



## *Counseling Clients* **LIKE A ROCK STAR**

**IN 2024, WE SAID “GOODBYE” TO SO MANY FAMOUS PEOPLE . . .** James Earl Jones, Teri Garr, and Pete Rose, to name a few. But the one whose passing this year gave me the greatest pause is Kris Kristofferson. And that’s because I knew him.

In the summer of 1980, I was 19 years old and working as a bellman at a downtown hotel when Kristofferson, who had just begun a U.S. tour, checked in with his band and road crew. After their concert, they all laid over in town for the long weekend before heading off to their next stop. Because my evenings were free, I offered to take some of his roadies to my favorite local restaurants and bars. Our little group grew to include band members, who introduced me to Kris. We hit it off, and Kris ended up offering me an open spot on his road crew for the rest of his tour, which would have required me to miss the upcoming fall semester at UT, and possibly longer.

To my 19-year-old brain, withdrawing from college and hitting the road with a group of strangers seemed like a great idea. But fortunately, I am not impulsive. So, I bounced the idea off the people I trusted most—my parents, brothers, and friends. Uniformly, they responded that, although Kris’ offer sounded like a grand adventure, it probably wasn’t consistent with the greater goals for my life. It wasn’t really the advice I wanted to hear, but it was the advice I needed to hear.

Ultimately, I agreed with their counsel and declined the invitation. It was the right thing to do. I must admit that, as I was slogging through my petroleum engineering coursework that fall, I had some second thoughts about my decision. But, if I hadn’t returned to campus that year, I would have missed the opportunity to meet my wife. Thank goodness for the sound counsel I sought and received!

In our legal profession, the attorney’s role as “counselor” is often overlooked, in favor of our higher-profile role as an advocate in the courtroom or board room. Yet, our duty to provide counsel to our clients exists from the day we are licensed; each of our law licenses prominently states that we are certified by the Supreme Court of Texas to practice as “Attorney and Counselor at Law.”

Our twin duties to our clients as counselor and advocate are described in separate sections of the Texas Disciplinary Rules of Professional Conduct, Section II (“Counselor”) and Section III (“Advocate”). Within Section II, Rule 2.01 succinctly instructs attorneys to “render candid advice,” but the comments thereto add further color to that directive. Comment 1 directs attorneys to provide advice to their clients that is honest and straightforward, even if it is unpalatable to clients or involves unpleasant facts and alternatives that clients may be disinclined to confront. So much for “sugarcoating” advice to our clients!

Comment 2 to Rule 2.01 is interesting. It begins by stating that legal advice that is purely technical in nature or couched in legal terms may be inadequate and of little value to clients. The comment therefore instructs attorneys to “refer to moral and ethical considerations” in rendering advice. (“Morals” often refer to one’s personal values, while “ethics” often refer to community or societal values.)

Therefore, embedded within the concept of our role as “counselor” is the duty to guide our clients not just in making decisions that are to their legal or pecuniary benefit, but in making decisions that are morally and ethically “right.” While our clients hire us to advocate on their behalf, they also rely upon the compass of our professional judgment, guided by our own morals and ethics, in choosing the right pathway forward in their matters. Because of our greater familiarity with the law and our dispassionate attention to our clients’ legal issues, we are in a uniquely superior position to do so. Providing candid, sometime unwelcome advice may not always make us a rock star with our clients, but it is always the right thing to do.

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