

# PRESIDENT'S MESSAGE

## Civility: Aggressiveness is Overrated

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**I'm embarrassed to admit that, as a young attorney, I enjoyed being asked by new acquaintances what I did for a living. It filled me with pride to say, "I'm an attorney" and wait for my questioner to be impressed. Somehow, it made the hard work of law school and its financial burdens worth it, to get that microscopic "wow" from whomever asked the question.**

At that time, I loved being thought of as an attorney – not for the particular job I had or the clients I fought for – but for the stereotypes that many non-lawyers hold. It allowed me to think about myself in a kind of “shorthand” – “tough as nails,” “doesn’t get pushed around;” someone who was an undeniable “success.” Could I have even defined what “success” meant at that point in my career? Likely not. The details of whether I was happy and the quality of my character almost seemed not to matter.

Well, fortunately, the passage of time has disabused me of those notions. Of course, I am proud to be an attorney and particularly proud to be a member of the State Bar of Nevada. But, with the ebbs and flows of life – losses and gains, tragedies and triumphs – I have come to see that, as with all stereotypes, my “shorthand” way of viewing myself and my profession was constricting and

largely irrelevant. I have learned that the ideals of what an attorney is or should be bear almost no connection to the reality of legal practice, who I am, or what I truly want.

I am a litigator. Thus, conflict, in a controlled, rules-driven environment, comes with the job. Of course, when I prevail on something – a trial, a motion, a hard-fought argument for a client, or an issue I deeply believe in – it is certainly quite gratifying. We all love to win and, as much as we try to temper their sense of invincibility by assuring them that anything can happen in a courtroom, our clients always hope and expect victory. But recently, I find myself appreciating the quality of my execution as an attorney about as much as the case outcomes themselves.

For me, some vague notion of “aggressiveness” or “toughness” is no longer the main benchmark to assess whether I have succeeded as an attorney. Now, the criteria are somewhat more nuanced:

- Is my writing clear and concise?
- Are my questions tightly constructed?
- Did I succeed in blocking an adverse witness’ path of verbal “retreat” and getting the testimony I had hoped to get?
- Did I answer that judge’s question in a way that was truthful, yet stayed faithful to my client’s position?
- Was I able to make myself understood to my trier of fact?
- Is the strategy I have selected in handling my client’s matter fundamentally sound?

I believe that being able to answer “yes” to these questions sets any litigator up to succeed in whatever area of law they may pursue. Yet, for me, none of these concepts depend on how aggressive I have been. Being aggressive simply to be able to say that “no one pushes me around” is a recipe for disappointment, unresolved resentment, and an unfulfilling legal practice – at least that’s what I believe. Aggressiveness is the “hinge point” between civility in legal practice and attorney wellness.

Thus, to the extent that I, as a practicing attorney, can find ways to forego being aggressive out of vague notions of pride or “how attorneys are supposed to act,” or allowing myself to be triggered by the aggressive actions of others, I will also be able to let any anxiety and anger pass. This, in turn, represents a large step toward becoming a happier and more fulfilled practitioner. For me, the path to enjoying what I do for a living is to take pride in how well I execute those tasks I perform – and strive to improve with each performance. To be honest, a good sense of humor definitely helps, too.

Please don’t misinterpret me, though. I do not presume to tell anyone how they should practice or how they should live. Indeed, there are circumstances where we face counsel who only understand or respond to aggressiveness and where the only way to protect your client and advance your position is to “give” as good as you “get.” Regrettably, these situations are all too common, and any litigator must prepare for the worst, even as they hope for the best.

One of my aims during my year as president of the State Bar of Nevada is to create dialog about civility and related issues. This column represents a few thoughts on what might cause us, as practitioners, to fall into the trap of incivility. Perhaps if we can step back from the notion of “fighting fire with fire” because that’s what is expected of attorneys, the power of that example might cause others to drop their “matchbooks and gasoline.” By focusing on improving the mechanics of my practice and quality of execution, I have found a way out of being aggressive for its own sake and for me to find enjoyment in what I do. I hope the same for all of you.