

DATE: March 15, 2006 (Late Revision)
FIRM: Miller Nash
PROJECT: Professionalism Article
SIZE: 960 Words

CLIENTS DESERVE OUR PROFESSIONALISM, BUT DO WE DELIVER?

Few callings have as many rules and guidelines as ours when it comes to professionalism. Think of it as consumer protection for clients, who deserve to see lawyers on both sides of an issue behave professionally. Most attorneys do. Some don't. So, how do our behaviors and attitudes read in the eyes of clients? What can they *really* expect of us?

It seems to me that without a keenly developed and intrinsic sense of professionalism permeating our work on behalf of clients, the decision to become a lawyer in the first place could become questionable and, for some, even indefensible.

Professionalism must prevail. It provides the optimal context for us to do the work we are hired to do. It sustains our credibility, substantiates our opinions, and lends weight to our collective legal voice. Without professionalism, we lawyers would validate the most painful variety of negative clichés.

The majority of us succeed at doing the good and noble work of lawyering. We represent our clients' interests with every ounce of our intellect, integrity, judgment, energy, fairness, honesty, and diplomacy. But that's no longer enough. Today, we must work to create and protect a positive image in people's minds about the legal profession. More specifically, we must be mindful of the client's point of view: striving to see lawyers as *they* see lawyers, not as we see ourselves.

It's my opinion that the people most likely to recognize and applaud professionalism in lawyers are, in fact, those very same lawyers. Peer-to-peer professionalism is very important, of course. But there is equal need for our other constituents to view us in that same positive light. The clients. The courts. The policymakers. The public. These are the folks who need to see and appreciate our professionalism. These are the people, too, who are least likely to tolerate any sort of self-congratulatory behavior on our part. So we'd best do more than just talk about professionalism. We'd best live it.

You don't need a team of research librarians to put your hands on documents that instruct lawyers about rationales for and best practices of professionalism. They're everywhere. The Oregon State Bar's Statement of Professionalism is a prime example. As is the Multnomah County Bar Association's report from its 1998 Summit on Professionalism. Plus, scores of articles and speeches have been written and delivered on the topic, including a few by me.

Young lawyers will find much to learn and use. Seasoned lawyers will find pointed reminders about the dos and don'ts that make the legal world a better place to live and work.

I'm reluctant to preach to others on the particulars of professionalism, because it's an extremely subjective topic—very much in the eye of the beholder. Each lawyer must decide where to draw that proverbial line in the sand. Yet I mean to be clear on one key point: Professionalism is by no means the equivalent of wimpiness.

Indeed, it's entirely plausible to employ powerful, even dominating language and bold, decisive actions on behalf of clients while never giving up on professionalism. This is true even when working in the face of opposing counsel whose professionalism, sadly, may have given way to excessive zealotry. The key, of course, is not to validate such behavior by responding in

kind. It's better, I'm convinced, to summon every ounce of professional strength and courage in an effort to turn the tables on those who behave improperly.

Judges hate vitriolic prose and personal attacks. These tactics simply are not persuasive. So it's the wise lawyer who speaks calmly and logically, being careful to demonstrate why he or she is in the right. We need not be mean, rude or loud to be strong and effective.

Avoiding the wrath of judges, therefore, is a compelling argument for professionalism. But three additional benefits are worth noting:

1. It reduces the cost to litigants. Lawyers who become embroiled in acrimonious and combative exchanges during depositions, for instance, can unnecessarily prolong proceedings at the expense of their clients without achieving a better result. Professional deportment, by contrast, hastens speedy and more cost-effective resolutions.

2. It leads to greater client satisfaction. A professional approach to handling client business will help assure that attorneys are seen as problem solvers, not troublemakers. Clients are happiest when we represent their interests in the best possible light within the bounds of the law, remembering that litigation is not mortal combat. Remember, too, that satisfied clients are often the source for referrals.

3. It reduces client stress. People seek help from attorneys when problems threaten. They are often uncertain about risks and intimidated by the air of conflict. Attorneys who adhere to high professional standards can mollify those client concerns by imbuing a sense of confidence and control. The less emotional our clients, the easier it is to achieve successful results.

Edwin J. Peterson, former Chief Justice of the Oregon Supreme Court, has long been closely identified with the national movement to foster professionalism among attorneys. He and I share the belief that professionalism is an ambiguous concept. So I applaud his pointed and practical definition: "I think that the heart of professionalism is that lawyers are courteous, civil, prompt—to their adversaries and their clients."

In his 1984 article titled "Professionalism—Are We Losing It?" Chief Justice Peterson observed, "Without professionalism, ours is a crass, uninspiring calling."

I would add that when professionalism is fully engaged and more than a mere aspiration, it's the strongest validation of our clients' decision to hire us. Professionalism puts lawyers in the best possible position to do what we do best—help people solve problems that they can't resolve on their own. That's ultimately what clients deserve.