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Lawyers must remain civil, courteous

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Jeffrey J. Kroll is the principal at the Law Offices of Jeffrey J. Kroll in Chicago. He founded his firm with 17 years' experience representing victims and their families, and he has achieved settlements and verdicts in a wide range of cases, from trucking accidents to medical malpractice to sports safety cases.

My son Jack is a bright, 10-year-old boy, but his mouth seems to get him grounded more often than not. I can relate and realize that the apple does not fall far from the tree.

In today's high-tech world, his punishments usually involve the temporary suspension of Xbox 360 or his DS. To listen to him gripe about it would lead one to believe we cut off a central lifeline. I cannot imagine what he would think if we sent him to his room for a dose of solitary confinement.

One of the lessons that my wife and I are trying to teach young Jack is that he can disagree without being disagreeable. In other words, if he disagrees with a certain parental decision, he does not have to respond acrimoniously. The message only sinks in periodically.

I grew up on Chicago's South Side. My dad was a truck driver; my mom a bank teller. Practicing law was a pipe dream for kids like me. Requiring the services of a criminal lawyer, now that was a different story. Truthfully, the thought of becoming a personal-injury attorney and helping others was not on my radar.

I recently reconnected with a childhood friend on Facebook. During a subsequent telephone conversation, with 27 years behind us, hearing "you haven't changed at bit" was refreshing. Yes, my circumstances have changed, but deep down inside my nature has not. Part of my nature is to try to remain calm and approachable, even in stressful situations. In this vocation, it can be difficult at times.

Sadly, this temperament is not shared by all my colleagues. (Believe me, I am not contending to be perfect; I just try to be cordial and civil.) The preamble to the Illinois Rules of Professional Conduct notes that a lawyer has an "obligation zealously to protect and pursue a

client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system." Ill. Sup. Ct. R. Prof'l Conduct, Preamble [9]. Having practiced law throughout Illinois, and in other states, I know that some struggle to live up to this obligation.

We have all heard the horror stories of lawyers acting uncivilly and rudely. Inappropriate personal attacks in a written motion, loud and obnoxious behavior in the courtroom, nasty letters, outrageous phone calls, even blatant disrespect of judges. The anecdotes are endless and eye-popping.

While I obviously do not condone such absurd behavior, I am more concerned about the sad state of lawyers' interactions with each other on a daily basis. Due to current economic woes, civility among lawyers seems to be devolving at a dangerously rapid pace.

I remember one particular episode in my younger days when, knowing that I could not timely file a brief, I picked up the phone and politely asked my opponent for an extra week to file. My opponent graciously extended me the courtesy. To my dismay, the very next day, he filed an emergency motion. Upon confronting him on his two-faced tactic, he decried, "It wasn't me; my client made me do it." I learned a lot from that experience. (First and foremost, document everything in a letter with certain attorneys.)

After practicing law for about two decades, I have met a lot of attorneys and worked with many firms in Chicago and around the country. My internal catalog of ungracious acts by attorneys as well as stories of out and out spite perpetrated on others is sadly larger than it should be.

Now, just by gazing at the return address on an envelope containing a new opponent's appearance in a case, I have a good idea what tone the case will take. Sometimes just the firm's name will lend a clue: I'm going to have an opponent that I can cordially work with or I'm going to send a lot of "cover my butt" letters on this one.

Like an individual attorney, a firm's reputation precedes itself and not always in a good way. A firm with a "scorched earth" policy may win cases, but the lawyers there do not make many friends or allies. It is a round world and we all need favors from time to time.

I do not hold in high esteem excuses such as "I was just zealously representing my client" or "my client made me do it." It's fine — it's great in fact — to be a tough opponent, but not to be duplicitous. Acting professionally and civilly do not equate to being a pushover, just as being a successful advocate and acting kindly are not mutually exclusive qualities. Zealousness is not a synonym for bullying.

Illinois' Rules of Professional Conduct provide one possible answer why attorneys may act so badly at times: "Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living." Ill. Sup. Ct. R. Prof'l Conduct, Preamble [9]. Many lawyers today work under the edict that time is money. In my opinion,

these stray arrows have most likely failed to attentively read the Rules of Professional Conduct and deny that their behavior presents an ethical problem that upsets and provokes others.

There are all kinds of lawyers in this world, some nicer than others. There will always be divisive jerks out to vex you, wear you down. (You thought you escaped the playground!) Pause before retaliating. That lawyer may win the battle, but eventually he will lose the war. The practice of law, especially litigation, is not for the thin-skinned. It can be, and often is, a battle. But, it's not a battle to the death, folks. Life and the practice of law is short. Enjoy it.

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