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Professionalism Lost: Where have you gone Atticus Finch? Our Nation turns its lonely eyes to you...

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The role of the Bar Association's requirement of "Professionalism" is a reminder that we are, as a group, only what the public perceives us to be. Whether that be as knights in shining armor, or as handlebar mustachioed Snidely Whiplashes, the public forms opinions about attorneys as it follows headlines, media broadcasts, or merely experiences personal anecdotal situations.

While previously serving as an Assistant District Attorney for East Baton Rouge Parish, I always thought our job was three-fold: (1) seek justice and zealously perform the duties of the office; (2) work to preserve the rights of victims whenever possible; and (3) support the integrity of the administration of justice in the eyes of the public. The concerns of professionalism are only heightened in the criminal arena as the media spotlight is always focused on these cases. Prosecutors and defense attorneys both have increased anxieties when liberty or life itself is placed in jeopardy before the court.

For the past decade, the entire legal system, and in particular the criminal justice system, has been in missile lock by the public who are angered and feel themselves disenchanted. They believe that their concerns have fallen upon deaf ears, and have militantly reacted to form victims' rights organizations, sought tort reform legislation, and supported laws for mandatory sentencing guidelines. Why has the public turned with disdain upon the bench and the bar, and how can we stem this tide of indignation? I do not think anyone has the magic answer, or can mesmerize the public like the Pied Piper and deliver their favor unto us. I have always been a litigator, and being in the trenches, I too have failed, at times, in the goal of being "professional." Do these obstacles, personal and institutional, present insurmountable challenges to our goal of supporting the integrity of the administration of justice? Absolutely not. But to ignore the reality of our own human failings is to set unrealistic and unobtainable standards, to which only ivory tower dwellers may ascribe.

We begin this journey to preserve our profession by reviewing the record the public has built on lawyers and the courts, and how that public perception has been ingrained to the level of myth or archetype. No, this isn't ancient Greece, but every day you, me and John Q. Public understand the reality of each day through the use of myths. Yes, myths. Those commonly held notions that help us to explain everyday phenomenon and our personal or national character. Although at times purely fictional, these myths help bind us together as a people and serve to support the institutions of our society. Today's society is fed these modern myths from tales on the silver screen and vignettes off the boob tube. The audience viewing these stories likes a happy ending, and wants to believe in the inherent power of right which will overcome all the powers of the dark side. Like it or not, the public has instilled in it many positive myths about lawyers that the Fourth Estate, the press, never tires of trying to debunk. Remember, it's not a story when dog bites man, but if man bites dog, well, "Roll 'em, Fred!"

A lot of people grew up reading To Kill A Mockingbird, and learned from it that race is something that lawyers overcome in representing

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clients. Instead, lawyers today feed the press buckets of chum which they consume like frenzied sharks when we exploit the race card or pander to interest groups in our society. People see movies about lawyers like "A Civil Action," or portrayals of lawyers with weak character like Paul Newman's role in "The Verdict," who choose to do the right thing in helping their client rather than take a quick and easy payoff. Then, they read about lawyers who handle toxic torts or product liability cases who agree to confidential settlements with defendants which preclude dissemination to the public of the harm caused by either that product or chemical release.

Clarence Darrow, probably the most famous criminal defense lawyer of the twentieth century, when asked why he agreed to represent such despicable characters, replied, "It's not the innocent man who needs my help, but the one who is most guilty." One need only read the papers or call the local indigent defense office to recognize the reality we allow to perpetuate, one of "fiscal indifference." It doesn't pay, so lawyers don't play. Unfortunately, for the criminal defendant, the contest is always joined. He can't wait for the fall harvest of the money trees to entice a lawyer. It is the person in need that our profession is to serve. The public expects this service of knight errantry. But why should we morally aid people who are accused of violent or disgusting crimes, who in most cases (don't tell anyone) actually did commit the charged offenses? The answer lies not in any oath we took or creed to which we ascribed. No, it goes deeper, and rests upon our basic notions of humanity and mercy.

Mercy is when forgiveness or care is given to another without regard to merit. As a Christian, I ask the Lord to have mercy on me. Should we extend less to those lost or black sheep to whom we have the ability to shepherd? Is this dictum supposed to be easy? Obviously not. Are we supposed to drop our practices that we have built up to join the Franciscan Order of Attorneys? No, but we should aspire to use our talents to reach out for others and not resist that call. President John F. Kennedy, on September 12, 1962, gave a speech at Rice University in Houston for the groundbreaking of what was to become the Johnson Space Center. In it, he responded to those groups questioning his funding and support for the space program. He said, "But why, some say, the moon, why choose this as our goal? And they may well ask, why climb the highest mountain. Why 35 years ago fly the Atlantic? Why does Rice play Texas? We choose to go to the moon. We choose to go to the moon in this decade. And do the other things, not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is the one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win."2

His words prove to be prophetic for a generation. We all remember our parents or grandparents who used to routinely complain, "they can put a man on the moon, but they can't cure the common cold." This achievement of man after innumerable roadblocks served as a measuring stick for this entire country for thirty years. We don't use that expression much anymore, but the principle remains. We judge ourselves not by that which is easy for us to achieve, but by that which is hard. Think about it. LSU beats Florida, 17-13, ranked number one for the first time in ten years, and you're helping your son onto the field at Tiger Stadium. But if LSU beats Appalachian State 66-0, and anyone goes on the field, everyone cheers as the campus cops violently tackle the fool.

The practice of law in Baton Rouge is one of "big town" and not "small city." The legal community knows much about the workings of the other active lawyers in this town. The Baton Rouge Bar Association years ago published its own local Creed of Professionalism. The formulation of such creeds or oaths is a positive measure, but must be brought to life through deeds and actions of individual attorneys. In our small town you can push forward our profession through volunteerism, community involvement and accepting pro bono work in areas of practice in which you excel. Shame on the scholar who says zealous representation and professionalism are mutually exclusive ideas. Open communication with clients and opposing counsel concerning objectives, positions, and discovery matters can and should be proffered with civility and fair play. This never means surrendering your client's position. Instead, it should serve to remind us all that civility is not a sign of weakness, but sincerity always subject to proof.3 The public will never cease in its questioning of our motives, nor should it in a free society. But with every day's new inquiry lies another dawn's opportunity.

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1The arch-enemy of the cartoon Canadian Mountie, Dudley Do-Right.

Editor's Note: This article is the opinion of Beau Brock and does not reflect any official position taken by the U.S. Government and the E.P.A.

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