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THE SECRET OF BEING A GOOD LAWYER:

Adhering to the Respect Trilogy

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THE SECRET OF BEING A GOOD LAWYER:

Adhering to the Respect Trilogy



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A trilogy of characteristics distinguishes a good lawyer: respect for clients, respect for colleagues and respect for the court. Lawyers, first and foremost, need all of the skills and qualities of good legal problem-solvers, including among other skills, the ability to recognize and define problems clearly, the ability to think critically, the ability to identify the arguments and evidence on all sides of any issue, the ability to gather facts related to a problem and to appreciate their relevance to its resolution, and the ability to communicate effectively. These skills are taught to some extent in law schools and are honed throughout a lawyer's career.

In addition to these particularized skills, however, good lawyers need to develop a range of general but equally important attributes, such as empathy, moral courage, discipline, civility, honesty and open-mindedness. In recent years, bar associations and other legal organizations have raised concerns about the perceived decline of professionalism among lawyers, and have published aspirational statements on the importance of civility in the practice of law. A good example is the "Principles of Civility for Advocates" published by the Ontario Advocates Society. All lawyers at any stage of practice should be thoroughly familiar with these proposed guidelines for civility in the practice of law.

In our view, a basic principle animates the requirement that lawyers and other legal personnel must act with civility: the legal system can only discharge its important functions in society if there is an atmosphere of mutual respect among all participants in the process. If lawyers show respect for their clients, their colleagues, and the courts, they will necessarily be developing and demonstrating the general attributes of a good lawyer, such as empathy, moral courage, discipline, civility, honesty and open-mindedness. Showing respect for others in the legal process demands that those virtues, attitudes and dispositions be demonstrated. To the extent that lawyers show respect for others, that will earn them respect in return. The following list illustrates some of what adhering to the respect trilogy requires.

RESPECT YOUR CLIENTS

Lawyers show respect for their clients by demonstrating that they care about them and their problems. They have empathy for them. They do not allow personal judgments of their clients or their issues to interfere with their representation of them. In addition to the ethical requirements of a solicitor-client relationship, the following behaviours necessarily follow from a respectful attitude toward clients.

- **Act and look professional.** Dressing well, adopting good manners and social etiquette are basic aspects of demon-

strating respect to clients.

- **Understand your client's needs.** Understanding your client's needs means listening more than talking and asking questions. Learn as much as you can about your client and the issue before (or after) you meet. Stay current about issues that are important to your client. Read newspapers. Use Google alerts. Follow leaders in your client's field on social networking sites.
- **Provide strategic advice.** Ask your client their view of how you can help them. Provide your client with strategic advice that reflects your client's best interests. Be candid and honest about the strengths and weaknesses in your client's case. Update your opinion if you get new information.
- **Communicate often.** Keep your client informed about the status of their file. If your client has asked you for an update, you need to communicate more often. If nothing is happening, inform the client of the next deadline.
- **Deliver a high quality product of good value.** Respecting your client means doing your best at every task you undertake for them - difficult or mundane. You can't go wrong if you under-promise and over-deliver. Have regard to the principle of proportionality and act so as to decrease costs for your client. Make your client feel like they got more than their money's worth. Providing the client with workplans and budgets will keep the client informed about the work required and the estimated cost. If your bill is higher than what the client expects, call the client in advance to let him or her know. Meet with your client to explain your bill if there is a problem.
- **Be true to your word.** At its simplest, this means meeting deadlines, responding to calls and emails promptly. To meet deadlines, you may have to say no from time to time. Having said that, providing reliable and exceptional service often means working late or bringing in others to help. If you break your word or make a mistake, promptly deliver a *mea culpa*. Shirking responsibility is never respectful.
- **Rise above.** Things won't always go well with a client, despite your best efforts. Don't gossip about or criticize a client, who has caused you strife, to friends or other members of the bar. Even within your firm, demonstrate your respect despite your frustration and take the high road even when your ego or bottom line are bruised by something going wrong in a client relationship.

RESPECT YOUR COLLEAGUES

No matter what area of practice or which side of the file counsel is on, your colleagues are an important part of the legal system alongside you, and they deserve your respect. At the very least, recognize that they too work long hours, have their own pressures and sometimes receive little appreciation for their efforts. Here are some ways you can show respect for your colleagues.

- **Extend professional courtesies.** Be accommodating and offer assistance to colleagues and opposing counsel (when it does not prejudice your client). For example, agree to

reasonable requests for extensions of time or scheduling changes. Be considerate of the importance of other counsel's time. Start relationships on a good foot and with friendly communication: courtesies now may mean a dispensation later, or even a referral if you make a good impression.

- **Again, rise above.** Always rise above, and especially in any unnecessary confrontation. Try to respond, rather than react to difficult situations. Not all situations require an immediate response. Give yourself time to consider the best way to communicate your concerns. Avoid highly emotional exchanges, which can cause irreversible harm. People rarely regret not saying something. There is no excuse for unprofessional written communication. As a general rule, write your colleagues as if your correspondence will be before a Supreme Court Justice at some point. If you can't say something directly to someone, you probably shouldn't write it either.
- **Make use of social scripts.** Many situations call for known protocols for behaviour, or common social scripts. Make use of them. For example, if you are leaving your firm, a simple thank you for the opportunity to work there, it has been a valuable experience, etc. should be your primary parting words. Giving a frank exit interview about the firm's many deficiencies will not earn you the respect of your colleagues, and may burn bridges. At the end of a trial, shake the hand of opposing counsel even if it has been a difficult proceeding. These are simple codes of social etiquette that make professional relationships run smoothly.
- **Celebrate your colleagues' successes.** The practice of law can be a tough calling. When your colleagues achieve success, recognize them. Call and congratulate them, even, or especially, when they are on the other side. Nominate your hard-working under-recognized colleague for an award.
- **Contribute to the profession.** Respecting your colleagues also means giving back to them. This could be in the form of mentoring younger members of the bar or contributing to bar association committees or newsletters.

RESPECT THE COURT

Judges have a difficult and important role in our legal system. The Supreme Court of Canada has said that the judge is "the pillar of our entire justice system." In discharging their duties as impartial decision makers, judges are required to interpret the law, assess the evidence and control how hearings unfold in their courtrooms. Good lawyers show respect for the judiciary (and in turn the legal system) by conducting themselves appropriately when they appear in court.

- **Spend time in the courtroom.** Watch how senior lawyers conduct themselves and figure out what is appropriate courtroom behaviour. Learn there are a variety of styles for courtroom presentation, but understand that they all require courtesy, preparation, and adherence to the ethical and professional obligations of counsel.
- **Arrive early.** The court clerks have a difficult job. They

prepare records of court proceedings; swear in witnesses; maintain exhibits; and perform other duties. You can show respect for their position by arriving early, identifying yourself to them when you arrive and getting to know them personally.

- **Follow court protocols.** By observing proceedings in court, you will learn that standard court protocols are followed. Observing these is a signal of respect. Follow the protocol for addressing the court appropriately. In Provincial Court you address the judge as "Your Honour." Justices in Supreme Court and Court of Appeal are referred to as "My Lord" or "My Lady." Protocols extend to appropriate courtroom conduct: rise when the Court is called to order and the judge enters the courtroom. Bow when the judge bows (and bow if you must leave or enter the courtroom while the court is in session). After introductions are completed (wherein you stand and indicate who you act for and then resume sitting), the judge will indicate how the court wishes to proceed. Whether you lose or win a case or application, be polite and gracious to the judge and opposing counsel. Your demeanor in court should generally be reserved at all times. Instruct your client and witnesses about court conventions.
- **Let the judge control the courtroom.** The judge is responsible for ensuring court proceedings are conducted in an orderly, efficient and civil manner. Show respect to this role by waiting until the judge has signalled he or she is ready before speaking or putting a witness in the stand. When called on, address the court from the podium. Don't speak over the judge or anyone else speaking. Make eye contact with the judge while he or she is speaking to you. If you are not speaking, resume sitting and act respectfully. Do not engage in acrimonious exchanges with opposing counsel. (Once again, always rise above.) Address matters between you and opposing counsel through the judge. If opposing counsel interrupts you in your submission, and the judge does not take any action, respectfully request the judge to direct counsel to wait until you are finished speaking.
- **Present effectively and be prepared.** Show respect for the court by being punctual, appropriately dressed and prepared in all matters. Make sure your submissions are well organized, and bring extra copies of your materials. Treat the court with candor and courtesy. If you make a mistake, consider whether you have a responsibility to let the court know, and do so punctually.

CONCLUSION

Most of this advice is common sense, but it follows from some of the most fundamental values and principles that underlie the legal system. The most important of these values is the need for mutual respect among all participants in the legal system. To develop the characteristics required to be a good lawyer, counsel should show respect to those who help discharge the vital role of the legal system in our society, and in doing so will ultimately earn their respect in return. V