

Being Truthful in Words and Deeds – Can Ethical Lawyers Pull it Off?

By Pamela L. Kingsley

We have all braced ourselves, trying not to let the person we have just met see us cringe. It happens when the one we just met, upon learning we're an attorney, cannot resist the temptation. Our new friend brightens, braces to speak, and after a slight, last second hesitation, the words gush out: "How can you tell when an attorney is lying?"*

Lawyers, a select group of supposedly smart and responsible people, have been unfavorably compared for at least as long as I have been one with used car salesmen and politicians. Not to malign the other two, but just why is law one of the least respected professions?

Are lawyers by nature, honorable? Probably no more or less so than the next person, but they are expected to act it. After all, unlike the majority of workers, lawyers have a code of ethics that, if breached, could get them in serious trouble even when there has been no criminal activity.

I am not talking here about egregious trust account irregularities, screaming conflicts of interest, or blatant solicitation. Those raise red flags and send us to the Ethical Rules or State Bar to find out just how many violations have occurred.

But what do we do when we don't have only a difference of opinion with opposing counsel, but know that she is lying? What do we do when we believe our client has concealed the truth under oath? And hypothetically of course: when we have hung up the phone and immediately reflected on the astonishingly believable story we just delivered, do we suffer from remorse or throw ourselves into a victory dance because we alone brought forth an impossible settlement?

We all know there is only one right response to, "Do these jeans make my butt look big?" But what about having your secretary tell your less-than-favorite client that you left for the day, when, actually, you are kicking back with office mates, sipping scotch, and shooting the breeze? Or, convincing opposing counsel that the lowest amount your client will take is \$20,000 higher than your authority.

"Everybody lies." That is what House regularly says on the television show that bears his name. And while I think we all would agree that the observation is true, that does not mean any of us care to be thought of as a liar.

*For the 1% of you who may not have had to endure the punch line, it is: "When his lips are moving."

Can you name one attorney who would say he or she is not a person of integrity? If you were in a room with ten other colleagues, and each of you was asked to rank the others from one to ten on their respective reputations for honesty and integrity, how would you be rated by the other nine?

What you may consider to be a harmless fib may be perceived by those who know the truth as your showing a penchant for not differentiating between falsehoods and facts in your affairs. After all, if you will stretch the truth about an insignificant matter, won't you be likely to lie when it really does count?

We can ill-afford to be so arrogant as to believe either no one will notice, or others will understand, forget, or forgive our "inaccuracies." You can bet they will take note, remember, and inform others of their conclusions.

Isn't this true for everyone -- business owners and school teachers alike? The answer does not matter. And the code of ethics discussed earlier can hurt rather than help.

As loyal advocates, we already suffer because our clients' needs, which are paramount, often conflict with our own strongly held beliefs. We argue for the right of an accused to a defense regardless of guilt and are called morally bankrupt for it. We live daily with the fact that acting ethically proper may not be morally responsible. Lawyers ethically represent scoundrels and villains in sheep's clothing as long as a responsible argument can be made for them.

But through it all, each of us wants to be thought of as a person of character. Striving for rigorous honesty can help us reconcile the instances where we are forced to replace morality with ethics. Slips are inevitable, but if they occur so rarely that they catch us by surprise, we truly can practice honorably.

So, when someone is speaking of me, and asks how you can tell that Pamela is lying, I want the obvious answer to be, "When you can readily see her fingers are crossed!"



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