PROFESSIONALISM IN THE LAW: CONFESSIONS OF AN AGING TRIAL LAWYER

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Past Regional Vice President and Member of Board of Directors, Texas Association of Defense Counsel
Past Chairman, Health Law Section of State Bar of Texas
Past President (Fort Worth Chapter), American Board of Trial Advocates
Texas State Chairman, Defense Research Institute (1990-1991)
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Life Fellow, Texas Bar Foundation (1991)
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Member, College of the State Bar of Texas (1991)
Outstanding Law Review Award (1991), Texas Bar Foundation
Who's Who in American Law (7th Ed.)
The Best Lawyers in America (1989-1992)

REPRESENTATIVE PUBLICATIONS:

Co-Author, TEXAS HOSPITAL LAW, Butterworth Publishing Company (1988); *The Malcontent or Disruptive Physician: Some Practical Problems*, Journal of Quality Assurance, Volume 11, No. 3, June-July 1989; Law Review Article: Griffith & Parker, *With Malice Toward None: The Metamorphosis of Statutory and Common Law Protections for Physicians and Hospitals in Negligent Credentialing Litigation*, 22 Texas Tech L. Rev. 157 (1991); *Duties and Potential Liability of Nonhospital Entities in Credentialing Physicians*, 5 Med. Staff Couns. 7 (Winter 1991).

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Consulting engineer for the design of large-scale radar tracking systems and automated school bus routing

Legal

Solo practice of plaintiff's personal injury trial law, and private mediator and arbitrator
Pesticide and toxic litigation for the EPA
Environmental law and product liability defense practice with Brown, Maroney, Rose, Barber & Dye
Business office and litigation practice with Grambling, Mounce, Sims, Galatzan and Harris
Legislative director for State Senator Don Adams and U.S. Representative Kent Hance

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Co-author of articles on the regulation of genetic engineering in Vanderbilt Law Journal and Comprehensive Biotechnology
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Past President, Legal Aid Society of Central Texas
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Forty-three years old; Married to Karen Wilson for 13 years
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PROFESSIONALISM IN THE LAW:

CONFESSIONS OF AN AGING TRIAL LAWYER

Richard L. Griffith

"Whatever Happened to Ethics?" was the cover story of Time magazine for the week of May 25, 1987. As far as the legal profession is concerned, this is still an open question. In spite of my own intimate involvement with clients for the past 27 years, I am forced to the realization that my colleagues and I have done a poor job in communicating to our clients and the public just exactly what it is that we lawyers are all about. The search for the *ethical attorney*[1] is, in part, the focus of this work, in spite of the fact that as to this very issue we lawyers have over the past several years engaged in the intellectual equivalent of carpet bombing. *Why?* Because the subject is of immense importance not only to us lawyers, but to the society we purport to serve and influence. For one thing, as professionals, we are all "under siege," with the needs of the public being weighed against the private practice of the professional.[2] Perhaps in its extreme, the current mindset of the public is such that professionalism itself is a non-viable concept, to the extent that professionals cannot be trusted.[3]

THE PROBLEM

This is not, however, a recent phenomenon. Historically lawyers have not been popular. Shakespeare's oft-repeated (and infamous) one liner, "First thing we do, let's kill all the lawyers,"[4] is a particular favorite with the physicians (especially those who have been sued for malpractice). Yet it is sometimes forgotten that the character making the statement intends to take over a country. Shakespeare recognized that in his day lawyers were the natural leaders, a vital part of the *intelligentsia* whose removal would be crucial to any attempted take-over of a society. Hence, an immense compliment to the bar from the bard! Thus, my concern is not at lawyer jokes. In fact we lawyers do a better job of this than laymen. I am reminded of the remarks of Lord Rawlinson of Ewell, formerly Her Majesty's Attorney General in Great Britain, who took the occasion of a luncheon on Thursday, July 18, 1985, to announce his retirement from practice after thirty-nine years. Speaking in the Great Room of Grosvnor House, he began with a light touch, quoting Samuel Johnson, "I don't dislike lawyers. But then I don't dislike frogs. But I won't have either of them hopping about my chambers."

Of course, there will always be those outside the bench and bar who view the practice of law as at best antisocial behavior or at worst an indictable offense.[5] What does concern me more is what I hear from lawyers themselves: *a loss of faith in the profession and a fear that traditional standards of professionalism have been dangerously and mortally weakened.*

THE ISSUE

What is offered here, and what I hope to accomplish, is simply to identify the "cause and effect" of our identity crisis and suggest solutions in three critical areas:

1. how we perceive ourselves and our role in the community;

2. how we perceive and treat our opponents; and

3. how we perceive and relate to our clients.

I. ON SELF EXAMINATION

Professionalism is difficult to define, although most people "know it when they see it"[6] and are equally aware of its absence. The late, great Dean Roscoe Pound described it as "a group pursuing a learned art as a common calling in the spirit of public service--no less a public service because it may incidentally be a means of livelihood."

Certainly most of the older genre did not go into law for the money (i.e., I made twice as much as a First Lieutenant in the army than when I started at Cantey & Hanger in 1965, and all my non-legal contemporaries made more than I did thereafter for quite a number of years.) No, it was not the money; it

was the raw excitement of the prospect of the courtroom, where the greatest game of all is played out every week--TRIAL: A unique combination of chess, warfare, NFL football, and high drama, all rolled into one. And there were truly *legal giants*[7] in those days who, to a young lawyer, represented the finest paradigms in the profession: *trial lawyers*. If it be true (and it is) that *for lack of vision the people perish*, how much more so for lawyers?

The Taint of Commercialism

Where, then, did we lose the vision? Somewhere on the way to our potential as guardians of a system that prevents chaos and preserves liberty by means of exercising our clients' Seventh Amendment rights,[8] we turned aside to worship at the altar of Mammon as the ultimate arbiter of professional achievement and fell into the maw of the "commercial imperative." The "curse of the billable hour,"[9] cash flow, computer printouts, marketing, and the eternal "bottom line" have eroded *pro bono* activity, creativity, and stultified imagination in an era where the law is fast becoming a modestly significant branch of an increasingly specialized world of commerce. Yes, it is true that many of us are making more money than we ever dreamed of, but with that has come for too many an increase of dissatisfaction as well as divorce, consumption of alcohol, and intellectual as well as spiritual atrophy.

Granted, a financial statement may well be *real*, but no more so than a poem, a book, or ducks at sunrise. So, *regain the vision* and take the time to smell the flowers along the way!

And *what is the vision*? In the words of Lord Rawlinson again:

> Above all, I am glad to have followed a profession, a profession with rigid standards of conduct. Ours is a profession. It is not a trade. We deal, alas, generally with people's problems and difficulties; people in trouble, in despair, in fear. If we ever think of ourselves as merely providing some service as in a service industry and forget the raw material of our service, if ever we forget that we serve justice, then we should go away and sell insurance or manufacture pots and pans, and *leave the law to those who love and respect it.*

And how does one "smell the flowers" along the way? In taking that quantity of *quality time* to re-create what we lawyers should be all about: discerning those essential values that make us free; training in how to express, in speech and writing, our commitment to those values in order to keep us free; and being a part of that struggle of individuals or peoples in helping to create institutions--families, games, churches, schools, legal systems, governments--all of which preserve those essential freedoms previously won by our ancestors in the law.[10]

The Stress Factor[11]

And yet there is another insidious spectre that haunts the profession--*stress*. No one is totally immune from stress; however, trial lawyers work in an environment of conflict. Our clients are in conflict. We necessarily deal with strong personalities. A brief and non-exhaustive list of stress factors must certainly include the following:

1. Client relationships (loyalty is increasingly on the wane).

2. The courts and their own agenda of docket control.

3. The risk of sanctions.

4. Competition for clients (somebody can always build a bigger, cheaper mousetrap).

5. Technology (I am computer ignorant!).

6. Change itself.

7. Marketing (much of it is tasteless. Lawyers are usually not very good at it).

8. Financial problems (is there anyone who doesn't have one?).

9. Domestic relations: *family vs. work.*

10. Home problems (wife, kids, and their own very real personal problems).

11. Work load (how many billable hours a year is too much?).

12. Interpersonal relations with fellow partners and associates (why does he get more than I do?).

There are no simplistic answers to these and other forms of stress that could be named, but a small step in the right direction can be made if we:

1. Know that someone knows what we do.

2. Can truly believe that someone assesses what we do.

3. Can believe someone appreciates what we do.

4. Know that someone cares.

5. Know we can be treated fairly.

6. Know that someone will speak honestly with us and most of all, just *listen to us.*

Praise is a commodity that comes very dear. There is so desperately little of it around, and it is needed so much. Even the heavyweights require it (trial lawyers of necessity have big egos).

We have to make ourselves more alert to our partners and associates. We need to pay attention to how they look, and if we see something that suggests distress, we should inquire. Like anything else worth doing, we need to be involved and take the time to talk with our partners and our young associates, to have lunch with them, to find out how things really are. We need to draw them out and show our willingness to advise and help.

In the final analysis, many of the stresses that lawyers sustain--at the hands of courts, adversaries, wives (ex-wives), teenagers, and ungrateful colleagues--can be soothed by thoughtfulness and kindness within the office. We can do a great deal to cope with the stresses of our work if we draw upon the resources of the group. Whatever else the trial lawyer may be, he is at heart a social animal. There can be and should be comfort and nourishment to be derived from supportive interactions within the office. We need to break down the barriers of isolation and excessive privacy. By showing consideration, imagination, and care for one another, we can do much to combat the negative influences of the inescapable stresses which surround us. Otherwise, we merely exist and die as wild things, "without question, without knowledge of mercy in the universe, knowing only themselves and their own pathway to the end."[12]

II. ON DEALING WITH OPPOSING COUNSEL

We need to remember that the very thing that keeps us trial lawyers from living out lives of "quiet desperation" is our competition on the other side of the docket, who give us the means to perfect our skills on behalf of a client. Edmund Burke wrote:

> He who wrestles with us strengthens our nerves and sharpens our skill. Our antagonist is our helper.

Everyone (especially clients!) loves a *winner.* Someone has said that "winning is *everything*"--and it is expected. Yet *winning at any price* is simply far too much to pay for loss of professionalism. What is next said here may sound incongruous to some--as if I am talking out of both sides of my mouth (a not infrequently heard complaint about lawyers)--a quandary due in part to the *dual nature* of the lawyer's obligations.

The Antilogy of the Roles of Advocate and Officer of the Court

The lawyer, particularly the trial variety, performs two roles, in tension, simultaneously. First, he is "under authority" as an *officer of the court* to demonstrate the fundamentals of personal dignity and professional integrity. But he is equally an *advocate* who acts as intercessor, defender, and counsellor in pleading the cause of others. Fortunately, we live in a litigious society wherein legal conflict (in spite of mediation) is still inevitable, and the opportunity exists for plaintiffs to sue and

recover tax free dollars--sometimes more than can be imagined--by means of attorneys who have become exceptionally skilled in maximizing elements of damages in geometrically rising costs of future care, maintenance, medical facilities, lost economic position, and even "hedonic loss" (whatever that is). Advocacy will inevitably mean conflict to the attorneys who must strive to offer their clients their respective "Day in Court."

Since these dual roles are in a state of tension, the lawyer does not always succeed in keeping equilibrium. An advocacy which has run amuck results in antagonistic, obnoxious, and other equally non-professional conduct, as was unhappily found to exist by the federal district court in Dallas, sitting *en banc* when it discussed:

> [A] problem that, though of relatively recent origin, is so pernicious that it threatens to delay the administration of justice and to place litigation beyond the financial reach of litigants. With alarming frequency, we find that valuable judicial and attorney time is consumed in resolving unnecessary contention and sharp practices between lawyers. Judges and magistrates of this court are required to devote substantial attention to refereeing abusive litigation tactics that range from benign incivility to outright obstruction. Our system of justice can ill-afford to devote scarce resources to supervising matters that do not advance the resolution of the merits of a case; nor can justice long remain available to deserving litigants if the costs of litigation are fueled unnecessarily to the point of being prohibitive.
>
> As judges and former practitioners from varied backgrounds and levels of experience, we judicially know that litigation is conducted today in a manner far different from years past. *Whether the increased size of the bar has decreased collegiality, or the legal profession has become only a business, or experienced lawyers have ceased to teach new lawyers the standards to be observed*, or because of other factors not readily categorized, we observe patterns of justice that forebode ill for our system of justice.[13] (Emphasis added.)

The court went on to adopt standards[14] reflecting the need to remind counsel that they are officers of the court. As might be expected, the court also warned of *sanctions*.

As Wayne Fisher recently noted:

> Sadly, we have entered into an age of sanctions. The need for lawyer sanctions has arisen because of perceived abuses in the system. But, sanctions must be carefully imposed, lest the sanctions become yet another litigation tool for lawyers to use to exert pressure on their opponents. *See* Schwarzer, *Rule 11 Revisited*, 101 Harv. L. Rev. 1013, 1018 (1988).
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> * * *
>
> Sanctions serve a noble purpose when properly applied. Sanctions can help curb abuses in litigation and provide a more level playing field for all attorneys.
>
> But, courts and litigants must be mindful of the adverse effects of sanctions. Sanctions may make litigation less manageable, may permit guileful practitioners to profit from

> misfortunes or mistakes of fellow professionals, may injure a fellow professional's reputation, and may unjustly punish a client for her lawyer's errors. We must all ensure that this new wave of sanctions does not lead us into a new era of "sanctions abuse."[15]

This aging author must confess along with the comic strip character, Pogo, that on more than just a few occasions in dealing with opponents, "We have met the enemy, and he is us."

So, what is the answer to this professional dilemma as we walk the thin line between advocacy and our duty as officers of the court? Justice Harry Blackmun cites three factors which should encompass the practice of law:

> The first is truth, the second is the acknowledgement and acceptance of our fallibility, and the third is compassion.

He concludes by saying:

> And the third, I have become more convinced as I grow older, *is the answer to many of our troubles*.[16]

Now, admittedly, there are some opponents we meet who simply do not fit the mold for compassion . . .

The Frog and the Scorpion

There is the fable of the frog and the scorpion who wanted to cross a river. The scorpion asked the frog to carry him across the river on his back. The frog wisely refused because of the scorpion's propensity to sting. The scorpion, however, reminded the frog that if he were stung to death, the scorpion would also drown. The frog thus agreed to carry the scorpion across, and no sooner than he was at midstream, the scorpion stung. Dying, the frog asked, "Why? You will die too!" The scorpion wistfully replied, *"I cannot help it--it is my nature to be a scorpion."*

The Sting

Some vintage "scorpioid" philosophy is heard from a member of the Washington State Trial Lawyers Association as he writes:

> In the large, in our practice, at least, lawyers no longer can be described as "gentlemen" engaged in noble "professional pursuits."[17] We can no longer claim to be "gentlemen," both by reasons of the sexual revolution, which has finally caught up with our practice, and by reasons of the specific character of our opposition. I suggest that *professionalism is a passing notion*, for those of us who are involved in heavy tort litigation, as a consequence of massive changes that have occurred since I first became a lawyer. I think these changes are particularly dramatic, in product liability, drug, toxic tort, and health care negligence litigation.
>
> In those fields it is absurd to think that any of the ground rules we ever learned in law school, or whose validity we ever assumed from the codes of ethics, have very much application . . .[18]

Removing the Sting

Lest the spirit of compassion be lost at this point, let me hasten to add that venomous adversaries have been few and far between in my 27 years of practice. Both sides of the docket do have a share of those who my friend, Jim Barlow of Fort Worth, calls *immature lawyers*, a stigma rated regardless of chronological age or time in grade. To defeat this syndrome, Barlow suggests,

> My hope is that immature lawyers can be shamed into doing what they know they ought to do, and ridiculed to get

their attention when, for whatever reason, they don't know any better than to behave the way they behave.

* * *

Perhaps we can use one of our profession's flaws--its clubishness--to good effect in having subclubs of lawyers respected not only for legal skills, but for retaining the civility and congeniality that once was the hallmark of the best in our profession. We sure need to try. Civility and even warmth between adversaries are a tradition cherished in our profession, and we must do more than lament and handwring when immature lawyers threaten to destroy or even diminish something that dear.[19]

In a word, we must once again

Do as adversaries do in the law. Strive mightily, but eat and drink as friends.[20]

III. THE DELICATE DYNAMIC OF THE LAWYER-CLIENT RELATIONSHIP--OUT OF SYNCHRONISM?

The relentless task of first obtaining and then keeping clients has altered the lawyer-client relationship to a significant degree. Certainly in the scramble to build and keep a client base, lawyers have not infrequently allowed client demands to supplant their own best professional judgment. The unfortunate result in some instances has been the abuse of the judicial process by prostituting one's bar card to satisfy a *client's* perceived perception of what "justice" requires.

A brief look at a few admonitions in the Texas Lawyer's Creed are in order. Thus,

* * *

3. I will be loyal and committed to my client's lawful objection but *I will not permit that loyalty and commitment to interfere with my duty* to provide objective and independent advice.

4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.

5. I will advise my client of proper and expected behavior.

6. I will treat adverse parties and witnesses with fairness and due consideration. *A client has no right to demand that I abuse anyone or indulge in any offensive conduct.*

7. I will advise my client that *we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.*

8. I will advise my client that *we will not pursue tactics which are intended primarily for delay.*

9. I will advise my client that *we will not pursue any course of action which is without merit.*

10. I will advise my client that *I reserve the right* to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objections. *A client has no right* to instruct me to refuse reasonable requests made by other counsel.[21]

* * *

In one sense it is somewhat demeaning that such instructions need be in writing. These rules should be, instead, written on the very heart of the professional and made an

integral part and parcel of what should be a free and independent spirit.

In considering the competing objectives of government, business, special interest groups and the private citizen, it is not surprising that many do not admire or revere lawyers and the legal profession. But part of the "sleaze factor" that makes us the butt of so many jokes is that *lawyers are perceived as compromising their professional ideals and judgment in an effort to greedily share in the deals which they are managing as the client's attorney.* If the shoe fits, then we must wear it.

As is so often the case, we need turn to the voices of the past to remind us of our need for a *gut-check.* **Heed the words of Learned Hand of more than 70 years ago:**

> The profession of the law has its fate in its own hands, but the change must come from within . . . A lawyer must either learn to live more capaciously or be content to find himself continuously less trusted, more circumscribed, until he becomes hardly more important than a minor, albeit well paid administrator, confined to a monotonous round of record and routine, without dignity, inspiration or respect. There can be no ambiguity in the answer of those who are worthy of the traditions and the power of a noble calling.

After all, the United States Constitution mentions only one profession in its articulation of those rights granted to the sovereign and those retained by the people. That professional is the *private lawyer* to which each of us is entitled in order to assist in our defense. The average American's direct experience with the law is apt to be sordid and unpleasant, involving things like traffic accidents, divorce, and petty larcenies. His opinion of lawyers is probably not very high. And yet, at the back of his mind he is vaguely aware that law and lawyers are somehow necessary to his freedom. They are there today as they were on a Sunday in 1670 when William Penn and William Mead were arrested for "causing an unlawful and tumultuous assembly" by preaching in the middle of Gracechurch Street. When the jury hearing the case found them not guilty, the judge ordered it to change the verdict, and when the jurors refused he had them locked up "all night without meat, drink, fire or other accommodation; they had not so much as a chamber-pot, though desired." When they still refused, they were heavily fined and locked up again till one of them took a plea of habeas corpus to the Court of the King's Bench, and there Mr. Justice Vaughan established for all time that a defendant acquitted by a court must be set free.[22] That, my friends, is worth a lot to me.

IV. EPILOGUE: SOME OBSERVATIONS ON THE BEAST WITHIN

In a humorous piece[23] (that I wish I had written), Ralph Jonas of Los Angeles differentiates between "litigators" and "trial lawyers," noting "both beasts look the same superficially." But a close examination reveals startling differences:

> The 'litigator' is often seen flitting from office to office taking depositions, discovering documents, examining exhibits and rummaging through old files . . . Litigators constantly travel in flocks . . .

He further notes,

> . . . a trial lawyer engages chiefly in the trial of cases . . . In contrast to the litigator, trial lawyers are often solitary beasts.

By way of further comparison,

> . . . When two litigators oppose each other, they inevitably engage in a feeding frenzy of "litigation" until they have spent so much of their client's money that it becomes imperative that they

> settle the dispute which should have been settled at the inception of the litigation. By contrast, the trial lawyer attempts to limit his pre-trial activities to only those which will further his client's cause at trial. Economy of motion and activity are his forte.

Jonas concludes,

> Ecologists tell us that when one destroys, damages or alters an environment, the indigenous species will similarly be altered, damaged or destroyed. In today's environment, the trial lawyer is rapidly becoming extinct. The economic and social forces at work today have made it almost impossible for the trial lawyer to survive. Its nesting, breeding and training grounds have been decimated. Its function has become almost obsolete. Even clients seem to prefer the gregarious, charming and ubiquitous litigator to the solitary and sometimes disdainful trial lawyer. The extinction of the trial lawyer is all but inevitable. *Sic Transit gloria mundi.*

Switching metaphors, Stephen Jay Gould likens our lot to a "zero sum game," in which we are gamblers playing with limited stakes against a house with infinite resources. He opines:

> We must eventually go under. We can only strive to hang on as long as possible, have some fun while we're at the table, and, since we happen to be moral agents as well, to *stay the course with honor.*[24]

But I believe the trial lawyers (resilient and adaptable as they are) have and will continue to survive as long as the conviction within each of us still lives that freedom of thought is the necessary pre-condition to political freedom--for if freedom does not first reside in the mind, it cannot reside anywhere. And our job, if nothing else, is to protect that freedom. So, in our artful practice, we must make three noble efforts:

> 1. to deepen a sense of history so that we will know who we are as human beings and lawyers;
>
> 2. to develop our capacities to think analytically and creatively; and
>
> 3. to have the ability to continue to express our thinking in speech and writing and conduct with logic, clarity, and grace before the bench and bar, as well as within our communities.[25]

Finally, no matter what other may think of us

> May God help each of us understand that the true measure of a lawyer is the height of his ideals, the breadth of his sympathy, the depth of his convictions, the length of his patience, and that "the Golden Rule is of no value whatever unless you realize that it is your move." (Frank Crane, 1861-1928).[26]

ENDNOTES

1. To some this may appear to be a classic oxymoron.

2. Barzun, *The Profession Under Siege*, Harper's (Oct. 1978).

3. Tuchman, *The Decline of Quality*, New York Times Mag. (Nov. 2, 1980).

4. *King Henry VI*, Part II, Act IV, Scene II.

5. Timothy Sullivan, Dean and John Stewart Bryan Professor of Jurisprudence, Marshall-Wythe School of Law, College of William and Mary: Remarks at National Conference, DRI, Williamsburg, Va., March 15, 1991.

6. Robert E. Scott, Jr., *On The Record*, 32 FOR THE DEFENSE 1 (Nov. 1990).

7. My late mentor, J. A. "Tiny" Gooch is a classic example. He only stood six and a half feet, but in his commanding presence, I would swear he was eight feet tall!

8. The right to trial by jury could be endangered in our very own back yard with the 5th Circuit's comment in a pharmaceutical case which "represents a growing realization among academics, lawyers, and judges that cases such as this present special problems and challenges to traditional ideas regarding the role of the jury as decision maker." *Brock v. Merrell Dow Pharmaceuticals, Inc.*, 874 F.2d 307, 309 (5th Cir. 1989).

9. Parsons, Jim, *Time and Money*, 54 Tex. Bar J. 308, 309 (Apr. 1991).

10. A paraphrase from the late A. Bartlett Giamatti, President of Yale University, in the text of his speech, *A City of Green Thoughts*, given to the Freshmen Assembly on August 31, 1985.

11. With thanks to Mark O'Neill of Ohio for his remarks in *Managing Stress in the Law Office* given at the Greenbrier in July 1990 at the annual meeting of the IADC.

12. Loren Eiseley.

13. *Dondi Properties Corp., et al v. Commerce Savings & Loan Assoc., et al*, 121 F.R.D. 284 (N.D. Tex. 1988).

14. The court adopted the "Guidelines of Professional Courtesy" and the "Lawyer's Creed" promulgated by the Dallas Bar Association as standards of practice. This action led to the creation of The Texas Lawyer's Creed promulgated by the Supreme Court of Texas and the Court of Criminal Appeals in November 1989. *See* Cook, *The Search for Professionalism*, 52 Tex. Bar J. 1302 (Dec. 1989).

15. Wayne Fisher and David W. Holman, *Lawyer Sanctions*, Medical Malpractice Conference presented at St. Mary's Law School and Texas Tech Law School, San Antonio, Texas, Apr. 11-12, 1991.

16. Or as the Prophet Micah puts it, "The Lord requires but three things of us--that we do justice, love mercy, and walk humbly with God."

17. In 1983 the New York Times did note the "hustling for clients" prevalent in the legal community, and commented that the legal profession was becoming "much like business in any field," and that "a new era has dawned, one in which the practice of law has ceased to be a gentlemanly profession and instead has become an extremely competitive business."

18. Schroeter, Leonard, *Cutting Through the Bullshit*, address to Washington State Trial Lawyers Association, Seattle, Washington, Dec. 6, 1985.

19. Barlow, James M., *Kinder and Gentler Litigation--Effective Responses to Rambo by the Bench and Bar*, 1990 Advanced Civil Trial Course, State Bar of Texas, Sept. 1990.

20. Shakespeare, *The Taming of the Shrew*, Act I, Scene ii.

21. *The Texas Lawyer's Creed--A Mandate for Professionalism*, promulgated by the Supreme Court of Texas and the Court of Criminal Appeals November 7, 1989.

22. Robert Wernick, *Bewigged, Bothered and Beleaguered, the Barristers of London Carry On*, 22 Smithsonian 77, 86 (June 1991).

23. Jonas, *Perspective: The Trial Attorney--A Litigator or a Trial Attorney*, EXPERTS AT LAW (July/Aug. 1990).

24. Gould, *Staying the Course with Honor*, LIVING PHILOSOPHIES, 138, 141 (1990).

25. With thanks again to President Giamatti, *supra* note 10.

26. Humphrey, C. J., *Reflections*, 54 Tex. Bar J. 134 (Feb. 1991).