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The Image of the Legal Profession and the Weather

What in the world does the image of the legal profession have to do with the weather? Very little except when it comes to complaints. Like those who complain about the weather and the fact that no one can do a thing about it, I often hear lawyers complain about the image of the profession and that no one is doing anything about it. For many years, the Alabama State Bar has done much to publicize the many positive things that the legal profession does—including pro bono work, “Wills for Heroes,” the Advance Directive for Health Care and many other worthy examples. Through our 12-year partnership with the Alabama Broadcasters’ Association, we have received nearly \$10,000,000 in TV and radio time statewide to let Alabamians know of the tremendous public service which the legal profession renders. Yet, with all lawyers do in the public interest, we never seem to get much traction in raising the profession’s image.

One can certainly attribute the legal profession’s low esteem to several factors, including the fact that lawyers work in an adversarial system, the complexity of the judicial system’s rules and the exceedingly slow movement of cases or matters through the system which can be very frustrating to clients and parties alike. But, I believe the fault for our profession’s image problem lies principally with us, especially when lawyers lambaste courts for rendering a decision that is not in their favor or denigrate opposing counsel. These actions are unnecessary and do nothing more than stain the image of the entire profession. Sadly, this conduct appears to be on the rise as the monetary and emotional stakes in cases increase.

EXECUTIVE DIRECTOR'S REPORT

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In April 1992, the Alabama Board of Bar Commissioners adopted the *Alabama State Bar Code of Professional Courtesy*,¹ and the *Alabama State Bar Lawyer's Creed*² to guide all lawyers in their comportment and treatment of fellow lawyers and the judiciary. The *Code* has since been incorporated into the *Alabama Pledge of Professionalism*.³ Although aspirational, the *Code* and *Creed* are both bedrock tenets of professionalism. Among the *Code's* 19 precepts are the following four which are especially noteworthy with regard to a lawyer's relationship with opposing counsel and the court:

- A lawyer should maintain a cordial and respectful relationship with opposing counsel.
- A lawyer should never intentionally embarrass another lawyer and should avoid personal criticism of another lawyer.
- When each adversarial proceeding ends, a lawyer should shake hands with the fellow lawyer who is the adversary; and the losing lawyer should refrain from engaging in any conduct with engenders disrespect for the court, the adversary or the parties.
- A lawyer should recognize that adversaries should communicate to avoid litigation and remember their obligation to be courteous to each other:

Similarly, the *Creed* stresses:

- To the opposing parties and their counsel, I offer fairness, integrity and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.
- To the courts, and other tribunals, and to those who assist them, I offer respect, candor and courtesy. I will strive to do honor to the search for justice.

To date, over 2,000 Alabama lawyers, or a little more than 12 percent of the membership, has signed the pledge of professionalism to abide by the principles enumerated in the *Code of Professional Courtesy*.

Memphis attorney and former president of the Tennessee Bar Association Bill Haltom writes a regular column for the *Tennessee Bar Journal*. In the November 2009 issue, Bill talks about Tennessee lawyer, statesman and former U.S. Senator Howard Baker being the personification of civility in both his private life and distinguished public career. In particular, Bill relates a story that Howard Baker tells about the advice he received from a man who was a great lawyer and former U.S. Congressman—Howard Baker, Sr., his father. Baker said of this father, **“He taught me that you should always go through life working on the assumption that the other guy may be right”** (emphasis added). Bill observes that this statement “captures the essence of civility.” He writes: “It doesn't mean that you don't stand up for what you believe. It doesn't mean you can't be a fierce advocate for your clients and causes. It just means you go into a conflict with a notion that your opponent may, in fact, be right, and you treat your opponent accordingly.”

This simple notion embodies the civility that both the *Code* and the *Creed* hope to instill in our dealings with other lawyers and the judiciary. If we can practice this simple advice in our treatment of our colleagues and the court, we still may not be able to do anything about the weather, but we can certainly change the climate of professionalism and improve the forecast for the legal profession's image in Alabama.



Endnotes

1. www.alabar.org/member/professional_courtesy.cfm.
2. www.alabar.org/member/creed.cfm.
3. www.alabar.org/service/Pledge.cfm.