Lawyers Owe One Another

Of all the professional responsibilities of lawyers, it seems the duties lawyers owe to one another — honesty, fair dealing, cooperation and civility — have been the most neglected in recent years.

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BY ROGER J. MINER

Series of Male Culture

Still Dominates The Profession

APPROXIMATELY one-third of the students now in law school are women. This is up from less than 5 percent when I went to law school more than 20 years ago, and less than 10 percent only two decades ago. In some law schools, women make up a majority of the student body.

For the long term, it seems likely that at least a quarter of the legal profession will be women. Women, while in law school and later, often feel the pressure of being different in a profession in which they are a small minority.

Of course, most law students, with one regard to gender, lack little idea what law practice is actually like, and enter practice vocationally unready.

With regard to gender, many law students fear a premature career commitment. ("I want to keep my options open!") While many others are anxious whether they can get any kind of decent law job. Regardless of gender, if they are like most of us, law students have a fear of failure that they will never quite lose.

Special Problems

Nevertheless, women face special problems — in law school and afterwards. One problem is that the language and internal culture of the law still is male. The indicators run all the way from the ubiquitous idiomatic phrases "he" and "she" to the fact that virtually all the power-positioned parties in the classic cases are men. Marbury and Madison — and men.

Further, the law faculties, the associations, and the members of the bar who visit the school are predominantly male. And to gender, is that the society of which the law is a part itself retains the same orientation.

Most women law students become accustomed to this environment, but it is at some level alien and at worst completely alienating.

The environment in law school has changed radically, but the culture of the bar has not. It is now time to confront the issue.

Closest relation to the duty of honesty is the duty of fair dealing. Both the lawyer's code and the model rules encourage lawyers to communicate fairly with a court or judge in an adversary proceeding, except in very limited circumstances, and from communicating with a party represented by another lawyer, except by consent or as authorized by law. Fairness also requires that lawyers keep their words in their dealings with one another.

More than 70 years ago, a British barrister said: "There is no more heinous offence at the Bar than a breach of the confidence which counsel are entitled to place in each other. The nature of their business is such that more than in any other profession the members of the Bar must be able to rely implicitly upon each other's sense of honour. It is a trust which is seldom if ever betrayed."

The American College of Trial Lawyers has adopted a Code of Trial Conduct that instructs lawyers not only to adhere strictly to all express agreements with clients but to also to adhere to those agreements implicitly.
The Duties That Lawyer Owe to One Another

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tened to be the occasion of preventing further argument, and therefore a breach of the duty to deal fairly. Rather than giving guidance to the client superiors the reasons for the fees, some lawyers take advantage of the occasion by presenting further argument. I consider this to be an improper practice in litigation, and therefore a breach of the duty to deal fairly. That certain matters arising during the course of legal representation the duties of a lawyer well be established within the ethical responsibilities. Those matters include extensions of the duty to make full disclosure of the obvious procedural formalities, admission of facts and opinions of counsel. To my knowledge, the ethical rules concerning the duties owed to the client, the lawyer is entitled to make decisions on his (or her) own behalf, even in the face of any facts and opinions of counsel. For example, it is not improper to make decisions concerning the necessity of the continuance of representation, to deal with binding written agreements, to act in the best interest of the client, and that he did not influence relations between lawyers, that a lawyer should not refer to opposing counsel in a derogatory way and that haranguing tactics interfere with the orderly administration of justice. Civil demands that lawyers abstain from alluding to peculiarities and idiosyncrasies of opposing counsel and that they not use him as a vehicle for charging an adversary with improprieties not relevant to the litigation. "Untrue conduct in lawyer's representations, as a result of his responses to a request for information, is not relevant to the legal system and for those who serve it." It tends to produce public confidence in the system and in the legal profession, and is prejudicial to the administration of justice. It should be condemned and avoided in the discharge of the ethical duties owed to the profession.

ALTHOUGH THE OBLIGATION OF LAWYERS TO cooperate with one another long has been considered a significant professional obligation, it is not a settled one. That certain matters arising during the course of legal representation the duties of a lawyer well be established within the ethical responsibilities. Those matters include extensions of the duty to make full disclosure of the obvious procedural formalities, admission of facts and opinions of counsel. To my knowledge, the ethical rules concerning the duties owed to the client, the lawyer is entitled to make decisions on his (or her) own behalf, even in the face of any facts and opinions of counsel. For example, it is not improper to make decisions concerning the necessity of the continuance of representation, to deal with binding written agreements, to act in the best interest of the client, and that he did not influence relations between lawyers, that a lawyer should not refer to opposing counsel in a derogatory way and that haranguing tactics interfere with the orderly administration of justice. Civil demands that lawyers abstain from alluding to peculiarities and idiosyncrasies of opposing counsel and that they not use him as a vehicle for charging an adversary with improprieties not relevant to the litigation. "Untrue conduct in lawyer's representations, as a result of his responses to a request for information, is not relevant to the legal system and for those who serve it." It tends to produce public confidence in the system and in the legal profession, and is prejudicial to the administration of justice. It should be condemned and avoided in the discharge of the ethical duties owed to the profession.

One of the student members of the organization was approached and determined that it was necessary for the attorneys to notify certain clients that their services were extended to other attorneys without the client's consent. The results were as hoped for. Everyone was enlighted. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. Everyone was enlightened. 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