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Act Constructively, New Attorneys Are Advised

UB Law Forum
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I have been given this opportunity to welcome you to the practice of law in the State of New York. I am honored to do so.

Prior to entering the courtroom you signed the roll of attorneys, the same roll that was signed by Alexander Hamilton, Benjamin Cardozo, Learned Hand, Ruth Bader Ginsberg and thousands of others whose work over the centuries may or may not touch you in your practice — but whose work, however subtly, certainly touches you to the extent that it has helped to shape the society you live in.

You are about to join them as shapers of legal precedent and, to whatever small extent, shapers of society. Of course, you do not have to be an attorney to shape society: There have been many others who in their own way have certainly had an impact on our history. But there is a difference between acting negatively/destructively — and acting positively/constructively — as a reputable attorney should do.

What does it mean for an attorney to act constructively? It means using the system to solve problems for your client. It means being practical. It means not wasting your client’s money, nor wasting the court’s time, nor taking advantage of your opponent’s willingness to cooperate with you. It means researching points only when the research is aimed at resolution of the case, and it means avoiding research for the sake of research or because you may find research to be an “intellectual exercise.” It means giving your client the service that he or she has paid you to provide, which has to do not only with obtaining a result but with educating the client, informing the client and controlling the client so that he/she does not compromise the case. It means solving problems in such a way that new problems do not develop. It means using all of your training, skill, intelligence and professional judgment to solve your client’s problems and to confirm your client’s trust in you and the judicial system. It means looking at legal precedent, but seeking to be creative on behalf of your client.

Acting negatively/destruetively is not only not good practice, but in the long run will not be productive. A negative attorney does things for no reason or for unethical reasons: needlessly making the client feel inferior; does unnecessary work to run up the client’s bill; treats opponents rudely without justification; creates problems, either carelessly or deliberately, in the expectation or the hope that the client will continue to pay to have these new.
problems solved.

In this district negative attorneys are rather uncommon; that is because in this judicial district and this judicial department we are fortunate to have judges who actively support and encourage constructive practice. CPLR or no CPLR, do not expect the judges to grant motions where such will entail a waste of judicial time and litigants' money.

From today forward, every one of you will be entering our profession with a clean slate. Only you, through your actions, determine what appears on that slate at the end of your career. While many of you are facing the challenge of either starting or finding your first professional job, it is not too early to reflect upon what you want to appear on your slate. Similarly, it is not too early to think about what you don't want to appear on your slate.

Many of you will enter private practice, some of you may enter government service, some of you may clerk, others may enter private business or teach. Whatever you choose to do, from this moment on, you are an attorney; everything you do, professionally and personally, bears not only upon you, but upon our profession. From this moment on you will be a professional and you will be held to the highest ethical standards of our profession.

In becoming a lawyer, you are not entering a business or industry, you have chosen a "profession." The American Heritage Dictionary defines the term profession in the following manner: 1. an occupation, especially one requiring training and specialized study. 2. the body of qualified persons engaged in an occupation or field.

Where to begin? Where to look for guidance as you make the decisions about your future and chart the slate of your professional life? First and foremost is the need to understand that your training is now just beginning — these formative years are crucially important in shaping your legal career.

In determining your choice of employment do not be solely guided by prestige, salary or titles. Ask yourself, will this be the beginning of my legal career in a positive, constructive, and most importantly, teaching type atmosphere? If the answer is not a resounding "yes" it is not the position for you.

As you go forward with the practice of law, you may occasionally hear reference to the law as a business. While it is true that certain aspects of the running of a law firm or a corporate law department must engage business and economic considerations, you must always keep foremost in your mind that you are a professional engaged in a learned profession and, in the end, you will be judged by your peers, judges and clients on the basis of your professional conduct, including your skills, diligence, temperament and ethics. There will be an entry in your professional slate every time you take on a new matter and advise a client. You will fill in that slate with every memorandum or brief you prepare, with every court appearance that you make, with every telephone call you make on behalf of a client, and with every meeting with associates and colleagues.

However, independent of your practice you will also fill in that slate with the work that you do to enhance the stature of our profession and the community in which you reside. As a lawyer, it is part of your professional obligation to engage in community service. Become active in the United Way, Philharmonic, Buffalo Place or other civic activities in the area in which you reside. Think about what you can give back to the community. Plan to share your skill and training for the benefit of others.

While I have enjoyed the success I have attained in the courtroom, I have equally enjoyed lecturing across the state for the New York State Bar Association, my involvement in various charitable organizations, lecturing for the Erie County Bar Association and at the Law School, my work on behalf of the Law Alumni Association and my service as a trustee of the Stanler Foundation. I have been rewarded in knowing that I am using my skills as a lawyer to be a productive member of this community.

A growing concern not only for our profession, but in all of the professions, is the subject of ethics. Each of you has studied professional responsibility and has passed the ethics portion of the State Bar. Don't let law school be the last time you give consideration to the Rules of Professional Responsibility. Although it won't be every day, throughout the course of your career, you will be required to
take action and make judgments which are covered by the ethical considerations and disciplinary rules of the Code of Professional Responsibility.

The Erie County Bar Association under its former president Joe McCarthy and now under the leadership of Ray Fink has initiated a mentoring program for young lawyers. Use it. The New York State Bar Association conducts practical skills seminars. Attend them. And remember the best source available to all of you is the telephone. Over the years I have found that the busiest attorneys always have time to assist younger members of the bar. The busiest attorneys always have time to share their experience and knowledge through CLE programs. I know of hundreds of lawyers who would welcome your inquiries and would offer their advice and guidance if you would call them.

I would like to believe I am a practical lawyer and as such wish to share with you a few "practical comments":

1. The law is an intellectually challenging life. Be prepared to engage in lifelong learning — be open to learning new skills.

2. Find and cultivate a mentor who is accessible, that you can speak with about your career goals and bounce ideas off.

3. Learn to be organized and punctual because time pressure will be your constant companion.

4. Become computer literate and get comfortable working with databases and doing your own typing.

5. Become extremely comfortable with ambiguity. You’ll earn your living in the “grey zone.”

6. Don’t take yourself too seriously, but take what you do seriously.

7. Don’t be afraid to make a mistake. Everyone makes them. They’re learning experiences. One caveat: Don’t make the same mistake twice, make a different one.

If you are involved in a criminal proceeding, you have some of the best attorneys in the country available for you to call upon. Don’t hesitate to call a Joel Daniels, Paul Cambria or Terry Connors. We are fortunate here in Western New York to have some of the brightest and most creative members of the matrimonial bar. If you are involved in a matrimonial or family law matter pick up the telephone and call Joyce Funda, chairman of the Matrimonial Committee, Tom Palmer, Barbara Handschu, Mark Hirschorn or any of the other members of the committee to assist you. Also, you can call Jim Renda, who I call when I don’t have the answer to a particular problem. Of course, you can always call Herb Siegel if you are lonely.

In closing, I wish to state that it is both a privilege and an honor to be here today, not only because I have been given this opportunity to welcome you to our profession, but because, as a parent, I share in the joy that each of your families feel for you. Our son, Peter, is joining you today in being admitted to practice.

Finally, I would like to state that while this is a day on which we recognize your individual achievement, I want to remind you that you did not get here alone. Each of you had the support both financially and, more importantly, emotionally from your families, including parents, brothers, sisters, spouses and friends. They have made sacrifices for you and today are here to continue their love and support. No matter how proud you may feel about your accomplishment, the pride which I see on the faces of your parents and family as they share in this moment is a feeling which will stay with them for the rest of their lives. You have done both yourself and your family proud.

At this point I would like to ask each of you to stand and to give a warm round of applause to your family members present today for this most memorable day and the first day of your legal career.

Thank you for your attention.

Peter J. Fiorella Jr. ’63 is a partner in the Buffalo law firm of Fiorella & Palmer and is president of the Law Alumni Association for 1994-95.