



Federal Judges Association Newsletter November 30, 2005

Sage Advice

by Judge William J. Bauer, 7th Cir.



If "old" and "sage" were interchangeable, I would qualify as "sage." Pity they don't always add up to the same thing. Nevertheless, I shall shed my facade of modesty and plow ahead.

Before I climbed on the appellate bench 30 years and more ago, I had spent about 15 years as a trial-lawyer, state and federal, and nine years as a trial judge - also state and federal. Some time early on, I concluded that patience and a willingness to listen were the hallmarks of a good judge. "Reminding" the judge of the applicable law ("Your Honor, may I refresh your recollection....") was the job of the lawyer. But the pressures of large caseloads, the duties of running the courtroom day-to-day and all the other juggling of priorities that goes into the judicial business sometimes causes us to lose patience, to be less than kind. To expect more from lawyers, witnesses, jurors, court personnel and even the media than they can individually or collectively deliver.

Now comes the time to step back; when we are inclined to snarl or pontificate, we must pause and remember that we are not helping the cause of justice. When we lash out, it is against people who cannot lash back; it isn't a fair fight. And judges, by definition, are supposed to be fair.

The experience of being a judge or being a lawyer can be pleasant or unpleasant. When we treat each other and those with whom we have professional contact with civility, patience and even kindness, the job becomes both more pleasant and easier.

We are, in this country, more and more concerned (rightfully so!) about the increasing lack of civility in all areas of life. In a system that is designed to deliver the maximum of justice, incivility is both counterproductive and degrading. I sincerely believe that nearly all people respond to decent treatment in kind, and I also believe the judge is the role model in providing a civil atmosphere for the often frustrating business of doing justice. If we, as judges, give respect and civility to our brothers and sisters of the bar and bench, and to the seekers of justice and finders of fact, we will be given back the respect and civility that this profession and the exalted place we hold it richly deserve.

Kindness and civility beget kindness and civility. It is the true example of the trickle-down effect; if the judge sets the tone, it will be followed. Impatience and incivility also trickle down. If it starts on high, it sours the entire case of the court drama.

So, as an old and sage-lawyer/judge, I urge judges - and lawyers - to be kind, be patient and enjoy this wonderful profession.

(Cuts down on the stress, too!)

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