



John T. Berry

# A War of Words Between Professions

It was time. The problem had been thoroughly examined by the professional and thoroughly discussed with the client—me. The professional and his staff had prepared me well. All likely—and unlikely—outcomes had been explained. Understanding and empathy had been expressed. A description of the work to be done was provided. The details of the method of billing had been outlined. Very sincere, encouraging words had been expressed.

It was now time to leave it in the hands of the professional to use his skills, dedication, and experience to help me. I had done all I could do to help, and the outcome in many respects would be influenced by this one professional's actions.

So how did my lawyer do? Did I win? Well, it was not my lawyer. It was my neurosurgeon.

In recent months, I had experienced unexplained tingling in my hands and feet. My doctor discovered that the problem was being caused by a herniated disc high in my neck, which was putting pressure on my spinal cord. If not corrected immediately and precisely, it would lead to very serious consequences.

For the first time in my 58 years, I was relying on a professional for the resolution of a very serious matter, the result of which would affect me and my loved ones for the rest of our lives.

The surgery was a complete success. Other less desirable outcomes were very possible, and by the nature of the problem, it would not have been the doctor's fault. A performance short of perfection by the doctor might have meant serious consequences for the rest of my life—pressure for all concerned. And this is the sort of pressure all professionals face as they take the fate of their clients into their hands.

During my weeks of rehabilitation, I had a lot of time to reflect not only on my appreciation for what my surgeon had done, but

also on the similarities of the stress under which doctors, lawyers, professional advisors, and business folks operate, given the tremendous impact they can have on individuals' well-being. When we do our work well, with skill and with respect toward those we serve, our work is truly a blessing for all society. When we do our work poorly, sloppily, with greed, or with incompetence, we can bring great harm to individual lives and ultimately to society.

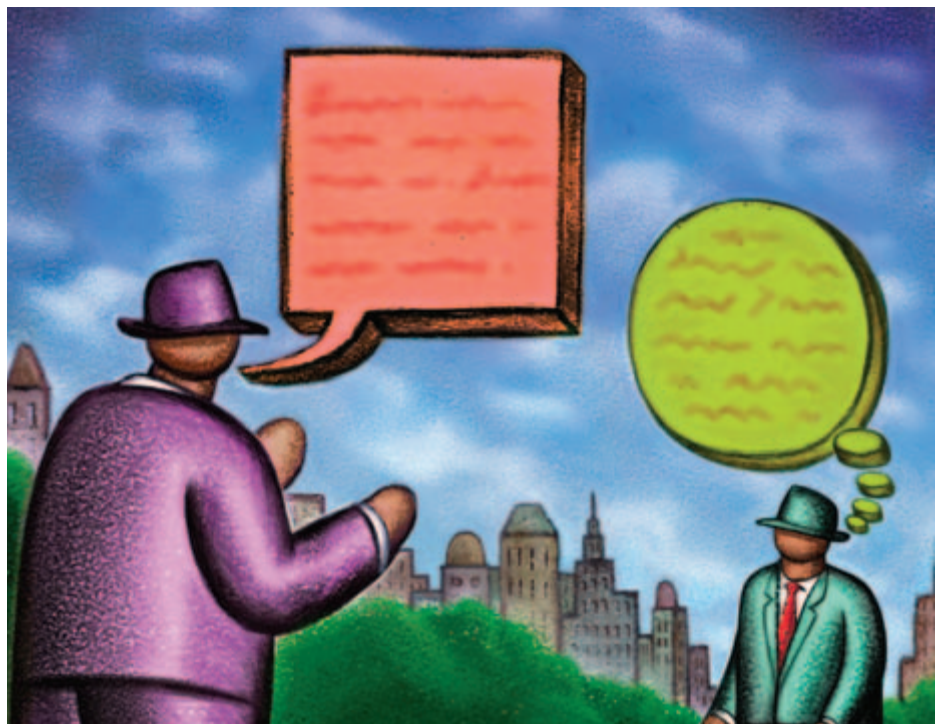
I have shared with you previously my career path and how it has allowed me to be involved in studying the regulation of many professions, including lawyers, doctors and the business world. I have had the opportunity to see incompetent professionals as well as highly skilled and dedicated professionals.

As part of those studies, I have seen very heated differences of opinion as many of

these professions interact with each other. Whether we are insurance experts, business executives, lawyers, or physicians, the public desperately needs us all to be competent, ethical, and dedicated. They need us to work together professionally, despite our differences. At times, they need us to put aside our own potential personal advantage for the overall good of our society. ("No organization of lawyers can long survive which has not for its primary object the protection of the public."<sup>1</sup>)

All societies deal with the pressure to polarize into opposing camps and to remain in camps too far apart and removed from healthy opportunities for constructive dialogue.

Will our seemingly ever-increasing animosity between professions lead to serious consequences for our society? Will the passions engendered by medical malpractice



actions and attacks on tort law diminish the credibility of lawyers and doctors alike? Have they already? I will leave that for you to determine, but it is clear that the greater the discord between the professions, the greater detriment to our society.

There is nothing wrong with disagreement and strenuous advocacy; they are, in fact, important elements of a healthy society. But carrying our disagreements to the point of unfair stereotyping (sloppy, uncaring physicians; ambulance-chasing attorneys) and embarking on destructive strategies hurts everyone in the long run.

When that overly broad brush of attack paints good people as well as bad, it hurts us all. All professions have taken hits recently. In recent polls, all professions have room to improve. Every profession has members who fall far short of an acceptable standard, and every professional has a responsibility to help protect the public from those within his/her profession who fall short.

I, for one, am not tired of legitimate and even very spirited but fair debate on issues affecting our professions and society. I am not tired of attempts within and outside the professions to sincerely attempt to make professionals more competent, ethical, dedicated, and yes, even caring. When professionals betray the trust given to them by society, they should be fairly but firmly held accountable. If, in a given profession, more numbers than we would like fall into that category, we should all work to correct it.

But my point today is that I *am* tired of overly broad and unfair attacks on whole professions. Stereotyping a whole profession when so many are hard working, well trained, overly stressed, significantly regulated, and hit from all angles is just plain wrong.

As trained advocates who have sworn an oath of truth and honor, I think we have a special responsibility to lead the way. Even in the face of outrageous stereotyping of our own profession, we must demonstrate fairness and dignity in our characterization of other professions and professionals—even, I would argue, in our casual conversations.

Within our own profession, we give ammunition to others if we engage in frivolous litigation, employ smear tactics during litigation, or use stereotyping or false images in

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campaign ads or lawyer advertising. Is that our profession's norm? Of course not, but we have all seen some of it. Human nature is to see the problems in others but not in ourselves. As noted in my slight revision to a song from My Fair Lady:<sup>2</sup>

*Why can't others be more like me?  
I am so honest, so thoroughly square;  
Eternally noble, historically fair;  
Who when you win will always give your  
back a pat.*

*Why can't others be like that?  
Why does everyone do what others do?*

*Whenever you're with me, you're always  
at ease.*

*Why can't others behave like me?  
I am so friendly, good-natured and kind;  
A better companion you never will find.*

It is important for all of us in all professions to do our part to reduce the mean-spiritedness between professions.

Some will read this article and say, "Oh yes, but..." or, "Sounds nice, but naive as..." This author has lived in the rough-and-tumble world of politics and does not expect unfairness or the predictable retaliations to cease overnight. We can, however, recognize those realities without throwing our hands in the air in disgust and giving up on possible improvement.

We will probably even disagree among ourselves about when the line between appropriate criticism and unfair attack is crossed. My hope is for all of us to keep a lookout for the line and to do what we can to reduce line crossing. My additional hope is to reduce the ever-escalating reactions that harm us all and demean the majority of excellent people in each profession.

Let's try to objectively look within our own profession to do what we can to clean

up both improper actions and attitudes. Let's at least talk more often and more respectfully between the professions, particularly in times of great dispute and disagreement.

To my doctor and his staff and all like you: I will forever be grateful to you. Not just because everything turned out well, but because you gave it your best skilled shot. I thank you for caring and making the whole process easier on me. To all my fellow lawyers who do the same for your clients: I thank you. I am proud to be called a fellow lawyer in your company.

To the business community who take risks and provide service based on hard work and integrity: I thank you.

I will do my part to find ways to improve dialogue between professions. John Wooden, the iconic UCLA basketball coach, said, "Don't let what we can't do hinder what we can." In that vein, we won't always agree. That is a given. Also, it ain't a perfect world, so folks on many fronts won't play fair. Hopefully, however, there are enough in each profession to help tone down the worst of the rest.

*What suggestions do you have to help? What have you tried that has worked? Have you seen any positive attempts or even trends to build on? Send them my way, and I will report back. Best wishes in the effort.* ♦

### FOOTNOTES

1. Roberts P. Hudson, first president of the State Bar of Michigan.
2. Original lyrics by Alan Jay Lerner & Frederick Loewe.

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thoughts/concerns**

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voice@mail.michbar.org