

Remember Who We Are and What We Do



Dennis M. Barnes

As Samuel Johnson put it a few short centuries ago, “People need to be reminded more often than they need to be instructed.”¹ I find it helpful to remind myself now and then about who we are and what we do as lawyers. I’m hopeful you’ll appreciate a few of the reminders offered below, and by the end I expect you’ll find that you’ve felt the same way all along.

I read a tweet the other day by a lawyer who said, “Being a lawyer is really just having everyone mad at you, all the time.” It was followed by a string of similar sentiments and humorous examples from others. The business of law can indeed get frustrating from time to time, and we all need to be mindful of its impact on attorney well-being. To be sure, the tweeting lawyers were engaging in gallows humor more than serious commentary. But if we can laugh at our shared plight, shouldn’t we just as often balance that by reminding ourselves of the shared nobility of our profession?

I remember well a talk given to a group of young students by Justice James L. Ryan of the Michigan Supreme Court, who would later become a U.S. Sixth Circuit Court of Appeals judge. While my memory does little justice to the details of his remarks, I have

a distinct recollection of their import. Justice Ryan did not speak of the law as merely a job or even a career choice, but as a calling. He taught us that the law (along with medicine and ministry) is one of the learned professions, distinguished by the fact that they are based on an intellectual technique requiring advanced education and training. But Justice Ryan spoke with particular eloquence about another distinguishing attribute of the learned professions: *both the profession and its members are dedicated to a spirit of public service*. On that point, Justice Ryan was inspirational. He not only influenced my career choice, but also the way I practice law. And if I failed to thank him then, I do so now.

I was reminded of Justice Ryan’s remarks when I first encountered the Michigan Rules of Professional Conduct (which the Michigan Supreme Court adopted following commentary and input by the State Bar of Michigan). We often hear that lawyers are “bound by” the rules. But the rules are more than just a set of instructions and admonitions. They embody a set of ideals, and like Justice Ryan’s talk, they are truly inspirational.

The Preamble to the Michigan Rules of Professional Conduct notes that “[a] lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of

justice.” Like Justice Ryan, the Preamble reminds us that lawyers are part of a learned profession, with unique obligations over and above the important responsibility of representing clients:

As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest. (Emphasis added.)

Consistent with our professional responsibilities to society, lawyers share a common commitment to preserving the rule of law and providing for the effective and accessible administration of justice. We should be rightly proud of the responsibility, as it speaks to the gravity of our vocation and

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the nobility of our profession. And we can likewise share a pride in the successes of our system of justice, so long as we do not fail to acknowledge its shortcomings and honor our commitment to the much-needed work of continuing to make it better.

Both the Michigan Supreme Court and the SBM should be recognized for their ongoing efforts to help lawyers meet the obligations of their professional calling. Two recent programs (among many others) highlight their commitment. Earlier this year, the Supreme Court launched the Justice for All Taskforce, with Justice Brian K. Zahra leading the Court's effort, for the purpose of reducing the gap between the civil legal needs of Michigan residents and available resources.²

"One hundred percent access to our civil justice system is a goal we can all embrace," Justice Zahra said. "With input from stakeholders all across Michigan, the task force will first inventory the resources currently available, identify gaps, and then make recommendations in a strategic plan to fill those gaps." The SBM has and will continue to fully support the Court's initiative.

Likewise, last October, the SBM, with the active support of the Supreme Court, initiated a Promoting Professionalism in the 21st Century Summit, which began with a daylong gathering at the Supreme Court of more than 80 respected judges and attorneys seeking to address the need to reinforce cultures of professionalism necessary to sustain a fair and impartial justice system.³ The goals included identifying ongoing, practical tools for developing and sustaining professionalism, particularly civility, in the Michigan legal profession; identifying how the Michigan legal profession and judiciary might contribute to strengthening

the role of public civil discourse; and developing strategies for sustained local action on professionalism and civility.

My hope is that by reminding lawyers of their professional obligations to each other, to the clients we serve, and to the public at large, the Promoting Professionalism program will complement and reinforce the Court's Justice for All program. Not coincidentally, it should also enhance the public's trust and confidence in our system of justice and our profession, and thereby help promote the rule of law.

Former SBM President Ed Pappas, who chairs the Promoting Professionalism program, touched upon an additional benefit that lawyers can and should be providing, consistent with what the Rules of Professional Conduct refer to as our "vital role in the preservation of society." Pappas noted that although most lawyers are professional and civil, uncivil conduct in society in general appears to be rising, and it is important for leaders of the legal profession to restart the discussion on the value of civility.

"We can't have dialogue to solve our nation's problems without civility and respect," Pappas said. "The legal profession can place this topic in the forefront of our conversation, and that is our purpose today."

The SBM—and those like me acting as its representative—advocates for improvement of the law, administration of justice, and the quality of service rendered by the legal profession; beyond that, we do not advocate for public policy positions that are ideological in nature.⁴ Individual lawyers, however, are not so constrained. And to their credit, individual lawyers tend to be exceptionally active in community and political activities. Whether we are engaged in bar activities directed to the administra-

tion of justice or in individual activities directed to community, religious, or political concerns, Pappas's message should resonate with all lawyers.

Even a casual observer of our current public discourse can see a growing political polarization in our society. Disparaging epithets, slogans, and labels too often substitute for dialogue and reason. In an age of social media and sound bites, we see our elected representatives, office-seekers, pundits, and others engaged in the public discourse talking *at* each other, not *to* each other. And too often, our friends, colleagues, and family members follow suit. It should not take a study from the Pew Research Center to conclude that Americans have become more likely to say it is "stressful and frustrating" to have political conversations with those they disagree with (although there is one).⁵

In this environment, lawyers have a unique opportunity and are uniquely qualified to provide constructive leadership toward a significant public good—improving the tone and quality of our public civil discourse. To that end, we need only remember who we are and what we do. We are members of a learned profession and public citizens. We use our intelligence and learning in service of others. We deal with conflicting rights, interests, and personalities every day, and the very essence of what we do is to resolve conflicts and solve problems for others. Our training and experience have taught us to do so through thoughtful consideration, dialogue, reason, and persuasion. The very best lawyers express themselves well, but they also listen well.

Although we are sometimes as tempted as the next person to use profanity or hurl an epithet (even sometimes succumbing to the temptation), lawyers know there are better methods of persuasion. Abraham Lincoln, no slouch of a lawyer himself, explained it well in his famous debates with Senator Stephen Douglas:

If you have ever studied geometry, you remember that by a course of reasoning, Euclid proves that all the angles in a triangle are equal to two right angles. Euclid has shown you how to work it out. Now, if you undertake to disprove that proposition, and to show that it is erroneous,

would you prove it to be false by calling Euclid a liar?⁶

If you found yourself nodding in agreement with my reference above to the use of epithets and labels, chances are you first thought about somebody on the other side of the political spectrum. But lawyers are also taught to identify their own biases and prejudices and to discount them as if they belonged to someone else when reasoning through a strategy or decision. A candid discounting of our own views will likely reveal that all sides of the political spectrum could do better. So even beyond bar activities, as we individually engage in the political debates of the day, I encourage lawyers to remember the work of the Promoting Professionalism program, remember Justice Ryan's inspirational message about what it means to be part of a learned profession, and remember the ideals that undergird the

Michigan Rules of Professional Conduct. In short, remember who we are and be proud of what we do! The profession will be better off for it, and more importantly, the public we serve will be better off for it. ■

ENDNOTES

1. Samuel Johnson, Quotes, GoodReads <<https://www.goodreads.com/quotes/578531-people-need-to-be-reminded-more-often-than-they-need>>. All websites cited in this article were accessed September 19, 2019.
2. *Justice for All Taskforce Sets Goal of 100 Percent Access to Civil Justice System*, News Release, Michigan Supreme Court (May 22, 2019) <https://courts.michigan.gov/News-Events/press_releases/Documents/Justice%20for%20All%20Media%20Release%20FINAL-3.pdf> [<https://perma.cc/5FFY-GTXK>].
3. *Promoting Professionalism in the 21st Century Summit*, State Bar of Michigan (October 18, 2018) <<https://www.michbar.org/file/professional/pdfs/Professionalism-Summary.pdf>> [<https://perma.cc/64LF-D86T>].
4. In short, the State Bar can "only" pursue activities of an ideological nature that are reasonably related to the regulation and discipline of attorneys, the improvement of the functioning of the courts, the availability of legal services to society, the regulation of attorney trust accounts, and the regulation of the profession, including the education, the ethics, the competency, and the integrity of the profession. See Administrative Order No. 2004-1 (2004) and *Keller v State Bar of California*, 496 US 1; 110 S Ct 2228; 110 L Ed 2d 1 (1990).
5. *More Now Say It's 'Stressful' to Discuss Politics With People They Disagree With*, US Politics & Policy, Pew Research Center (November 5, 2018) <<https://www.people-press.org/2018/11/05/more-now-say-its-stressful-to-discuss-politics-with-people-they-disagree-with/>> [<https://perma.cc/YXA4-R37V>].
6. *Political debates between Abraham Lincoln and Stephen A. Douglas* (Cleveland: Burrows Bros Co, 1897), p 296, available at <<https://www.bartleby.com/251/pages/page296.html>> [<https://perma.cc/9VWWB-GARV>].



Lawyers make a difference for people and society.
They solve problems, provide free legal help to the poor,
and give time to many other community efforts.

how lawyers can and do help...

LAWYERS GIVE SERVICES



PRO BONO SERVICES

Lawyers volunteer to provide free legal services to low-income families or nonprofit agencies who serve those in need. It is one way to fulfill the duties in the Voluntary Pro Bono Standard.

LAWYERS GIVE MONEY



ACCESS TO JUSTICE FUND

Lawyers make donations to the Access to Justice Fund to support civil legal aid for the poor. It is one way to meet obligations under the Voluntary Pro Bono Standard.

LAWYERS GIVE TIME



COMMUNITY SERVICE

In addition to giving pro bono legal services to the poor and monetary donations for legal aid, many lawyers also give time to other community efforts.

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