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PERSPECTIVE

## Some lawyering ‘rules’ were meant to be broken, part 1

By Arash Homampour

What happens when lawyers break the unspoken rules of how lawyers are supposed to be lawyers? I’ve spent a good part of my almost three-decade legal career bending or breaking many of these unwritten rules, and I ascribe much of my professional success to the fact that I have been able to do so.

Let’s be clear: The law is a noble profession, and the rules that govern its practice are extremely important. They ensure that the public trust is maintained and that justice is done according to the highest standards of fairness and integrity. But there is another set of “rules” that has nothing to do with protecting the public. These rules — which I’ll call “norms” — often have more to do with lawyers’ egos and self-image than with what is best for their clients and society at large.

The list of rules that can — and should — be broken is long. This column looks at three of those norms.

### Dress

What you wear is a form of communication. We evaluate others, and are evaluated by them, on the basis of appearance. What we wear can influence — positively or negatively — who we are and how we are seen. Early in my career, I observed that many attorneys dressed modestly (or in the same stained corduroy suit each day) so that jurors would believe their clients were poor. Other attorneys wore suits and ties that didn’t fit or were devoid of personality or inspiration. Some even wore clothes that made them look like caricatures of snobby lawyers.

A lifelong lover of stylish clothes, I recognized early on the power of dressing well, and I made a conscious decision to buck the prevailing norms. Appearing in court calls for a certain level of decorum, but it doesn’t require mindless conformity. When attorneys dress for a part, jurors can read right through it. The new norm calls for us to be true to ourselves while also dressing appropriately for the occasion. That could mean wearing shorts and sandals when meeting with a surfer client or a nicely fitted suit with a stylish haircut in the courtroom.

When we dress authentically, we become relatable. In the courtroom I always dress well — true to who I am — but nothing that signals to the jury that I am flashy or fancy. Keep it simple. Avoid gaudy jewelry or watches. The last thing you want to do is distract from what you are saying or set yourself on a higher rung than your audience.

### Demeanor

The “old school” norm for lawyer behavior called for attorneys to be aggressive, show dominance in every interaction, and never to concede ground.

Whether we like it or not, our clients can be intimidated by us. If we want our clients to be vulnerable, to share with us their innermost thoughts and emotions, we must be open and available, not stuffy and unapproachable. Imagine what it must be like for clients who can’t relate to their lawyers. Clients’ stories are essential to our cases, but if we can’t access those stories, we can’t do our jobs. With my clients, I will always be approachable and human, allowing my emotions to show.

Operating by “new school” norms in the courtroom, I choose

my battles carefully, keeping my eye on the end game. One negative ruling during the course of a trial will not make or break my case, and there is no benefit to acting tough, trying to show others who’s boss. I will be most successful when I get my personality out of the way and allow jurors to focus on the facts.

Instead of playing hardball with opposing counsel as is the “old school” norm, I agree to reasonable requests unless granting the request would actually hurt my client. Life is too short to generate conflict over things that don’t really matter or that are counterproductive. Similarly, I will not ask for monetary sanctions unless the other side has persistently engaged in obnoxious behavior and then will seek monetary, issue or terminating sanctions. I always help opposing counsel with exhibits or courtroom technology, because I have learned that playing nice with others translates into referrals and continued positive interactions with my peers.

### Communications

In today’s world of instant news and nonstop communication, what we need is clarity and concision. Big words may boost lawyers’ egos, but they don’t do a thing for clients or jurors — the people we serve and work for.

Just as the California Judicial Council moved to simplify jury instructions, lawyers must move away from “old school” communication norms. Briefs that are concise and compelling will stand out from the lengthy tomes that continue to be the standard. The “new school” norm is respectful of people’s time and attention spans. Less is more.

There is also no place in our practice or profession for aggressive communications, an “old

school” practice that, sadly, is still prevalent. These “paper tigers” can threaten sanctions, insult, attack and even attempt to intimidate. Ultimately, what such emails and letters demonstrate is a misunderstanding of what works and a glimpse into the attorney’s own personal angst. The attorneys at my firm know that I will not tolerate nasty or snarky communications: they are counterproductive, ineffectual, and reflect negatively on both the firm and the writer. Don’t be that guy.

### Conclusion

It’s time to take an honest look at the world of lawyering and make smart choices about how we present ourselves to the world. Many of the “rules” by which we’ve allowed ourselves to be governed no longer serve their purpose. The most successful lawyers will be those who make their own “rules” and remain true to themselves. ■

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