is quite fast and will provide a list of all of the text entries which match your search terms placing them in descending order from highest relevance to lowest relevance to the terms specified.

The program contains the complete Table of Contents of the DSM which can be used for browsing through the various topics. The only thing missing from the printed version are the decision trees. All in all, this is a well implemented program which, if you use the DSM-IV, can be quite useful. □

*Caveat Emptor, from page 8*

- 1) do not make any assumptions about what is reasonable or fair.
- 2) Clarify that what the lawyer said is what you understood, and vice versa.
- 3) Put it in writing.
- 4) Get it in writing.
- 5) If you are in a situation like mine, ask to be paid in advance.
- 6) If you are not paid in a reasonable amount of time, withhold additional services.
- 7) If you cannot get action, consider small claims court, and ignore your colleagues' gibes about, "having your head examined for suing a lawyer."
- 8) When all else fails, do your breathing exercises and keep your cool!

Cathrine Fichten is a psychologist working in the Montreal area. □

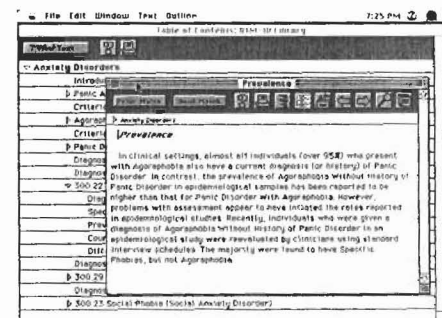


Figure 2. Example of retrieved text with Table of Contents in background