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Lessons from a Killer: Legal Ethics and Empathy

Remember the lessons of crisis and peril. From today, dear colleagues, act as if we need each other, as if we'll be there for each other in times of need—because we will be.

By **Marc Garfinkle** | April 14, 2020



In times of crisis and peril, humans come together in a communal way. Moved by instincts older than mountains, we advance in great numbers to help and care for, understand and even love one another. From the smallest courtesies to the greatest sacrifices, our species ironically demonstrates the most selflessness, empathy and kindness in times of greatest stress and deprivation. Unsurprisingly, most individuals have responded to the current pandemic, not with fear, but with compassion for others. Examples abound. More will follow.

The landscapes of the future are still beyond the horizon. What will commerce look like? Finance? Industry? What will jurisprudence look like when we come out of hiding and start building on the ruins of the 20th Century? What will we have learned? What will we have forgotten?

And you ... what will you need to begin restoration? What will your law firm need? Your company? Your clients? What will your family need?

In all this uncertainty, one thing is sure. There will be a need for lawyers—not because we imbed it into the algorithm of our culture, but because the complexity of human behavior needs us to be. When we regroup and retool after the cloud passes, there will be much work to do. Lawyers—columns of lawyers—will be needed to put Western Civilization back on track.

Lawyers are a special type of human. They have particular knowledge and ability they use to help all other humans. Their individual circumstances vary more widely in recent millennia than when we lived in the wild, but lawyers are prone to service, and by their rules elevate their client's interest above their own.

Some lawyers have been able work, virtually uninterrupted. Typically, they have practices whose resources or clients can, for the moment, survive the hit. Other lawyers already know that life after COVID-19 will never be the same. They have lost their jobs, their offices, their ability to pay the bills. As with professionals in so many other disciplines, Plans B, C and D are unfolding all over.

We don't what to expect when the world opens for business again. What will be the law firm of the future? How should we envision a courtroom or conference room or a jury deliberation? Or a theater. Or a subway. What will become of the business handshake—that vestigial touching that binds people of good faith to their word? How will we convene, confer, teach, learn, argue and plead? How will we relate to our staff and our colleagues? Our tribunals and our judges? These answers will present themselves.

Now, however, there is work to do and more work to come. The immediate needs are medical, and the response of the medical community on every continent has been, as expected, extraordinary. Around the globe, medical professionals, volunteers and others from every imaginable medical background have been rushing into danger zones and death to save lives. *Our* lives. Long after their work is done, the survivors of that heroic effort should take comfort in remembering the lives they saved, the hope they offered, the compassion they showed, and the risks they embraced. Hopefully, their grim tasks will soon be in the past.

Then it's our turn. The lawyers. What we offer is less dramatic and less dangerous, but the matters we will handle may require critical care that only lawyers can provide. The need for free and low-cost services, especially in emergent matters, will be incalculable. But human lawyers will be expected to answer the call en masse, and we will. And this phase too, will pass.

In the next phase, after we have emerged and shaken off the soot and begun to rebuild, lawyers will continue to work. In every realm of law, we will work with other lawyers until the jobs are done. We know that American society can rebuild quickly when our clients pull in the same direction and we keep them on that track. Of course, we will still be at loggerheads in courtrooms and patent offices, board meetings and such, but we are colleagues, and of the same species. We will still prepare deathbed wills, enforce our clients' judgments, defend the accused, seek just compensation for losses, draft documents, offer opinions, disprove falsehoods and most everything else people and businesses need lawyers for. But there is more.

Why don't we do it a little differently this time around? Business as usual had gotten pretty ugly by early 2020. Can you disagree? Some lawyers, responding to the territorial imperative of some ancient DNA, saw others of their kind as competitors and not as colleagues. These lawyers would hurt, belittle or ignore other lawyers with similar skills and knowledge within their self-determined geographic territory. Others derived satisfaction from denying an adversary a courtesy, candor or correspondence. Longstanding notions of collegiality, camaraderie and cooperation had dissolved in an acidic compound of greed, competition and myopia.

Remember the lessons of crisis and peril. From today, dear colleagues, act as if we need each other, as if we'll be there for each other in times of need—because we will be. Consider the cost of agreeing to an extension or affording a courtesy or telling your client to back off. Empathize with your adversary, and practice humility and cooperation. Step out of the jungle, and let's treat each other in a more civilized way. Do your part to make the world good again. Good luck on your way. Stay safe.

Marc Garfinkle practices in Morristown, focusing exclusively on legal ethics, attorney discipline, bar admission and judicial conduct. He is also an adjunct professor at Seton Hall University School of Law in Newark.

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