

“You Should Have Become a Barber”

I got a haircut this week.

It was in the middle of the week, in the middle of the day, in the middle of what had to be the 100th phone call. I needed to get out of the office, breathe some unconditioned air, read something that had nothing to do with the law, and maybe talk to somebody who wasn't asking about whether their case was near closing or whether they could get an additional 30 days to answer discovery that I knew really meant they wanted an additional 30 days to draft objections.

The barber shop I visited looked like the kind my father used to use. This definitely was not Supercuts. The fellows sitting in their chairs waiting for someone to stroll in the shop probably had never dyed anyone's hair orange, had never shaved the side of somebody's head, would refuse to spike someone's hair, and still think a crew cut commands respect. After all, if God intended people to wear longer hair, you would be born with it.

I picked up a *Sports Illustrated* and settled into a chair. I told my soon-to-be spiritual advisor, Floyd, how I hoped my hair would look when he finished cutting it. He started doing what he apparently does best—cutting hair while, at the same time, solving the world's problems. He wanted to know mine.

I told him how my day had been and how it seemed like the days were all the same. He heard about how most lawyers, particularly young lawyers, apparently were becoming unhappy or dissatisfied with the profession and that over the past several years the profession seemed to be a less pleasant way to make a living, how there had been an increase in the time required at the office and a corresponding decrease in the amount of personal or fun time. I told him that women lawyers and lawyers that are members of racial and ethnic minority groups don't feel that their status in the profession has appreciably improved in recent years. I concluded by telling him that, while the practice of law was still intellectually challenging to most lawyers and remained the number one reason most people who enter the field do so, there was at least the feeling by some that there had to be a better way to live.

“Boy, you should have become a barber,” Floyd said. “We barbers tend to stay with our occupation longer than people in any other career. In fact, according to the U.S. Department of Labor, we are number one in staying power. You lawyers are down there around number 13. You're behind dentists, engineers, doctors, electricians, and plumbers. I think it is shameful that people would rather put their fingers in someone's mouth than be a lawyer.”

I violated the first rule when you are in a barber chair—don't debate with your barber. I told Floyd to hang on a minute. I said that you can't compare being a lawyer and a barber. The careers are totally different. As I raised my voice, he clipped my sideburn just a little too short.

He said, “There's one of your problems. You're arguing even when being quiet might help. Listen,” he continued, “barbers and lawyers are both supposed to be in the people business. Both professions are made up of people with individual needs, abilities, and desires. Both professions are supposed to serve people. You shouldn't get too tied up in how the hair looks, if it just stresses you out or if the customer thinks it makes him look silly.”

Floyd said, “Everybody, and that includes barbers, wants satisfaction from what they do for a living.” He did say he hadn't yet figured out how a person gets any satisfaction out of telling someone to spit—but that was the dentists' business.

His semi-coordinated hair cutting and haranguing continued, “I've been cutting lawyers' hair for almost 20 years and most lawyers I know went into their jobs thinking they would get some satisfaction because they would be contributing to society like a Perry Mason or Atticus Finch. The desire to contribute is human nature for most folks and the legal profession looks like, and is, an easy place to do it. Part of the problem is that T.V. and the movies told all of you that, when it comes to the law, almost everything has a clear answer. The central character was always on the side of right and could bring everything to a conclusion in time for the 10 o'clock news. The only possible gray area was how a person could defend a criminal defendant they knew or thought was guilty. Of course, a lawyer could avoid that possible conflict of conscience, if you had one, conflict I mean, by just not doing criminal defense work.”

I had given up on reading the magazine. This guy was on a roll and I was becoming concerned about the amount of hair that was falling to the floor.

He continued his sermon, “many of you folks thought that by going to work in a business law firm or civil trial firm none of the conflicts or gray areas would surface. But you found out that wasn't always true. The nature of what you folks do creates gray areas in everything. As a barber, I may have to bite my tongue. After all, I can't always tell someone that cutting his hair a certain way will make him look foolish, although I do on occasion. Letting someone walk out of this barber shop looking like Don King or, what's that cartoon kid's name?, Bart Simpson, is serious business. But you

lawyers have to decide about compromising the case of someone who will be unable to care for themselves due to an injury, about defending a company that manufactures something you personally think is a danger to the public, or about what legal advice you give to someone that will allow them an advantage in a business deal that, although legal, doesn't seem fair. You folks face the question of how to represent a client zealously without compromising your principles. That's stress just waiting to happen."

I told Floyd that I didn't need any more cut off the back and that I thought he was right. But, I said, the gray areas are always going to be there and there isn't much we can do about removing those stresses. I told him that a recent ABA Young Lawyers Division survey revealed that, in the past six years, there has been an increase in the amount of work lawyers are doing and an increase in the number of lawyers who say they feel fatigued or worn out at the end of the work day. This same survey reported an increase in the number of unhappy marriages and a disturbing rise in the use of alcohol by lawyers. In fact, 13 percent of all lawyers and 20 percent of women lawyers have six or more drinks a day. The survey also indicated a correlation between requirements for billable hours and management direction. I finished by saying that at least the money was relatively good.

Floyd almost cut a chunk out of the front of my head. "You folks have got to realize that the phrase 'making a living' by definition focuses on living. 'Making a living' isn't just making money." He said, "a person trying to make a living should emphasize the quality of life.

"You lawyers should structure your lives differently. Probably without even realizing it, you have added to your stress by faxing almost everything and sending things by overnight mail. My goodness, I know you folks think no one can survive if they have to wait even a minute to see your latest brilliant retort, but all faxing something does is add a sense of urgency to things that could wait another day. Used to be that folks had at least 24 hours to get through the day's mail before you got more. Now, it comes all day long."

I remembered how I had received two or three letters that day by fax. One time, I received a fax at 8 p.m. during our law firm Christmas party. Of course, I also use it as though it is required by the Rules of Civil Procedure.

Just as I thought of the rules, Floyd jolted me by turning on the electric clippers and observing, "Another thing that has got to be making lawyers work more are the rules for working on a case." He said, "you know, I've got a friend who had a lawsuit and his lawyer worked hard and charged him a small fortune to work through the maze of civil procedure rules.

"I'm not saying she overcharged him. She charged a fair fee and she did all of the work in an efficient manner. It was just that she had to deal with so many different rules and regulations. And they kept changing on her. Do you know they even had a hearing to determine whether my friend had named an expert, let's see, how did he phrase it, 'as soon as is practical.' They named this guy as soon as they had the idea to call this kind of expert. Maybe the other side was saying that my friend's lawyer should have been more imaginative and thought of it sooner. If that isn't lawyer mumbo jumbo that just makes work I don't know what is."

I told Floyd he now had gone to meddling and was getting outside his self-proclaimed area of expertise because those rules are put out by the Texas Supreme Court. They are meant to prevent trial by ambush and assure that all sides know everything they should know about the facts surround-

ing the case. I explained in my most lawyerly tone of voice, while balancing my fear of looking like Telly Savalas, that we need openness to guarantee justice.

"I'm all for openness. I agree both sides are entitled to see everything that might help them clear up the issues," Floyd said. "My point is that my friend's lawyer had to cross every 't' and dot every 'i' or she would lose something. You talk about avoiding an ambush. There is also a threat of ambush if the other side keeps sending things hoping my friend's lawyer will slip ever so slightly and fall into a trap. It took a lot of that lawyer's time and a lot of my friend's money. Plus, it's got to be stressful just trying to be a good enough technician to satisfy all of those rules that keep changing on you."

About four of my cases ran through my mind. I was trying to remember if my client had returned the answers to the defendants' interrogatories and when the answers were due. I was getting a headache.

I asked Floyd how much longer he thought he would be cutting my hair. "That reminds me," he said. "My friend's lawyer



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worked in a firm that required every lawyer to bill a certain number of hours or they weren't going to move up with the lawyers they started with and they might not make it to what you attorneys seem to consider the top. Near as I could tell the only difference between that law firm management and the management on a construction job was that the firm's top brass didn't make the workers actually punch a clock when they came in and when they left, although those time slips seem worse. At least with a time clock you can punch in and go about your business. With those time slips, you punch a clock every time you do some work and fill out the slip. You're punching a clock 10 times a day. Seven years of college so you can punch a clock for another five to 10 years in hopes of making partner so you can require other people to punch a clock. Maybe looking at teeth isn't so bad after all."

Floyd was fired up now. "I tell you what. I worked in this shop for a bunch of years wanting the chair nearest the door, but you folks need an attitude adjustment. The great thing about being a barber and being a lawyer should be that you are a professional. You may work in a group, and that requires sacrifices on the part of the individual person for the good of the whole. But why does the group get to suck out the part of you that benefits it and leave little or nothing for the individual? Just because you folks call it a 'firm' doesn't mean it should be unyielding. It seems to me that the whole organization can benefit by helping the individuals be happier, even if the organization has to do something that is untraditional. The clients will be better served because they will get lawyers that are not as fatigued or stressed, that are happier at home, and who don't use as much alcohol. These things have got to be affecting lawyers' productivity and the quality of their work."

Floyd paused to catch his breath. Then, he said, "Of course, the trade off for the young lawyer may be that they won't get the chair by the door or be called partner, but they also may not get a heart attack at age 40, a failed marriage or weekly trips to A.A. meetings. You folks need to realize that a law license ought to let you be you and that law firms do a disservice when they make being a partner the gold ring. The gold ring is doing a good job for the people that need you, which includes your family. And part of the lustre is having some time for yourself."

I was starting to get anxious. Floyd was making sense, but I

needed to get back to the office. The phone had probably been ringing off the hook, you know there had been at least one fax, and I needed to prepare for a hearing on a motion to compel. The other lawyer and I couldn't seem to agree on anything.

Floyd was brushing the hair off of my neck and starting to do the final trimming.

He stopped to say, "one thing I think you folks are starting to do well is flushing out those lawyers who are disagreeable for the sake of being disagreeable. You can represent someone zealously without being a zealot. Now I'm sure the legal profession, by its very nature, has always had some people that wouldn't agree the sky is blue once their opponent said it was. That can't be as new as some people say it is and you all shouldn't beat yourselves up over it too much. I'm also pretty sure many clients love to see their lawyer be the most vicious dog in the fight. But it's got to be stressful both giving and receiving. Just like there is a difference between a barber shop and one of those boutiques, there is a difference between an adversary system that has advocates and an adversary system that has ... Well, you get my point."

I had just gotten that point and the point of his scissors in my ear. He was done with my haircut. I thanked him for both the haircut and the advice.

As I was leaving, he slapped me on the back and said, "One more thing. When you lawyers are doing right, you are representatives of what is best about this country and its people. You catch a bunch of abuse from folks, some of it deserved, but most of it comes from a lack of understanding that this is a country of laws. We fight wars to preserve the American way of life and you lawyers fight your client's battles to assure their way of life is protected in a way that's consistent with a democracy. You know the reason there are more T.V. shows about lawyers than anything else? It's got to be because you folks and our system of justice captivate people. You all need to do good for the folks that rely on you for legal advice, but you also need to do good for yourselves.

"No matter how good a lawyer you are, no matter how many hours you work, or scalps you hang on the wall, it's not worth much if you can't sit back at the end of most days and feel happy and satisfied. Making a living shouldn't feel like a visit to the dentist."

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