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Manners Maketh the Lawyer, Prevent Professional Embarrassment

by K.C. Victor

Structured rules of etiquette typically apply in social, not business, settings. However, because every relationship between a lawyer and a client is based at least partially upon personal interaction, there are certain standards of etiquette to which lawyers should adhere when dealing with clients or potential clients. These basic considerations will improve both the personal and professional lives of all involved.

Concern

The rules of etiquette for lawyers begin with the concept of sincere and serious concern for the welfare of the client. It is essential to any client that a lawyer has the client's best interests at the forefront of their agenda. A concerned lawyer will care more about the client than themselves. Shortly after a problem has been laid out for a client's lawyer, he or she can exhibit genuine concern by presenting a plan of legal work that is efficient, yet as cautious as the client's goals and pocketbook allow.

Unless the work that needs to be done is legitimately unpredictable, the client should be told in some detail what the lawyer plans to do. Sometimes that means estimating billing for 10 hours instead of 100. Sometimes that means persuading the client that 100 hours are necessary when the client thought that 10 would do. The important thing is to set out a plan that hones in on what is right for the client and not on what is best for you. If the plan needs to change, keep the client informed on a timely basis.

Many, perhaps most, clients are not in a position to assess their precise legal needs. They know they have a problem that a lawyer can solve or an issue where legal help would be valuable. They are, however, usually in no better position to assess precisely what is needed than a dental patient with a cracked tooth is to assess what is the best fix for their malady. It is your responsibility not to take advantage of their ignorance.

Clients often ask lawyers to solve business as well as legal problems. I have long believed that the best lawyers are underpaid businesspeople. Still, if you are being asked to address a business problem, the right thing to do is always to point out that it is a business problem. After you discuss your solution with the client, ask if the client still wants you to deal with the issue. Often the business and legal concerns are so intertwined that having a lawyer guide the way makes the most sense. Nonetheless, the client should understand the difference and be informed enough to choose the right individual to handle his or her issue.

Graciousness

The American Heritage Dictionary tells us that graciousness is the quality of being, "characterized by tact and propriety." Relations between lawyers and their clients should always contain large amounts of both.

Business transactions which rise to the level of requiring lawyers generally involve parties who want to keep some facts about the transaction or themselves private. It is, of course, the lawyer's job to point out which facts must be revealed. However, it is also the lawyer's mannerly obligation to keep any facts which the client has explicitly or implicitly asked to keep confidential to themselves. Sometimes the facts to be kept confidential seem innocuous. Still, lawyers with savvy client skills do not gossip about the details of their client's operations or personnel.

The need for this level of propriety is even stronger in litigations or alternative dispute resolution settings. In an adversarial proceeding, information is power. No matter what the personal relations are between or among lawyers representing different parties in a dispute, power should not to be given away.

Tact is essential for all good relationships between a lawyer and client. When a client needs a lawyer, the client is often in a high-stress situation involving money, position, ego and sometimes even personal freedom. The last thing a client wishes to hear is a coarse or thoughtless comment about the situation. Sensitivity is a prerequisite to trust, and trust is the foundation of a good working relationship. Even when a client has done something egregious, there are polite ways to let that fact be known. When a client has made a mistake and hired a lawyer to make things as right as possible, the very act of seeking legal assistance is an admission that something has gone wrong. The lawyer should not rub the client's face in his or her errors any further.

Decency

In 1954, Army Counsel Joseph Welch turned the public's opinion against Sen. Joseph McCarthy by pointing out that the Senator had behaved in a way which showed that he had, "at long last ... no sense of decency." Acting improperly, engaging in *ad hominem* attacks, bullying the other side of a transaction or litigation or simply behaving boorishly is sufficient reason for anyone to question the use of their lawyer, regardless of how good his or her technical skills may be.

I once witnessed a cousin of mine who is a lawyer soliciting business immediately after a family funeral. I cannot imagine anyone wanting to use that lawyer, even though she is a family member. There are simply right and wrong times for plying your trade.

In a transaction, regardless of how much leverage you have in a deal, always leave something on the table. This makes sense not only because bullying is wrong, but also because, unless you are retiring momentarily, there is a good chance that you will see those lawyers and those clients as part of a future deal. This principle is even more important in litigations. Although you may have

the winning hand in a dispute, no one will forget it if you seek every last ounce of blood. Don't encourage your adversaries to seek revenge.

Most situations that require lawyers come with a certain amount of tension built in. Behaving badly only makes things worse. If you refrain from treating people improperly and taking advantage of others, your life and your career will be better for it. Moreover, you may wake up in the morning and find that you like yourself.