

Lessons learned
about how to build a
rewarding career – it's
about more than just
using common sense

BY GREG MONFORTON



ETIQUETTE & REPUTATION

IN the course of preparing this article I was asked to share my thoughts gained as a result of lessons hopefully learned throughout my career on the subject of etiquette and reputation-building.

As I began collecting my thoughts on this topic, it occurred to me that this topic might somewhat supplement my previously-shared ideas in an article I prepared that appeared in OTLA's Spring 2005 Conference materials entitled "Building a Personal Injury Practice of Distinction" (that article later finding its way in an abbreviated form into the February 2008 issue of *The Litigator* and then again, further abbreviated, into the October 2008 edition of ATLA's *Trial* magazine).

But those articles dealt primarily with the identification of the building blocks necessary to create and grow a successful plaintiffs' law firm. This article, on the other hand, will focus more on the building blocks of an individual career.

Now to begin with, I don't feel particularly comfortable with the word "etiquette". The word seems to connote for me a notion of form

over substance, false grace and social climbing over sincerity and genuine goodwill.

The Oxford English Dictionary's definition of etiquette includes "the prescribed ceremonial of a court; the formalities required by usage in diplomatic intercourse"; "the order of procedure established by custom in... parliament, etc."; "the conventional rules of personal behaviour observed in polite society; the ceremonial observances prescribed by such rules."

In other words, how to be phoney-baloney.

Now perhaps you can see why I have never liked the term "etiquette"!

But when you scrape the paint off the metal of that definition, when contemplating the overall concept of etiquette, what we are really left with is the concept of conducting oneself in a way which will engender the types of responses we want and need from others, whether from our colleagues, our clients, the judiciary, or the public at large.

This ties in neatly with the notion of our reputation, and how to go about building it – because every time any of us interact with others (both in our personal and professional lives), we in effect are standing on the shoulders of our past conduct and the impressions we have made on those with whom we have dealt.

I don't think it necessary to set forth the formal definition of "reputation". We all know what "reputation" is, and what it means. And if you don't realize it yet, you will over the course of your career come to better appreciate that your reputation is everything. Without it, you are effectively dead in the water. So it is something that you need to be consistently mindful of, and consistently respectful of, throughout each and every

day of your entire career. And it is also crucial to never forget that while one's reputation takes a lifetime to (continue to) build, it can be lost in a single moment.

It's also important when considering these ideas to never forget what an incredible honour and privilege it is to do the work that we do: to be entrusted with the protection of the futures of our clients and to do so in exceedingly challenging circumstances in which virtually every card in the deck is stacked against both us and those we represent.

And so I hope to share with you some of the lessons I have learned over the past 30-plus years; some learned the hard way, and a few more earned at the feet of others more experienced and wise than me.

More specifically, I hope to share with you some of my own personal observations and conclusions. But before going there, you should be aware there already exists a good deal of official direction on these topics, encapsulated in both the Law Society of Canada's *Rules of Professional Conduct* as well as the *Principles of Civility for Advocates* published by the Advocates' Society. You were undoubtedly exposed to the *Rules of Professional Conduct* in the course of your articles as well in the course of preparing for the bar exams. Needless to say, it would not hurt any of us to give the *Rules of Professional Conduct* a thorough review from time to time. The Advocates' Society's *Principles of Civility* is also very much worth revisiting from time to time. They deal with topics as varied and as specific as "conduct which undermines cooperation among counsel", "comments made about opposing counsel", and "cooperating with opposing counsel on scheduling

matters". To my mind, it is all pretty much common-sense stuff. But then again, most of the conduct of what is considered professional and civil is pretty much based on the exercise of common sense and common courtesy.

And so, some thoughts to ponder:

1 It's not worth doing if it isn't fun

It probably took me about ten years to begin to recognize that the price we pay to be the best lawyers we can be is sometimes very high. Both conversations with others and my review of various surveys completed by young lawyers have consistently revealed the same basic frustrations through the common expression of sentiments like: "I've become less of a lawyer and more of a business person"; "I'm not able to spend enough time with my family"; "the pressures to make money detract from instincts to do what is right"; "I want to develop a higher level of expertise, but I do not have the time". Then there are the even more troubling expressed frustrations: "I cannot relax"; "I find I have more of a negative outlook on life", "I'm spending too much time practicing law and not enough time living".

You get the picture.

So I start with the patently obvious observation that you should only remain in this line of work if you genuinely enjoy it; if it provides you with a sense of both meaning and enjoyment. No matter what rules or roadmap you choose to follow, you will never be genuinely successful, substantively, financially or otherwise, if you do not have a genuine sense of passion for and enjoyment of your work. Although I would like to think that I have devoted an awful lot of hours to my career over

the past 30-plus years, in many ways I feel as if I have never worked a day in my life. And that is not because every day (or even most days) are free of serious frustrations, enormous pressure, and a whole host of circumstances totally beyond my control, but because, to put it as simply as I can, I really enjoy doing what I do.

So it doesn't really seem like work to me at all.

2 Never underestimate or try to conceal who you really are

As inexperienced lawyers, many of us in the early phase of our careers do pretty much the same type of things that we did while navigating our adolescence and trying to discover and understand our own individual identities: namely, look to role models to emulate and inspire us. And that in itself is not a bad thing. But never forget that over the fullness of your career the degree of success you achieve will be directly proportional to your discovery and ultimate projection of your own unique personality and who you truly and deeply are. Or to put it in the simplest terms possible – always be yourself; the best expression of yourself that you can be, to be sure, but always be yourself no matter what.

3 Don't kowtow to opposing counsel

Another common mistake I have witnessed time and time again is that of young counsel (often without even realizing it) adopting a somewhat submissive or overly-respectful or overly-friendly role vis-a-vis his or her more experienced and seasoned opponent. Trying too hard to be friendly or cooperative. Simply making too

much of an effort to be thought of as a “good guy”. This is a serious and very common mistake. Regardless of how long you have practiced, you are every bit as much a lawyer as is the defence counsel with whom you are dealing.

So in short – don't do it. Be cordial. But don't be servile.

Just so I'm clear: This should not be taken to mean that you should not treat opposing counsel with an appropriate degree of civility and respect. It was the famous social writer and so-called “longshoreman philosopher” Eric Hoffer who expressed this notion so well in his well-known quotation that “rudeness is the weak man's imitation of strength”.

The fact is that we've all seen this so many times before: defence counsel at discoveries or mediations whose first expression is a scowl and whose first words are negative, corrosive and just plain nasty. My initial thought when encountering this situation is always the same: it must just consume so much

WHEN CONTEMPLATING

the concept of etiquette, what we are really left with is the concept of conducting oneself in a way which will engender the types of responses we want and need from others, whether from our colleagues, our clients, the judiciary, or the public at large

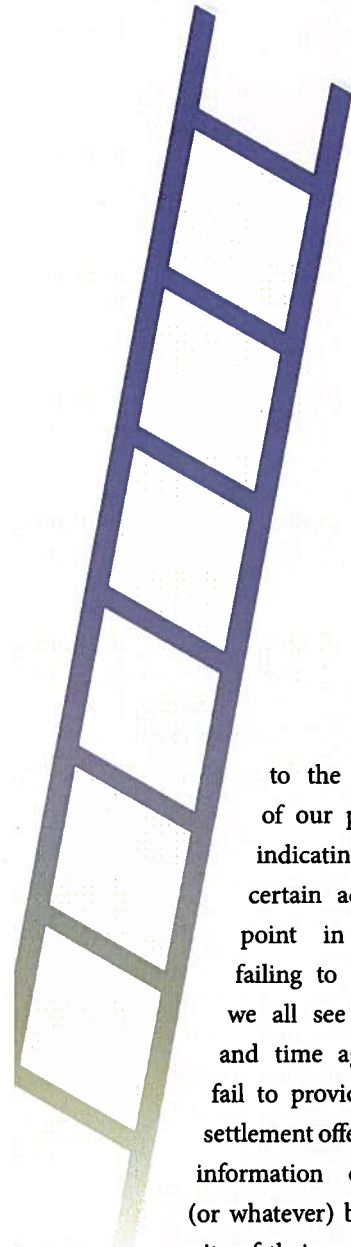
energy and be so much hard work to be so permanently and consistently negative. And why the need to be that way? Like so many things in life, what appears to work so well in the short term more often than not doesn't work out so well in the long term. And so while our client's cause is always serious, their needs great and the stakes high, don't take yourself too seriously (and in the process jeopardize your client's rights and interests by the adoption of a perpetually grim and unpleasant demeanor). Life is short. Fun is contagious. Smile. It doesn't cost a thing.

And remember the words of Eric Hoffer.

4 Eschew empty rhetoric: do what you say and say what you'll do

In a nutshell, by this I simply mean be sure never to fail to follow through. This is another terribly common mistake. And it is by no means limited





A GOOD REPUTATION is not so much built as it is earned, and anything worth earning cannot be earned overnight, but rather one day at a time

to the younger members of our profession. That is, indicating you will take a certain action by a certain point in time and then failing to do so. And again, we all see this happen time and time again: counsel who fail to provide a response to a settlement offer, or to a request for information or documentation (or whatever) by a certain date in spite of their prior commitment to do so. In fact, this mistake manifests itself in a virtually limitless number of circumstances – not bringing a motion by a certain date, not advising of a position by a certain date, or not doing any number of other things that you gave your commitment to do.

Falling into this trap sends out a whole host of negative impressions: that you are disorganized and/or dishonest and/or in over your head and/or simply unreliable. So be absolutely sure to organize yourself, your calendar and your practice so as to ensure that both you and opposing counsel hold firm to your internally-imposed deadlines as

well as to commitments extracted from others. This one is truly a “no brainer” that falls squarely into the “much easier said than done” category. But the magnitude of its positive impact upon your reputation by consistently doing so is almost impossible to overstate.

5 Always do more and do it faster

The comedian Steve Martin perhaps put it best when he said something to the effect of “Be so good that they can’t ignore you”.

This observation is directed somewhat more to young counsel who are more likely than not in the employ of a firm. It begins with the painfully obvious principle that you should always do your very best. And that extends not only to the best substantive work of which you are capable, but also to sweating the details so as to ensure your work product is devoid of spelling, grammatical or word processing/formatting errors, misplaced tabs and/or attachments or whatever. It is your principal’s job to improve your work

product by the application of his or her presumably higher level of skill, knowledge and experience; it is not your principal’s job to serve as your proofreader or *de facto* administrative assistant.

But it is not enough to do just what you are asked, no matter how well you may have done it. If you really want to make your mark, always strive to do a little more than you were asked to do and to complete the task assigned a little more quickly than you were asked to.

Of course, this is obviously not always possible. There are only so many hours in the day, and the combination of your already-existing workload and the unforeseen disruptions that are a constant companion to every good lawyer’s work day (regardless of his or her level of experience) will often render doing so impossible. But at the very least you should always start from the proposition that you will try to do so whenever possible. And always remember that getting done what you were instructed to do in time and well is always far better than doing it poorly and handing it in late. And doing it *superbly* and completing it earlier than required is even better!

All of this being said, also always be scrupulously honest with your principal about your ability to complete each new task assigned to you. In other words, don’t be afraid to tell your boss when you know in advance you will not be able to complete the assignment in question within the timeframe assigned. And the same goes if you come to this realization subsequent to the assignment of a task that cannot be completed on time. When this happens, always give your principal as much advance notice of your dilemma as possible and always propose an alternative deadline by

which you will be able to complete the task. And if you have a boss who is consistently unwilling to occasionally cut you a little slack, you may want to start looking for a new boss.

Develop a sub-specialty/become indispensable

Being accepted into law school is an impressive accomplishment. Successfully completing law school is even more so. Getting called to the Bar is better yet. But not so many years ago one's ability to advance in our profession seemed, at least to my then-young eyes, to come from simply showing up, keeping one's nose clean, and developing a certain degree of competence. No more. The world, our profession, and the legal marketplace it serves have all become hypercompetitive. To succeed, you need to establish the kind of reputation that can only flow from becoming (and remaining) genuinely indispensable, both to your colleagues and to your clients. On this front I strongly recommend an excellent book entitled *Linchpin - Are You Indispensable?* written by social thinker Seth Godin. In his book, Godin argues that it is open to each and every one of us to choose to become indispensable; to develop a body of knowledge or skill that few people possess. To connect with others, make things happen, and create order out of chaos. According to Godin, lynchpins love their work, pour their very best selves into it, and turn each day into a kind of "art".

So choose to learn something that others cannot be bothered to learn. It might involve a matter of either procedural or substantive law. It might involve developing a superior level of knowledge about any number of things.

The area you choose, of course, is entirely up to you. But always remember, and as Godin argues - every successful organization is built around people. Humans who do "art" (and by "art" he means anything that changes someone for the better), people who interact with others, connect, and bring true value to other people's lives.

A loss is a win - letting go of fear

Seth Godin also writes a lot about how our fear of failure stands in the way of our success. He, like well-known American trial lawyer Don Keenan, frequently speaks about our "lizard brains" - the reptilian core of our brain that Godin says is "hungry, scared and angry". The part of our brain that was there a million years ago. The part of our brain that is in charge of fight or flight, of anger, and of ensuring that we survive. Godin writes that our lizard brains are preoccupied not with success but only with survival. He argues that our lizard brain is the part of ourselves from which we hear our inner voice say things like: "See, I told you it would never work". It is the part of ourselves that abhors and fears the ridicule of others; the part of our brain that wants you to fit in and not take a chance.

In our world as plaintiffs' lawyers, this means being genuinely willing, and indeed enthusiastic, to try cases. Not cases that you are not appropriately skilled or sufficiently experienced to try, but cases that are potentially winnable. Well-known American trial lawyer Rick Friedman, in his excellent book, *On Becoming a Trial Lawyer*, states it well when he notes that while a certain level of intelligence is required, and a bit of charm and charisma are occasionally

helpful, the essential quality of the trial lawyer is an odd kind of courage: the willingness to work hard and fail, the willingness to look foolish, the willingness to expose yourself and risk rejection, and finally, the willingness to look deep into your own soul.

And never forget that through OTLA you have access to literally hundreds of exceptional and experienced trial lawyers willing to co-counsel a trial with you. This is a truly invaluable resource that you should never fail to take advantage of.

All in all, an excellent trial lawyer (and OTLA Past President) Paul Harte perhaps put it best when he once said that if you are not losing the occasional trial, you are not trying enough cases. (Easy for Paul to say - he never seems to lose!)

Fight hard but fair

By this I mean being prepared to make concessions when doing so will not adversely affect the interests of your client. You should do this for two reasons. Firstly, it is simply the right thing to do. Secondly, at some point in time you will find the shoe to be on the other foot, and with just a bit of luck, you'll be in a position to call in a favour that you might otherwise not have been able to collect.

On the other hand, never forget that the fundamental purpose of each and every client's case you handle is to achieve victory for them. You owe each and every member of the legal system your honesty, your integrity, and a reasonable degree of flexibility and cooperation. But you owe your clients something more: unremitting tenacity. Unwavering loyalty. And the strongest

fight you are capable of waging. Never, and I truly mean *never*, forget that.



Never tell a lie

In this age of so-called political correctness, the verb to “lie” seems rarely used; often substituted instead with more amorphous, euphemistic and less politically-charged terms like “equivocate”, “fabricate”, “falsehood”, “fiction”, “misconception”, “misrepresentation”, “perjure”, “prevaricate”, etc. But we all know what a lie is. This simple principle, one that was hopefully drummed into you during your tender years, applies to everyone with whom you come into contact. Your colleagues. Your principals. Your opponents. The public at large. And, (as if it needs mentioning), *especially* your clients and *even more especially* the judiciary.



Remember that you are always “on”

By this I simply mean always be mindful that the moment you step outside your door you are continually being watched. This reality is of course further compounded by the unavoidable presence of so-called smart phones, which render you never truly out of the range of a camera or recorder. And let’s not forget to add instant messaging, blogging, posting and tweeting to the mix. The net result is that your image, and by extension your reputation, is always under the proverbial microscope, and can, in an instant, be depicted online and relegated to the permanence of cyberspace.

11 Learn to work with the media (social and otherwise)

It is beyond the scope of this article to offer detailed advice about dealing with the media. But the media’s importance cannot be overestimated, and you owe it to yourself to become conversant with their means and ways.

Also, many law firms are now taking advantage of the far-reaching exposure that websites can provide them. Build and enhance your professional profile online. Injured persons who are searching for someone to help them will appreciate the convenience of learning

about you and your firm before they even meet you face-to-face. When you have a professional online presence, you allow not only potential clients to know what you do and what you have done, but you connect with your colleagues, too. A referral or networking opportunity is closer than ever before.

12 Give back to the community

This is another no-brainer. As I said before, being allowed to practice law is an incredible privilege. If pursued with passion, conviction and integrity, the



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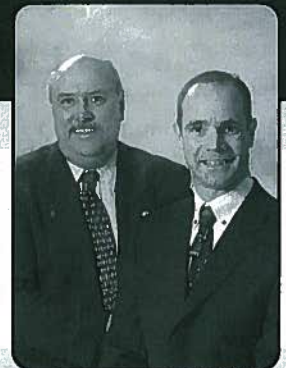
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practice of law will take you to places, and enable you to meet and come to know people you can't even begin to imagine. So give something back. And do it for the right reason. Because the cause in question is one you believe in. It doesn't have to be something glamorous or prestigious. And it need not necessarily involve the donation of large sums of money. After all, everyone has some unique skill and talent, and there will always be a child who needs a mentor, an elderly woman in a nursing home who would like to have someone listen to her stories, or a shut-in who would enjoy being read to. And regardless of how long you have been practicing law, don't put it off. There are unlimited opportunities to volunteer within your own community. So whenever you are feeling a little low, and those times will come in life, take yourself out and do something nice for someone else. You'll be doing something for yourself as well. And not only will you learn things about yourself, but you'll uncover qualities you never knew you had.

13 Publish,
publish,
publish!

There are few more effective ways of becoming known in your community, to those you serve, and to the profession at large, than by writing articles dealing with matters of interest to your intended audience. This might mean an article in your local newspaper or a local community magazine. It might mean something you wish published by your local law school. And better yet, it might be an article for one of OTLA's numerous excellent publications. Doing so will not only force you to better educate yourself regarding the topic with which you are dealing, but will

also help get you into the habit of doing so on a regular basis. And once again, you will be doing yourself a favour as well as those who enjoy what you have written.

14 Get a life

Our job requires us to deal with human beings. As such, the better we understand how our fellow members of the human family tick, the more effective we will be. And the best way to understand how the human family ticks is to actually spend time with its members. Believe it or not, the vast majority of our neighbours do not hold law degrees or spend any time seriously contemplating the burning legal issues of our age. But they do spend their time *living*. And you should too. It will enable you to better relate to your clients' lives, experiences, hopes, dreams and frustrations. And it will better enable you to communicate and establish genuine contact with everyone you meet, including judges and juries.

Also, you should always carve out as much time as possible to spend with those you love. Because what you lose at the front end cannot be reclaimed later on. If what I am about to state sounds patently obvious, it is simply because it is absolutely true: life is ridiculously short (and as we come to realize from our work, often tragically fragile). And the older one gets the faster it flies by, because Father Time is the meanest man in town. So spend time with your spouse, your partner, your children and everyone else who brings joy to your life. Remember you were one of "them" before you became a lawyer. It will make you a better lawyer. But far more importantly, it will make you a better and happier person.

15 Become involved in OTLA

The fact that you are reading this article means that you are most likely already a member of OTLA. Congratulations! That in and of itself is a terrific thing! But you should not restrict your involvement merely to your membership and to attending OTLA's absolutely excellent continuing legal education programmes. You can, and *should*, do more! OTLA's important work is completed not only by its excellent staff and dedicated Board of Directors, but also by those who occupy its numerous committees and work to fulfill its fundamental mission "to fearlessly champion, through the pursuit of the highest standards of advocacy, the cause of those who have suffered injury or injustice". Make no mistake: OTLA needs you, and you need OTLA! Devoting a measure of your talent and time to OTLA will not only make you a better lawyer and increase your self-confidence, but will

also enable you to make connections with literally hundreds and hundreds of the finest advocates (and finest people) you will ever meet. People with whom you share a common cause. People who are, stated plainly, enjoyable and stimulating company. And in so doing you will also form friendships which will last a lifetime.

16 Be simultaneously impatient and patient

We've all heard the old expression that the best time to plant a tree was 20 years ago and that the next best time to plant a tree is today. Truer words have never been spoken. So get going – but recognize that it will take a bit of time. A good reputation is not so much built as it is earned, and anything worth earning cannot be earned overnight, but rather one day at a time.

And so, in the final analysis, one earns and achieves an admirable reputation not by setting out to build a reputation

per se, but by choosing to do the things that cannot help but enhance and grow one's reputation.

We may not all be capable of climbing the mountains that have been scaled by some of the giants of OTLA, but we are all capable of bringing the best of ourselves to the execution of our professional responsibilities and the achievement of our clients' goals. Everyone reading this article has some form of genius unique to themselves. Discover it, nourish it, enjoy it. And use it. And you will be amazed by how much you will accomplish, and by how well you are thought of by your colleagues, your clients, the judiciary and everyone you touch.



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