



## MY OPINION

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# Forging Mutual Respect and Integrity

I remember when Chief Justice William Rehnquist had the gold stripes sewn on the sleeves of his robe. Thankfully, this did not signal a trend for individualized judicial attire. If Texas judges, though, decided to decorate their robes, they might well choose to go ahead and put a bull's-eye on the back of each of their robes. Judges are often targets for unjust criticism — and they can't fight back.

I was visiting with a guru on judicial ethics who explained to me that there is not a single judicial canon that instructs judges on when they can and cannot respond; rather, the canons taken as a whole constrain judges from answering personal attacks that are made against them.

There are times during cases, throughout administrative actions, and during elections when judges are criticized unjustly. We also have to realize that some criticism is warranted. As a Bar, we have the responsibility to educate the public about the judicial process, what the law is, what judges can and cannot do — and why a judge might not explain what is happening throughout the judicial process.

Perhaps the most insidious attack that I have witnessed upon a judge occurred in a criminal case in which the defendant's lawyer filed a motion to recuse the judge, alleging ethical violations on the part of the judge. Apparently, members of the local media were alerted to the filing of the motion. The defendant's lawyer also filed a complaint with the State Commission on Judicial Conduct.

When all was said and done, the judge assigned to hear the motion to recuse found there was no basis in law or in fact

for the trial judge to be recused. The State Commission on Judicial Conduct advised the judge that the complaint against him had been dismissed. The letter was marked "Personal and Confidential" and, therefore, could not be released to the media. Sometimes that confidentiality is the best thing. Other times, it would be great if somebody could correct the record.

In this case, the judge's honor and integrity were questioned in a pleading to which the media had access. These allegations were repeated by the defendant's lawyer in open court. This was reported in the media. But when it was all over, the judge could say nothing to clear his name. Was this fair to the judge? No, and the judge experienced significant frustration.

Long before I became president, the State Bar had put in place judicial criticism response panels, educational efforts to help citizens understand how our judicial system works from the time a suit is filed or person is arrested through the appeals process. We speak for judges when they are not allowed to speak about a case that has been in their courts. Our profession does a lot to stand up for the process, for our judiciary, and for each other when a crisis is at hand or when one of us is unnecessarily under attack. Unfortunately, we sometimes fail to live up to those same ideals in our daily lives and practices. When we get a bad result in the courthouse, there is a temptation to criticize the judge.

I have been writing and speaking about how we are all in the profession together. Sometimes, we forget that our

judges are also part of our legal profession. Unless we accept that reality and treat them as our brothers and sisters, we shall never achieve the *esprit de bar* that is my dream.

So where do we go? We remember the Texas Lawyer's Creed: "Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession." ❖

## MythBusters

**The Myth:** The officers and directors of the State Bar of Texas have knowledge and influence over the grievance process and particular cases that are going through the system.

**The Problem:** There is often the cry that the State Bar of Texas ought to do something about a lawyer who is accused of professional misconduct or an officer or director of the State Bar is confronted about a decision that was made by a disciplinary authority and cannot respond.

**The Truth:** The Commission for Lawyer Discipline is the client body of the Chief Disciplinary Counsel. Grievances filed against lawyers are confidential through the evidentiary process. The Commission is a committee of the State Bar of Texas but has exclusive authority over the disciplinary process. State Bar directors do have the responsibility of appointing district grievance panels but are not privy to any of the deliberations.