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## [ COMMENTARY ]

# LEGAL LESSONS FOR THE NEXT GENERATION

by RANDY WILSON

Two of my children decided to go to law school. One just passed the bar exam, and the other is in the third year of law school. This is a letter I just wrote to them offering some of my views on the practice of law. With their permission, I'm sharing it with others:

You are both about to become lawyers. It's a sobering and exhilarating thought. You suddenly will have thrust upon you real problems from real people who are looking to you for help. While you have accomplished much and the future is bright, there is still a great deal to learn.

Law school teaches basic fundamentals and critical thinking, yet you still have much to learn about the tactics and nuances of the practice. The subtleties require a lifetime of study with the assurance they will never be mastered. You face a long yet thrilling road.

I don't pretend to know all or even most of the answers. Lawyers and judges never stop learning the law and its challenges and complexities. Yet I have learned a few things in my years, mostly through trial and error. Permit me to share a few of them.

- *Be proud to be a lawyer.* We are bombarded with lawyer jokes and ridicule. We laugh politely at the jokes, and, I have to confess, I have told a few myself. Don't do it. For hundreds of years, society considered the law a noble profession, and lawyers have been the stalwarts of defending legal rights. Lawyers desegregated the schools and improved product safety. Even the most vocal of lawyer bashers are the first to call a lawyer when they feel their rights are being trampled upon. And finally, don't forget that the most famous lawyer bash — "[t]he first thing we do, let's kill all the lawyers" — was actually an acknowledgement by Shakespeare in "Henry VI, Part II" that lawyers must be eliminated in order to achieve a revolution. Be proud to be a lawyer.

- *Always tell the truth to the client.* If bad things happen, tell the client. Don't delay. Some of the worst mistakes I have ever made as a lawyer happened when I was afraid to call the client and admit that something wasn't filed on time. So I delayed. After a few days, it got harder to admit what was going on. After a week or two, it was virtually impossible to make the call, because now I had to explain why I did not call earlier.

Don't simply try to fix the problem without telling the client and hoping that the problem goes away. Call immediately. He will understand. If you're upfront and acknowledge immediately that you made a mistake — e.g., you failed to make a disclosure in a timely fashion, but you will file a motion to fix the problem and won't charge him for any of your time to fix it — he really will understand.

- *Always tell the truth to the court.* Admit your weaknesses to the judge. If the other side files a motion for summary judgment to throw out your client's seven causes of action, tell the judge, "Your honor, I will admit that the DTPA and fraud claims are weak. We probably don't have sufficient evidence to support some of the elements of those claims. But the other five claims are absolutely good, and here's why." You have just earned kudos and instant credibility with the court.

Here's another example I encountered: A lawyer filed a motion, and the other side did not appear at the hearing. However, the lawyer began the hearing by saying, "Judge, I just got a call from the opposing counsel who said I agreed to pass the hearing. I don't remember that. But if he said it, I'll give him the benefit of the doubt, and I don't feel right proceeding without him. Let's pass the hearing." Judges remember that.

- *Learn from others.* Over the course of a career, you will encounter hundreds of different lawyers as co-counsel and opponents. Some will be brilliant, and some will make some of the biggest bone-headed mistakes imaginable. But I have found that even the least proficient will do something right or will make an argument I hadn't predicted. Over a lifetime, you will see a thousand different styles and approaches. Never close the door to learning.

## Do Unto Others

- *Follow the golden rule.* There's just no reason to be a jerk, and there are lots of reasons to be nice. Let me give a few examples.

**Opposing counsel:** Sure, he's opposing counsel and your sworn enemy, but there's no harm in being nice, and there are a lot of potential advantages. Opposing counsel will see you in action and can be a great source of future business. I used to get a lot of my referrals from former opposing counsel.

**Does this mean that you should roll over and accede to every request your opponent makes?** Of course not. But if he calls and asks for a one-week extension and it doesn't harm your client, then by all means agree. Remember, there will come a time when you're in a bind and need a favor.

**Office staff:** It's amazing how often lawyers will abuse office staff, throwing fits and tantrums. I was certainly an abuser at times, as well. Don't do it. These are people, and they deserve respect. Moreover, they can make your life either misery or a pleasure. If they feel they're part of the team, they will gladly pitch in and work late. If they feel like a second-class citizen, there's no end to the number of ways they can sabotage you.

**Court staff:** Lawyers sometimes will vent at the court clerk or complain to the court staff that the clerk somehow has not done his job. Who do you think the clerk is going to go talk to about it? The judge. Who do you think the judge is going to support? The staff. If you're truly got an issue, then file a motion, but complaining and yelling at the court staff is a shortcut to a bad result.

- *Keep time timely.* For better or worse, lawyers have to keep a time sheet. We all hate it. You will hate it. But I promise you that the worst thing you can do is not record your time throughout the day, every day. I can't tell you the number of times I've tried to reconstruct my day two weeks later in a desperate attempt to create late time sheets.

There are two inevitable results of this. First, it will be fiction. There's no way you can accurately state your time for yesterday, much less a week or two ago. Second, you will only end up cheating yourself. Every time I lagged behind on time sheets and tried to reconstruct them later, I always shortchanged myself. Just keep your time contemporaneously during the day.

- *Learn from mistakes.* You are going to screw up. All lawyers have. You are going to drop a ball, miss a deadline, ask one too many questions, forget an objection, whatever. These are neither trivial nor the end of the world. These are times for self-reflection. Sure, you should resolve not to make the mistake again, but there's more you can and should do. Figure out why you made the mistake. What was the root cause of the problem? Are you too busy? Are you distracted? Do you need better organizational skills in general? Mistakes are the time to reflect on underlying causes of error.

- *Communicate with the client.* This is perhaps the easiest problem to avoid, yet you would not believe how many lawyers get in hot water by failing to return telephone calls. I sat on a grievance committee for four years, and easily half of the complaints could have been avoided by timely communication. Send the client periodic updates on the status of the case. Copy the client on all pleadings and correspondence. What's the harm? The client will appreciate those efforts.

- *Take the long view.* You're going to be in this game for the long haul. There's no shortcut that's worth it — never. If you have a bad document, produce it. If your client is lying to make his case, fire him. Compromising your conscience just is not worth it. There will be other cases. It's a cliché, but it's true: A legal career is a marathon, not a race.

- *Keep a diary.* How I wish I had kept a diary. You will encounter a lifetime of war stories. You won't remember them, I promise. Write them down.

- *Finally, have fun.* Being a lawyer really is the best job imaginable — unless, of course, it's being a trial judge.

*Randy Wilson is judge of the 157th District Court in Harris County. His son Daniel is an associate with Johnson Deluca Kennedy & Kurisky in Houston. His daughter Katie is a third-year law student at Southern Methodist University Dedman School of Law.*