

## In defense of the practice of law

Recently, a distinguished bar leader posited that the genesis of the negative public attitude toward lawyers was the result of an emphasis on money. I disagree. Lawyers as a group are no more mercenary than any other identifiable professional group. We are no more to blame for the actions of some than the membership generally of any other profession. The public's belief is due in significant part to the fact that it is culturally *de rigueur* to denigrate lawyers. That criticism foments further criticism, in the nature of a self-fulfilling prophecy. In other words, it is more a matter of perception than fact. Irrespective of our actions, our pro bono efforts and our frequent and tireless representation of those in need, the lambasting continues unabated. Lawyers, unfortunately, rarely defend themselves or their profession. Many fall into the trap of blaming themselves. We should stop sheepishly accepting blame that we do not deserve. It is time that we confront such attacks both individually and as a professional body.

Lawyers should refuse to listen to deprecating jokes and lawyer-bashing diatribes. When they occur, we should respond. Would we listen to insulting epithets being hurled at a minority group? I think not. Then why should we accept disparaging remarks about ourselves? People should be reminded that lawyers as a group provide more free assistance to the needy and volunteer their time to charities and benevolent causes more than any other identifiable professional group. People should be reminded also that the Declaration of Independence was conceived of by lawyers and written by a lawyer, namely Thomas Jefferson, and that there were more signers of the Declaration of Independence who were lawyers than those who were members of any other business or profession. Lawyers also wrote our nation's Constitution, and just as important, passage

of the U.S. Constitution was promoted by lawyers (notably by the triumvirate of John Jay, Alexander Hamilton and James Madison, whose written arguments were ultimately compiled as *The Federalist*). Further, the majority of the presidents of the United States have been lawyers – with the two most notable, perhaps, who served during a time of serious conflict, being Abraham Lincoln and Franklin D. Roosevelt. Although I cannot identify the source, it was once said and should

be remembered that “when physicians were still bleeding their patients and treating them with leeches, lawyers were writing the Constitution of the United States of America.”

Those of us who have been in the trenches for many years (I will soon be completing my 39th year in the practice of law) know that it is the nature of law and its practice that gives rise to criticism. People use lawyers and the legal system as a way of achieving a political end or maintaining a particular hegemony, which is one reason why we hear so much about our “litigious society.” In fact, there is less tort litigation today than there was 150 years ago. Many who denigrate trial lawyers never hesitate to rush to the courthouse when it suits their own personal or political purposes. In fact, today we live in a medicated and medicalized society, rather than a litigious or legalistic one, with almost 20 percent of our GDP committed to health care, while only between 1-2 percent of GDP is the result of legal and liability costs. Every knowledgeable attorney knows that there are many more legitimate cases that are never brought than there are frivolous cases that are actually filed, and they also know that large settlements are rarely in fact as significant as the reports suggest, and they do not stem from unmeritorious claims. Because I work with the elderly and the disabled, I am very cognizant that there are multitudes of people who are injured by medical malpractice, many of whom die, for whom claims are never brought because they have no one to pursue the claim or because the process is so expensive and difficult. Please know that I am a staunch conservative and not a trial lawyer, but I have been in the practice long enough to know the truth. It is time that we as a profession stand up and speak that truth.

I am fatigued by the hoary comments that denigrate our profession. We should confront the calumnies and the canards, and remind people that our freedoms are based on the Rule of Law and that the only barrier between them and a malevolent government or rapacious business interest is the courts. Those who denigrate lawyers do so in part to undermine our system, and we must fight against it. Repining is fruitless; instead we should respond to dishonest attacks against our profession and our legal system with verve. The attenuated arguments of those who have an axe to grind should be answered – our populace needs to be educated about history and truth. ⚔



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