

Bar Bulletin

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In Support of Civility

By Judge Judith H. Ramseyer (Ret.)

I recently spoke with a lawyer who was describing the variety of personalities she has encountered during her first year as a litigator. It reminded me of a lesson compellingly modeled for me in *my* first years as a lawyer, for which I now have gained a 40-year perspective.¹ Condensed to its essence, the lesson is “Don’t be a jerk.”

We all have different personalities, temperaments, and communication styles; these differences are unique and valuable. Here I advocate not for sameness, but for practitioners to ground their individual style on a rock-solid foundation of professionalism, integrity and common courtesy. Not only can this make a lawyer’s demanding work less stressful and less expensive for clients, but it’s also more effective.

The young lawyer with whom I was speaking described two opposing counsel with whom she is working on the same case. One objects to and resists most discovery disputes and scheduling accommodations. The other engages in substantive discussions over disputes and rarely objects to procedural accommodations. Not surprisingly, the conclusions this young lawyer has drawn are that she respects and appreciates the ease with which the case moves forward with the accommodating opposing counsel and she feels disinclined to cooperate with the resistant counsel. My message to her paraphrases an old World War II motto, “Don’t let them grind you down.” Model the behavior you would like to receive; it just may catch on.

This is not rocket science. The principle of “do unto others ...” has been around for a long time. Yet some in the law hold the view that vigorous advocacy is demonstrated by prevailing in power struggles, even if the struggle itself may be entirely unnecessary. Logic and experience have clearly shown me that effective advocacy is characterized by hard work, honesty, and reason. Most litigation, civil and criminal, is resolved through some form of compromise. Reaching compromise, however, requires a clear-eyed assessment of law and facts, a degree of trust between the parties, and respect. Few of us are motivated

to compromise any of our views, professional or personal, if we are met with disdain, condescension, or bullying. Facts and law are of course essential, but respect, integrity, and civility go a long way to build trust and to ensure that a lawyer’s legal advocacy is heard.

Just as these traits build trust and cooperation in out-of-court interactions, they are equally important in the courtroom. As Judge William Dwyer taught, “The winning edge in trial advocacy is the ability to cause the jury to *want* to come out in your favor.”² Lawyers who convey candor, authenticity, and respect for the process and people in the courtroom connect with jurors. As a recently retired superior court judge, I can assure you that evasiveness; intolerance; and personal attacks on counsel, parties, or the judge are much more damaging to credibility than persuasive. An attorney must advocate for what their client is entitled to under the law, but an argument grounded in law or fact can be delivered with logic, conviction, and respect. You can make your record, enhance your human connection with jurors, and model professionalism — a win even if you do not prevail on the disputed issue.

These traits are equally important for judges. I cringe when I hear of a judge who has lost their temper or publicly demeaned an attorney or a party. A judge’s temperament is a building block of trust in our courts. A judge is vested with great authority, which can and should be exercised forthrightly but always with respect. The public looks to judges to model the integrity and professionalism we espouse and expect of others. When we don’t, confidence in the individual judge and the institution of the courts is diminished. We are all human; we have good days and bad. Nonetheless, respect, civility, and integrity should be the baseline — the default — for all judicial action, not traits adopted on an as-needed basis.

If you are not convinced by the moral high road, let me close with a practical consideration for treating others with courtesy and respect: **It will help your career.** Most case referrals come from former clients and attorneys, including opposing counsel. Judges

also are asked by family and friends for referrals. If you build a reputation as competent, trustworthy, respectful, and practical, you will receive more referrals than someone who is perceived as difficult. Your route to case resolution, whether by dispositive motion, settlement, or trial, will be more direct and efficient if you are not deterred by personal disputes and litigation practices that drive up costs and deepen adversity. I am not so naïve that I fail to see that some litigation strategy is premised on scorched earth and an attempt to overwhelm an opposing party. But I *am* so naïve (let’s call it idealistic) to believe that with counsel who maintain high professional standards in the face of obstructionist behavior and a strong judge or neutral to keep the process moving, the search for truth ultimately will arrive at a defensible and fair resolution. The stress and costs resulting from unprofessional tactics generate cynicism in our legal system; they may delay resolution and contribute to indigestion, emotional distress, or heart attack, but they will not prevent the eventual resolution of meritorious claims.

Each of us has a responsibility to promote public trust in our legal system. Do yourself, your co-workers and colleagues, your clients, the court, and the public a big favor: Build your reputation on hard work, scholarship, civility, and respect. ■

Judge Judith Ramseyer retired from the King County Superior Court, where she held numerous positions of local and statewide authority, including president of the Washington State Superior Court Judges’ Association from 2020 to 2021. In 2023, Judge Ramseyer was presented with the King County Bar Association’s Outstanding Judge Award and was named Trial Judge of the Year by the Washington Chapter of the American Board of Trial Advocates. She currently works with JAMS as a mediator, arbitrator, discovery master, and neutral consultant.

¹I was privileged to have learned this lesson at the side of my mentor and friend, Hon. William L. Dwyer, U.S. District Court, W.D. Washington, 1987–2002. You can find his erudite thoughts on this subject and others in a book that collects many of his talks: *Ipse Dixit: How the World Looks to a Federal Judge*, University of Washington Press, 2007, “The Practical Value of Ethics,” pp. 46-52.

²*Ipse Dixit*, at 50.