IPSE DIXIT

BY: Edward J. Walters, Jr.

A KINDER, GENTLER COURT?

There has been a recent flurry of activity regarding the need for a "Lawyer's Code of Conduct." In fact, the Baton Rouge Bar Association has recently approved such a "code" which, while not binding, is designed to influence the conduct of lawyers, hopefully to make them more civil in their dealings with other lawyers and with the court. Several courts in other jurisdictions have also adopted such rules.

While these "codes" are admirable and should be encouraged and followed, they are lacking in one specific area - they are only directed at lawyers. They dictate proper conduct for lawyers but none of these codes address the issue of a judge's poor conduct or lack of civility to lawyers.

Just as lawyers are bound by the Rules of Professional Conduct, judges are controlled by the Code of Judicial Conduct. But if we are now going to adopt additional rules of courtesy and proper conduct, why stop with the lawyers?

It may seem like suicide to actually suggest that certain judges act less than civil at times, (and I am certainly not brave enough to name names) but we all know that some do.

So this concept was proposed to several local lawyers who arrived at a few suggested additions to the "code" so that it will cover all the "players".

Use progressive discipline. The first time you think an attorney needs a tongue-lashing, please don't do it in front of everybody, especially not in front of his client. Remember, we all make mistakes. Even good judges get reversed. Before you do anything, find out the whole story. Then admonish him in private or quietly at the bench. If he still won't learn, step on him publicly the next time. A good lawyer learns fast.

Be complimentary once in a while. Being nice to lawyers doesn't lessen in the dignity of the court. The work of a judge can be very harrowing and frustrating at times, but they obviously wanted the job. So let's try to be nice about it. Judges' egos are not infrequently stroked by the trial bar. (Their jokes are not always that funny.) It wouldn't hurt to stroke back just a little.

One of my best experiences as a new lawyer was when I received an opinion written by Judge Lewis Doherty which stated that, "Plaintiff's counsel (me) aptly addressed..." some issue. I felt a great sense of accomplishment and it didn't cost Judge Doherty anything to say that I was "apt". (He later found some cases in which he didn't think I was so "apt".)

Most times we only get complimented when we are about to be shot down, viz, "Counsel for plaintiff has done a valiant job in pursuing his client's cause of action, however..."

Give the new guys a good start. Just as many young lawyers, I began my toils in front of judges like Judge Tom Pugh of the Family Court and Judge John Covington in Criminal Court.

When you would appear in their courts, they made you feel proud to be a lawyer. They made a neophyte lawyer feel like he knew what he was doing and made him look good in front of his client. They knew who were the new kids on the block and gave them a chance to look good and a push in the right direction.

Remember what it was like to be a lawyer. Remember the problems of being a practicing lawyer who must try cases and run an office and raise a family.

Let the lawyers try the case. Although the process is designed to seek the truth, it is still an adversary process in which each side is to develop a theory, prepare and present its best case.

Don't visit the sins of the client on the shoulders of his lawyer.

Decide the case. It is most awkward to be in the situation in which the case has been submitted for quite some time and the court's decision never arrives.

So we have to find clever reasons to try to get the case back on the judge's desk: "Dear Judge, Please find enclosed yet another recent case on point which may assist you in formulating your decision in the Smith case which you have under advisement."

Want to know about the new proclamation allowing courtsmen to wear their ties a little lower? Give Judge Doherty a call. His broadcast on this subject was one of the funniest things I read all year. "Don't adhere to these suggestions if they violate the Code of Judicial Conduct."

Start on time. A lawyer's time and advice are his stock in trade.

Don't send your personal feelings to the jury. The jury watches the judge like a hawk. Even a raised eyebrow during a witness' testimony has a large impact on a jury.

Do not engage in ex parte conversations with the litigants. Enough said.

In our mutual quest for current dockets we must not lose sight of our ultimate goal of providing justice. We are all dealing with people's lives, not just lawsuits that must be disposed of so that the docket will meet some statistical standard.

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