Aiming at Nothing, and Seldom Missing

By Alan G. Greer

One of the primary reasons people have such a low respect for and opinion of attorneys is that they don't know what we stand for as a profession or as individuals. So, why don't they know you may ask? Because we don't know. Too many of us aim at nothing and seldom miss. As a result, we are unhappy in our professional as well as our personal lives. We entered the profession of law to do good, but too many of us have ended up only doing money.

I read an article about a lawyer who said he was paid to be rude. That's all he stands for and the public knows it. Our purpose as lawyers should not just be to get paid with the understanding we will do anything to achieve that end. Instead, it should be to practice ethical law for which we earn a just compensation. We cannot let ourselves be pushed into becoming deformed human beings who are not only despised by the public, but despised by ourselves as well.

The public's negative view of lawyers is their perception that the only thing we are interested in is their money. We foster that view by demanding higher and higher fees from our clients and more and more billable hours out of our lawyers.

In response, too many of us plead that our firms force us to focus primarily on hours and money. If being rude or cutting ethical corners increases the money we bring in, so be it. Besides, we aren't as bad as other attorneys we know.

So, where do we draw the line? Just because something is "legal" and someone will pay us to do it doesn't mean we can abandon our judgments of true right and wrong. We need to pose the question, "Would my mother be ashamed if she read in the morning paper that I had acted that way?"

When our peers or our firms pressure us to act otherwise, we have to find the courage to resist. That may create stress in our practices. But the practice of law involves unresolved tensions between clients, adversaries, courts and within our firms. However, as our firms seek to cut off our rough, uneven edges, it is just as necessary for us, as individual lawyers, to push back against that tension and maintain our individuality and self-respect. The trick is when and how to push. If you blindly accept everything your firm dishes out, you will become just another unhappy cookie cutter lawyer. Likewise, if you fight everything, you are branded as a hopeless malcontent with no future. But, if you pick your battles based on true merit, you will become a recognized and valued individual by your clients and within your firm — not to mention much happier to boot.

Just because something is "legal" and someone will pay us to do it doesn't mean we can abandon our judgments of true right and wrong.

If you want to be a truly good lawyer, the tensions never go away, nor are they completely resolved. At best, new ones only replace old ones. In the words of a lawyer I really respect, "You just get to dive off higher and higher platforms into smaller and smaller tanks." So, pick your own priorities; don't let them be imposed on you. But be prepared to pay the price for your choices and know there will be one.

Among these should be respect for others and ethics in our day-to-day practices, priorities not to be skirted in order to see how close to the edge we can get without falling over. These are the "pole stars" by which we guide our practices as lawyers — and human beings.

Don't let your dreams turn into nightmares. Whether dreams or nightmares, in the end they will have defined you. So, don't forfeit what you wanted when you only dreamed of becoming a lawyer, and don't accept what you get — money — as the only thing that makes our profession worthwhile.

We want to be proud of our profession and ourselves. We spend a lifetime searching for respect and are devastated when we hear lawyer jokes and are rated below used car salesmen. In doing so, we forget that you cannot have public respect without first having self-respect. And it is our own self-respect that we chip away at when we "do anything to win," trash each other and beguile our ethics to keep a client happy.

Let's aim for something truly worthwhile: simple self-respect. If we are honest with ourselves and earn that self-respect, the respect of others will follow. ■

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Professionalism for Litigation and Courtroom Practice

Conduct Counts

By Hon. Daniel L. Harris and John V. Acosta

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Ensuring the quality of our professional lives and improving the public's perception of our profession begins with our conduct toward each other. It also rests on our conduct in the courtroom, before judges, opposing counsel, juries and members of the public. Lawyers are educated and trained to exercise a high degree of skill and competence in representing individuals and organizations in the legal system. They should complement those attributes by exercising the highest standard of conduct when dealing with judges, clients and one another, whether verbally or in writing.

Professionalism differs from ethics in that ethics rules are mandated rules of conduct, while professionalism is a standard to which lawyers should aspire. The following suggestions for observing professionalism stem from years of litigation and courtroom experience — and some hard lessons learned during that time. This list was compiled from comments received from judges, attorneys and clients who were asked for suggestions on what can be done to improve professionalism. Integrating these suggestions into daily practice not only will improve the quality of your professional life, but will also make you a more effective advocate for your client.

1. Promote the efficient resolution of disputes.

In most cases, an attorney should advise the client of the availability of mediation, arbitration and other appropriate methods for resolving disputes outside of the courtroom. A professional lawyer should always consider, and advise the client of, the most efficient way of resolving the dispute. This includes consideration of the effect litigation and particularly the trial will have on your client and the benefits to your client that flow from resolving a dispute sooner rather than later. Most clients want a dispute resolved in a timely manner with minimal cost; staying out of court usually accomplishes that goal. Attorneys should do everything they can to resolve pretrial disputes without involving the court. This is especially true with disputes over discovery issues — many motions to compel discovery can be resolved without using the resources of the justice system.

2. Be a counselor to your client, not a mere puppet.

Clients don't always know what is and isn't right. They aren't familiar with the ethics rules that bind lawyers and the unwritten local conventions lawyers observe when working on cases with one another. Some clients want you to dislike the opposing party as much as they do and, thus, they expect you to make the other side's life miserable. Some clients also might not appreciate that you and your opponent are professional colleagues and very likely will have cases against one another in the years to come, and they might not take into account that your relationship with a judge is important to your ability to represent them in the current case and other clients in future cases.

Adopting a "scorched-earth" or "take-no-prisoners" approach to litigation will not serve your client's interests and ultimately will work to your client's disadvantage in resolving the dispute. A lawyer should defuse emotions that might interfere with the effective handling of litigation and which could complicate or preclude resolution of a dispute in a way that best serves the client's interests. If a client requests or insists upon a course of action that is contrary to local custom or would be counterproductive to the client's interests, tell the client so and explain why. Some clients might take longer to understand this notion than will others, but you can't represent your client's interests by taking an action you know will ultimately harm those interests.

3. Keep your word.

Lawyers spend a lot of time putting things in writing, but in the daily practice of litigation a lot of routine business gets done verbally. Your ability to practice effectively will depend to a large degree on whether opposing counsel and co-counsel trust you. If your colleagues know they can trust you to do what you say, your professional life will be a lot easier. So, do what you say you will, and if you can't do or agree to something, then say you can't do or agree to it. You'll find that a little candor goes a long way.

4. Don't fudge.

Credibility is everything. Some lawyers gain a reputation for being fudg-

ers. They overstate the facts in a case, misrepresent the holding in a case, or misstate the position of the opposing party. Some attorneys believe they are simply zealously representing their clients when they stretch or shade the truth. They are actually doing a disservice to their clients. Once this reputation sets in, it is difficult for a lawyer to regain credibility, and it ultimately diminishes the lawyer's ability to be effective as an advocate. Credibility and reputation are earned from hard work, ethical practice and a believable and accurate representation. Credibility and reputation will get you a lot further during litigation and especially in a courtroom than any other aspect of your practice.

5. Disagree agreeably.

Lawyers don't always agree, especially when they are on opposite sides of a case. But a disagreement between lawyers shouldn't devolve into a declaration of war. Lawyers should keep in mind that disagreements are inherent in litigation and that each side has a job to do for his or her client. In doing that job it is inevitable that lawyers will disagree on the facts, legal or procedural issues, the credibility of a party or witness, or the value of a case. When the disagreement can't be resolved, accept that the disagreement is a legitimate difference of opinion between two professionals and don't take it as a personal affront.

6. Extend professional courtesies.

"Live by the sword, die by the sword." It's a maxim that applies to litigation and to litigators. The professional lawyer consents to reasonable requests for extensions of time, resets, rescheduling and other routine matters. If such a request won't prejudice your client, there's usually no legitimate reason not to agree to an opponent's request. If you refuse a reasonable request and your opponent takes the matter to the judge and you can't demonstrate prejudice to your client or unreasonableness by your opponent, think about how you'll look to the judge. The time will come when you'll need an extension, reset or rescheduling of a deadline or event. When that time comes, don't expect your opponent to be reasonable toward you if you've refused similar requests from your opponent.

7. Be prepared.

The process of litigating a case and preparing it for trial can be more important than the trial itself. Being prepared is to know the rules of civil procedure and courtroom protocol and to follow those rules. This includes such things as: conducting efficient and focused depositions; knowing cases cited in the briefs to address questions at oral argument; marking your exhibits and preparing an exhibit list before trial; exchanging your exhibits with the opposing counsel before trial; knowing what is and is not appropriate to mention in your opening statement; knowing how to offer an exhibit into evidence; carefully selecting and preparing jury instructions and understanding the hearsay rule. Professionalism begins with conducting all phases of litigation well and being prepared to enter the courtroom to conduct your business there in a competent manner.

8. Be on time!

Some lawyers have a hard time showing up at a deposition, a hearing or even the trial at the time it is scheduled to be conducted. Most lawyers work at showing up on time and if they can't be there on time, they make an effort to notify their opponent or the court of the reason for their tardiness. But some lawyers have no problem with regularly being 10 or more minutes late for a scheduled appearance and never understand that showing up late for a scheduled proceeding or court appearance exhibits an attitude of disrespect for those who are being made to wait.

9. Be courteous and respectful.

A little courtesy and respect go a long way. You can't belittle or mistreat courthouse staff or opposing counsel without affecting your standing with the judge or the trier of fact. Whether dealing with opposing counsel, a court reporter, courtroom staff or your own co-workers, showing respect toward everyone is often the most effective way to establish the basis for relationships that will serve you and your client well later on. Treating an opponent with respect and professional courtesy typically creates a cordial (if not friendly) dynamic that gives you credibility and influence with your opponent. Ultimately, these characteristics will translate into

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10. Pay attention to your appearance.

Most lawyers are appropriately dressed and groomed when they participate in a case proceeding and come into the courtroom. Some forget where they are. Professional lawyers present themselves in such a way as to not detract from the presentation of their case.

11. Maintain an appropriate demeanor.

It is unprofessional to overreact in the courtroom to something you don't agree with — especially to a ruling by the judge on an objection. Some lawyers have the unfortunate habit of overreacting to testimony or to a ruling they don't agree with in the courtroom. This tends to undermine a lawyer's effectiveness and credibility in the courtroom. The advice of one judge is to "not take a judge's ruling or decision personally."

12. Object to the evidence in an appropriate manner.

Trial lawyers should be frugal with their objections. If it is not hurting your case, don't object. Seasoned trial lawyers object infrequently; rookies jump up and down constantly. It is unprofessional and ineffective to be registering constant objections. When an attorney makes an objection to the evidence, the attorney should stand and say "objection," and in a summary fashion state the basis for the objection, such as "relevance" or "hearsay." If the court wants the other attorney to respond, the court should so indicate. Lawyers can become sloppy and unprofessional with the objection process. Most judges do not appreciate "speaking objections," where the attorney ends up giving information to the jury that can't be obtained from a witness.

13. Write as if your reputation depended on it.

During a typical case your written communications will comprise the majority of your contact with the judge, your opponent and your client. In many cases, your written word is often the first contact you will have with each of them.

Don't write anything you wouldn't want to be known for among your peers or you wouldn't want read to a jury. Your written work product should be free of hyperbole, sarcasm, exaggeration, threats and personal attacks.

Each time you compose a pleading, brief, letter or e-mail, you shape your professional reputation. With that in mind, don't write anything you wouldn't want to be known for among your peers or you wouldn't want read to a jury. Your written work product should be free of hyperbole, sarcasm, exaggeration, threats and personal attacks. Don't overstate the facts of the case, and be careful to accurately present relevant legal authority. Proofread your written work for grammar, spelling and typographical errors. Remember that each time you write you have the unique opportunity to build your professional reputation among judges, colleagues and clients, so make sure you're creating a reputation you can live with.

14. Avoid ex parte contacts with the court.

Any attempt to gain an advantage over your opponent through an ex parte contact with the court, or the court staff, will poison your reputation with a judge. This includes everything from direct contact with a judge on the merits of the case to supplying information to the court without adequate notice to opposing counsel. For example, it is not appropriate to place a motion or memorandum into the hands of the judge while mailing a copy of the document to opposing counsel, which may arrive at the lawyer's office two or more days later.

15. Don't take unfair advantage of opponents.

While it's part of the litigation process to capitalize on your opponent's mistakes or inexperience, it's not necessary to deliberately embarrass, humiliate, intimidate or bully an inexperienced or less skilled opponent. Experienced lawyers should model appropriate professional behavior to less experienced lawyers. If we model rude and boorish behavior to less experienced lawyers, we will create the kind of lawyers that make practice more stressful and less enjoyable. Engaging in such inappropriate conduct might cause your opponent to work harder than he or she otherwise would, to the ultimate disadvantage of your client — and make you look foolish in the process.

16. Don't do something just because you can.

Justice Potter Stewart once said, "There is a big difference between what you have a right to do and what is right to do." No ethics rule prohibits lawyers from yelling at their opponents or engaging in intimidating behavior, and the ethics rules don't require that lawyers be cordial to one another. On the other hand, think about how you'd like to spend the next 40 years as a practicing lawyer. Do you want to build hostile and acrimonious relationships with lawyers against whom you might be practicing for decades? Probably not. It usually takes very little effort to be cordial to your opponent, and that small investment of goodwill will pay large dividends to you in the years to come.

17. Don't behave differently than you would in front of a judge.

The great bulk of litigation occurs outside the presence of a judge. The rules of professionalism aren't different just because the judge isn't present to watch your every move. If you wouldn't engage in the behavior in front of a judge, then don't do so when the judge isn't around.

18. Don't let your opponent control your behavior.

Some lawyers behave unreasonably or harshly, or are consistently difficult precisely because they want you to lose your objectivity and shift your focus to "getting back" at them. They know that if they can get you to focus on them, then you'll spend less time working up your case. Once they get you thinking about how to get back at them and not about how to build your client's case, they've won. So

keep your balance. Your client deserves an objective, diligent advocate — not a hothead bent on vengeance against another lawyer.

19. Don't take yourself too seriously.

A wise practitioner once said, "Take what you do seriously, but not yourself." Keep in mind that the case is not about you. Many lawyers over-estimate the impact they have in the cases they try in the courtroom. The truth is that the trier of fact focuses on the message (i.e., the facts) and not the messenger unless, through inappropriate conduct, the messenger gives the trier of fact reason to focus on him or her.

The Hon. Daniel L. Harris is a circuit court judge in Jackson County. John V. Acosta is senior deputy general counsel for TriMet. Both are members of the Oregon Bench and Bar Commission on Professionalism.

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Why Be Professional?

Professionalism is not just an abstract value

By Ira Zarov

In 1991, Chief Justice Edwin J. Peterson of the Oregon Supreme Court created the Joint Bench, Bar Commission on Professionalism. The commission membership includes OSB members, the OSB president, appellate judges, circuit court judges, representatives from the state's three law schools and a public member. Its mission is to move the cause of professionalism forward. This year I am the chairperson of the commission. I note that there is some irony in the appointment. Put bluntly, my days as a litigator were not without several transgressions of black letter tenets of professionalism. I think it worthwhile to write about my "indiscretions" and to examine them in light of two questions. First, what are the circumstances that foster unprofessional behavior? And second, the fundamental question: why be professional?

I began my legal career as a VISTA (Volunteers in Service to America) lawyer in the Coos and Curry County legal services office in 1974. I was 27. The managing attorney had only nine months more experience than I. In those days, legal services lawyers were seen by many rural bars as at worst, a radical group of troublemakers and, at best, people who would keep low income clients off their doorsteps. As a result, the attorneys who pioneered the opening of legal aid offices in places like Klamath Falls, St. Helens, Roseburg and Ontario often felt like outlanders, isolated from both the local bar by culture and from the legal services community by distance.

First, what are the circumstances that foster unprofessional behavior? And second, the fundamental question: why be professional?

What is more, in those days many of us were eager, to paraphrase the '60s philosopher Herbert Marcuse, to throw ourselves into the wheel of the system and bring it to a grinding halt. That meant suing the state Department of Human Resources, the federal government, local governments and landlords when clients had problems that lent themselves to legal solutions. It meant representing migrant workers in contentious suits against growers. It also meant, for some, the self-defined ambition of building an intimidating litigation persona. Unfortunately, at least for me, the combination of outsider status, contentious lawsuits, ego, inexperience, minimal supervision and the lack of a mentor, created an atmosphere conducive to unprofessional behavior.

In that atmosphere it is not surprising that I acted unprofessionally on occasion. I committed my first unprofessional act when I had been in practice less than a year. I received a letter from opposing counsel in a dissolution proceeding that I perceived as disrespectful and unnecessarily harsh. In high dudgeon I fired off a rabid reply that probably began with "In my six months of practice I have never...," and then accused the offending counsel of every sort of calumny.

About two days later I got a call from the opposing counsel. He was polite and professional. He asked me if I would retrieve his letter, reread it and then complete the exercise by reading my response. I grudgingly agreed and to my chagrin found that the initial letter was an innocuous request for information that was the epitome of decorum, especially when read side-by-side with my incendiary response. Opposing

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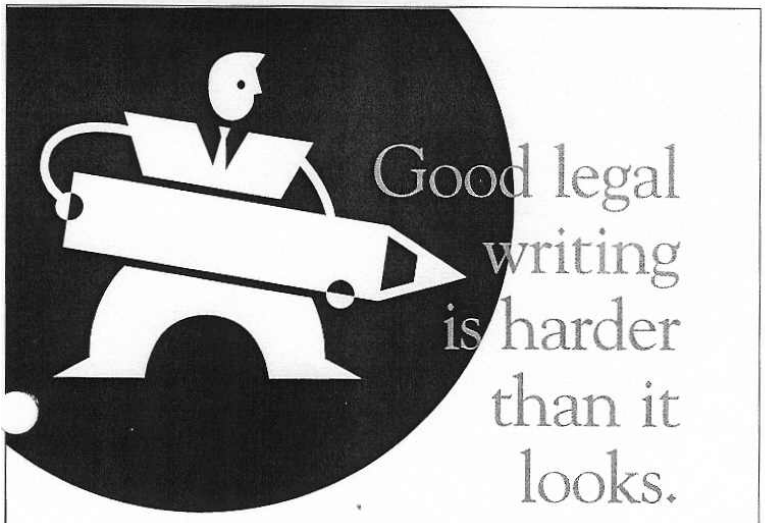

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counsel then kindly suggested that perhaps I had been having a bad day when I wrote the response and when I took offense at something in the future, I might wait a few days before replying.

To this day I don't know what prompted me to write the offending response. Perhaps it was undiagnosed paranoia, or maybe an expression of myriad insecurities surfacing as a result of my simultaneous immersion into two very different and foreign worlds, one inhabited by lawyers and judges and the other by poverty-stricken clients. The latter was particularly jarring because the ongoing despair and limited opportunities available to my clients challenged my natural meliorism. Or perhaps, as opposing counsel had suggested, I was just in a bad mood. Whatever the underlying reason, my unprofessional conduct had more to do with me and my needs than the needs of my client. I suspect that in the case of many lawyers the genesis for unprofessional behavior is similarly motivated.

I was lucky to get good advice from a lawyer who valued professionalism enough to take the time to impart a lesson to a neophyte attorney. His professionalism had a lasting effect on me and, I think, made my life easier. Had he chosen to talk to other attorneys in town about my knee-jerk response, my reputation and my ability to secure both cooperation from others, and the best results for my clients would have suffered.

Soon afterward I moved to Portland to focus on federal court class actions and complex litigation. In that context I soon found myself facing the same opposing counsel in case after case. This opposing counsel had a well-deserved reputation for an all out, Sherman-to-the-sea approach to litigation. Now two years out of law school, I responded with similar tactics – fight fire with fire — and took a guilty pleasure in it. As a result, the two of us developed a contentious relationship that frequently exceeded the bounds of even

By responding in-kind to what I saw as provocations, I conflated effective advocacy with uncensored aggression. Wrongly, I think, I believed that adopting opposing counsel's tactics was the only way to successfully respond to him.

"normal" unprofessional behavior, let alone professional conduct. As I recall, in the course of our dealings we both were sanctioned for discovery misdeeds and when we met for depositions chairs might fly as easily as accusations. And of course, trips to the courthouse were *de rigueur.*

We were so engaged in this private war that the dispute spilled into the courtroom. The defining moment occurred at hearing on a motion before Judge Edward Leavy, where we fell into a "colloquy" arguing the finer points of who had been the most profligate obstructionist. As we happily went on and on, enthusiastically careening into the ad hominem, Judge Leavy finally looked at us both, leaned over the bench, and said dryly, "Gentlemen, stop it. If you want to proceed like that, just take it outside." Lesson learned.

By responding in-kind to what I saw as provocations, I conflated effective advocacy with uncensored aggression. Wrongly, I think, I believed that adopting opposing counsel's tactics was the only way to successfully respond to him. Although in those days I enjoyed a good fight, by engaging in that conduct I failed to further my clients' cases as effectively as possible. When I bickered in open court, or fulminated in memorandums that opposing arguments were "mere sophistry" or "semantic legerdemain," I was not making reasoned argument — and based on many subsequent

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discussions with federal and state court judges, I am certain the judges were not impressed. To the extent my unprofessional conduct branded me an ideologue, my actions did not inure to my clients' benefit. And regardless of opposing counsel's style, I could have bolstered my credibility with the court had I avoided the hyperbolic attacks and counterattacks that felt so satisfying in the moment.

Over the years, having seen the results of many different approaches to the practice of law, I have come to value professionalism for two reasons. First, acting professionally is consonant with my personal values, and second and more pragmatically, the values and behaviors that the Statement of Professionalism seeks to inculcate are consonant with the qualities that produce effective advocacy. I was struck by this congruence in the course of preparing a training session on negotiations for new legal services lawyers. No conflicts exist between the traits common to successful negotiators and the traits espoused by the Statement of Professionalism.

For example, traits common to successful negotiators, whether they approach negotiations aggressively or cooperatively, include being honest, realistic, prepared, ethical and reasonable. Ineffective negotiators withhold information and are unreasonable, argumentative, arrogant and obliging. The Statement directly invokes the positive traits and by implication discourages the negative traits. Section 1.6 states that "we will diligently represent our clients within the bounds of the law and the ethical standards...." Section 1.9 enjoins lawyers from misstating facts. Sections 1.4 and 1.12 reflect the need to be prepared, stating that lawyers should conduct cases in a timely manner and not use delay as a tactic. Section 1.13 requires lawyers to "solve problems and not create or exacerbate them." The Statement embodies the principles of

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preparedness, reasonableness and honesty, three of the most effective traits common to good negotiators. And in my experience, traits necessary for success for all lawyers whatever their practice area.

Professionalism is not just an abstract value. It is an approach to the practice of law that makes those who honor its tenets more effective — in a word, better. Lawyers who act professionally will obtain superior outcomes for their clients, and the lawyers, their clients and the profession will prosper as a result. ■

ABOUT THE AUTHOR

Ira Zarov is chief executive officer of the Oregon State Bar Profssional Liability Fund and chair of the OSB Professionalism Commission.

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PROFESSIONALISM

Why we should care

By Nena Cook

[The following excerpts are taken from a speech Ms. Cook delivered to the *third- year law students at Willamette University College of Law on March 2, 2005.*]

A NEW BEGINNING

It is my great privilege to be with you today to discuss what may be every lawyer's biggest challenge, upholding the honor and dignity of our profession. As

third-year law students in the final months of your formal education, I know you are focused on getting through that last law school exam, finishing up a final paper and then studying for and ultimately passing the bar exam. It must seem like just yesterday when you were all gathered here, probably in this very room, for your first-year orientation when you heard from a number of prominent members of the bar, including most notably Chief Justice Carson, discussing with you the importance of professionalism. At the time, you were probably uncertain about the road that lay ahead in law school and even less concerned about how you would conduct yourself after graduation.

Now, here you are on the eve of graduation. When you pass the bar later this year, you will become part of the great Willamette tradition of graduating "the best and the brightest" who are equally prepared for the intellectual rigors of the practice of law and for overcoming the challenges and obstacles that others may attempt to place in your way.

Before your focus turns outward, let me share with you a few thoughts on the one thing that ultimately matters the most in our careers. The standard by which we measure success is not how much money we make, how many cases we win, or the size of the deals we close. Our value to this profession and the legacy we leave behind are measured by one thing. That one thing is our professionalism. The privilege to practice law brings with it the corresponding obligation to represent our clients within the bounds of the law, treat our adversaries with respect and maintain our candor with the judiciary.

THE REAL WORLD

I wish I could tell you that every lawyer in this state practices law in a way that honors our profession. I wish I could tell you that I have never experienced any other lawyer behaving unprofessionally. I certainly wish I could tell you that over the course of my career, I have never thought about engaging in conduct that might be deemed less than ideal.

What I can say is that the vast majority of lawyers honor our Statement of Professionalism. They know that every interaction with opposing counsel, every phone call, every court appearance and every deal closure demands our renewed dedication to the tenets of that statement. They understand that their integrity and honesty cannot vary with the circumstances of a particular case. As long as those characteristics remain inviolate, we will enjoy the practice of law, make tough decisions more easily and better serve the needs of our clients.

Unfortunately, we still have lawyers who believe that intimidating, rude and obnoxious behavior can somehow achieve the results their clients want. These are the lawyers who cannot distinguish between zealous advocacy and disrespect or incivility. I have heard many times that it is the "inexperienced lawyers" or the "younger generation" that engages in these tactics, but I have seen them exhibited as often in "experienced" lawyers.

The standard by which we measure success is not how much money we make, how many cases we win, or the size of the deals we close.

WHY IT MATTERS

My point is simply this. Clients come and go. Cases are won and lost. Fees are awarded or denied. You will spend your entire career building your reputation and it can come crashing down with either a momentary lapse in judgment or through a pattern and practice of abusive behavior. Do not let it happen to you. Even with 12,500-plus active lawyers in the Oregon State Bar, we are still a bar that expects its members to maintain the highest standard of professional decency and respect. I hope we always will.

YOU WILL ALWAYS REMEMBER

As you begin your career, you will immediately recognize those lawyers who believe in fostering respect and trust among lawyers, who promote the

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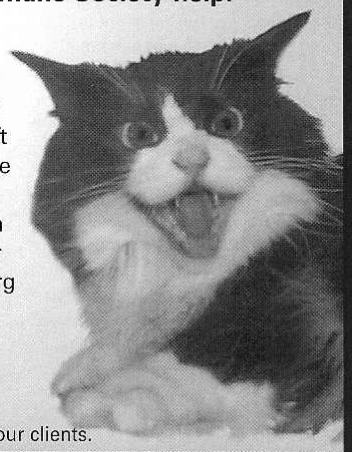

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efficient resolution of disputes and who value the code of civility. You will appreciate it when the judge suggests another way you might get something into evidence. You will always value and respect the opposing counsel who instead of reflexively taking a default, calls to tell you that even though you missed a deadline, she will give you a few more days. You will be grateful to the colleague at work who gently reminds you of the importance of returning client phone calls. As you advance in your careers, do the same for others.

LIVE IT

Maintaining this professional integrity is not just something litigators aspire to; we must all share in that common goal. Some of you will become partners in law firms, or will attain leadership positions in government or non-profit advocacy organizations, and you will have the good fortune to mentor young lawyers. They learn from you. If you are less than candid with opposing counsel, advise a client to withhold information or are disrespectful to the organization's legal secretaries and other employees, they may adopt the same approach.

For those of you who will become judges, you must enforce the rules of professional conduct and confront those who violate those rules. As the ultimate arbiter of inappropriate behavior, you alone will have the power to discourage abusive discovery and trial tactics.

Many of you will use your law degree for something other than practicing law. Whether you participate in the private business sector, teach or find your calling in something totally unrelated to the practice of law, you can always be proud you are a lawyer. When you hear the lawyer jokes, remember that lawyers are those who hold corporations accountable when

they poison our environment, that lawyers fight the government when it attempts to restrict our civil liberties, and it is lawyers who prosecute those most dangerous in our society.

NO REGRETS

Years ago, a senior lawyer recounted to me the one regret he harbored over the course of his long and storied career. He enjoyed his nearly 40 years of law practice, but during his first 25 years of practice, he failed to treat people with the respect and dignity they deserved. He frequently yelled at his staff and the associates who assisted him, and at times actually threw things when he was upset. That all changed when he had his first grandchild. Once he saw her, he said he could never imagine anyone ever treating her badly or hurting her feelings. He then realized that was exactly what he had done to the grandchildren of others. No matter how many awards he won or big deals he closed, he could never overcome his biggest regret.

As I was growing up in the great state of Utah, I remember seeing a billboard sponsored by the Mormon Church that read, "No other success can overcome failure at home." I think they were right, even in the professional context. No accolades or accomplishments can ever overshadow the importance and utter satisfaction of maintaining the highest standards of ethical conduct and professionalism. If you fail that, then nothing else you accomplish really matters.

As you embark on your legal career, whether it ultimately lasts a lifetime or a few short years, be mindful to maintain a philosophy and uphold a standard of conduct that earns you the greatest respect among your colleagues, clients and adversaries alike. If you let this principle guide your way, you will certainly be remembered for your contributions to the law, but even

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Tom Brown
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PRESIDENT

more importantly, for the lives you touched and your commitment to the ideals of professionalism.

I wish you the best of luck in your future endeavors and welcome you to this, the most noble of all professions. ■

Nena Cook is president of the Oregon State Bar and serves on the Oregon Bench and Bar Joint Commission on Professionalism. She can be reached at (503) 227-1111 or by e-mail at nena@sussmanshank.com.

THE OSB STATEMENT OF PROFESSIONALISM

In January 1991, the Oregon Supreme Court approved the Oregon State Bar Statement of Professionalism. Here is an excerpt from the preamble:

"As members of the Oregon State Bar, we belong to a profession devoted to serving both the interests of our clients and the public good. In our roles as officers of the court, as counselors, and as advocates, we aspire to a professional standard of conduct. With adherence to a professional standard of conduct, we earn a reputation for honor, respect, and trustworthiness among our clients, in the legal community, and with the public.

* * *

"Professionalism includes integrity, courtesy, honesty, and willing compliance with the highest ethical standards. Professionalism goes beyond observing the legal profession's ethical rules: professionalism sensitively and fairly serves the best interests of clients and the public. Professionalism fosters respect and trust among lawyers and between lawyers and the public, promotes the efficient resolution of disputes, simplifies transactions, and makes the practice of law more enjoyable and satisfying."

Read the entire statement online at http://www.osbar.org/rulesregs/professionalism.htm. ■