PROFESSIONALISM

§2.1 THE REFLECTIVE PRACTITIONER OF LAW

You go to a doctor and describe the symptoms that bother you. After examining you and perhaps detecting a few symptoms that you had not noticed before, the doctor names a disease, writes a prescription, tells you how many days it should take for the prescription to work, and asks you to telephone by then if it has not. Does the doctor know for certain that you in fact have this disease? Probably not.

The late Donald Schön did the leading research on how professionals in general think. Among many things, he asked doctors to estimate the proportion of their patients who present problems that "are not in the book" in the sense that the doctor needs to "invent and experiment on the spot" to figure out what treatment will work.[1] The estimates he received ranged from 30% to 80%, and he said that the 80% estimate came from "someone whom I regard as a very good doctor."[2]

This is typical of the problems faced by a professional in any field, whether it is medicine or architecture or law. To a layperson, it seems that the distinguishing mark of a professional is knowledge that other people do not have—almost like a sorcerer's secret book of magical formulas. Certainly, professionals do have specialized knowledge. But in professional work there are very few, if any, cookbook answers. Instead, what really distinguishes a professional is *a way of thinking* that enables the professional to solve problems even when a situation is wrapped in a fog of "uncertainty, uniqueness, and conflict."[3]

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1. Donald A. Schön, *Educating the Reflective Legal Practitioner*, 2 Clinical L. Rev. 231, 239 (1995).
2. *Id.*
3. Donald A. Schön, *Educating the Reflective Practitioner* xi (1987).

People who have not practiced law easily underestimate the amount of uncertainty inherent in nearly every situation presented to a lawyer for solution. The law may be unclear. The facts may be difficult to ascertain. And most often, it is hard to make precise predictions about how judges, juries, administrative officials, adversaries, and opposing parties will react to evidence and arguments. None of that is an excuse for the lawyer to say, "We'll try the first thing that looks good and hope for the best." Professionalism means, among other things, finding a solution that is hidden inside all that uncertainty and conflict.

Schön used the term "reflection-in-action"[4] to describe the process through which professionals unravel problems and solve them. This is not the kind of abstract and academic reflection that you went through when you wrote a term paper in college. Instead, it is a silent dialogue between the professional and the problem to be solved. In that dialogue, the professional uses what is already known in order to learn what is not yet known, through experimentation or some other form of investigation, until a solution is found. (Remember the doctor who does not really know what is making you feel sick. If the medication prescribed works, the doctor has solved the problem. If not, the doctor will experiment with something else.)

The reflective practitioner is one who can reflect *while acting*. To do that well we need "the ability to think about what we are doing while we are doing it, to turn our thought back on itself in the surprising situation."[5] We need to examine our own conduct, self-critically. Effective professionals never stop doing that, no matter how experienced they become.

As Paul Brest has written, "good lawyers bring more to bear on a problem than legal knowledge and lawyering skills. They bring creativity, common sense, practical wisdom, and that most precious of attributes, good judgment."[6] Good lawyers bring as well some characteristics explained in §2.2, such as prudence and a wariness about assumptions.

§2.2 SOME THINGS EFFECTIVE LAWYERS KNOW

Together with the subjects discussed elsewhere in this chapter, in Chapter 3 (clients), in Chapter 4 (legal problem solving), in Chapter 5 (communications skills), and in Chapter 6 (multicultural skills), the ideas mentioned below are among the themes of this book. We will return to them often.

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4. *Id.* at 22.
5. Schön, *supra* note 1, at 244.
6. Paul Brest, *The Responsibility of Law Schools: Educating Lawyers as Counselors and Problem Solvers*, 58 Law & Contemp. Probs. (Issues 3 & 4) 5, 8 (Summer/Autumn 1995).

§2.2.1 EXCELLENT JUDGMENT IS THE MOST IMPORTANT THING THAT A LAWYER CAN BRING TO ANY SITUATION

Judgment is knowing what to do and say—and what *not* to do or say—to improve a situation or prevent it from getting worse. Professionals *decide what to do*, and excellent judgment is the single most important characteristic that separates good decision-making from bad decision-making. When clients rely on you, they are, more than anything else, relying on your judgment.

Knowledge of the law is not enough. A lawyer who knows the law but lacks good judgment is a lawyer who sounds well informed but makes too many avoidable mistakes.

Judgment is the ability to know what actions and words are most likely to solve problems or, ideally, prevent them. It depends on situation-sense—an instinct for reading between the lines and figuring out what's really going on, without being told explicitly. It operates on several levels at once—the practical, the ethical, and the moral—and it includes "appreciating the hidden complexity in questions that seem easy when they are posed in the abstract."[7]

The phrase *a prudent lawyer* refers to one whose judgment can safely be relied upon. A prudent lawyer foresees risk, makes sure that mistakes do not happen, and, to the extent possible, keeps clients out of trouble.

If you are a novice hiker with a dozen other novice hikers high in the mountains when a sudden and unpredicted blizzard traps all of you in snowdrifts so deep that you can barely walk, good judgment is what you most hope to find in the guide your group hired to lead you through the mountains. As you glance at this guide and feel cold and hunger, you do not want the guide to make foolish decisions that would make a bad situation much worse, such as by taking you through places where your own movements can set off an avalanche. Instead, you want a guide who is calm; thinks carefully before acting but does act decisively; sees, several steps ahead, the consequences of actions; and can quickly understand all the forces and factors, including human nature, that can influence events. You want this person to get you out, and that requires more than knowledge of the geography of the mountains and the rescue policies of the Forest Service. It requires the ability to make decisions for which there is no script and no formula. Should you try to hike out, for example, or wait where you are on the theory that movement expends energy you need to survive in the cold? How much food should you eat each day? You need to eat enough to keep from succumbing to the cold but not so much that you run out of food before help arrives—and no one can predict how long it will take for rescuers to find you. Judgment is the ability to make these decisions well.

Because "it is possible to have knowledge but lack judgment,"[8] knowing the law (or the geography of the mountains) is not enough. Judgment is knowing what to *do*.

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7. David Luban & Michael Millemann, *Good Judgment: Ethics Teaching in Dark Times*, 9 Geo. J. Leg. Ethics 31, 71 (1995).
8. Mark Neal Aaronson, *We Ask You to Consider Learning about Practical Judgment in Lawyering*, 4 Clinical L. Rev. 247, 262 (1998).

§2.2.2 INTEGRITY IS YOUR MOST VALUABLE ASSET AS A LAWYER

Integrity means

- an honesty so thorough that anyone who knows the lawyer believes and trusts her;
- an instinct for what's right and fair so reliable that others respect the lawyer's moral voice;
- a strong feeling of responsibility for the matters entrusted to the lawyer's care;
- an understanding of appropriateness that prevents the lawyer from crossing over into questionable conduct;
- the strength to resist pressure to do the wrong thing; and
- humility.

A lawyer with integrity treats everyone with respect and empathy, regardless of their station in life.

§2.2.3 A LAWYER'S JOB IS TO FIND A WAY—TO THE EXTENT POSSIBLE—FOR THE CLIENT TO GAIN CONTROL OVER A SITUATION

Often, the situation is already out of control when the lawyer is hired. An obvious example would be any situation in which the client is in conflict with somebody else. To an individual or a small business, few things are as frightening as a situation so out of control that lawyers are being called in. To a large business, it might be more routine, but to the employees of a large business, their careers might be on the line.

At the opposite extreme, things might be happy now, and the client might want to make sure that they stay that way in the future. Here are some examples: The client wants an estate plan that will distribute her assets to her heirs in a way that conforms to her feelings about them. Or the client has agreed to a commercial transaction with someone else and wants that agreement reduced to a written contract in a way that best protects the client. Or the client is a business that wants to know how it can most inexpensively conform to the regulations of the Environmental Protection Agency.

In all these situations, what the client wants from the lawyer is a method of controlling—to the extent possible—what happens. That requires more than knowledge of statutes and case law. It requires the ability to plan ahead, a refusal to place yourself at the mercy of events, decisiveness (the capacity to act under pressure), presence of mind (the capacity to reflect among options while under pressure), and the problem-solving skills explained in Chapter 4.

§2.2.4 EFFECTIVE LAWYERS WORK TO ACHIEVE SPECIFIC GOALS

The client wants something—win this lawsuit, merge with that other company, or stop cattle from overgrazing on publicly owned range land. Whatever the client wants is the overall or ultimate goal. To achieve it, the lawyer must do a

number of things along the way—develop evidence that justifies summary judgment, persuade the Antitrust Division of the Justice Department to allow the merger, see whether the ranchers and environmentalists have some interests in common. Those are interim, strategic, or tactical goals. Effective lawyers know exactly what the goals are and focus their work on accomplishing them. They do not work aimlessly on whatever is in the office's file.

§2.2.5 SUCCESS IN THE PRACTICE OF LAW DEPENDS ON EFFICIENT WORK HABITS

Efficiency is getting the best results from a unit of effort, such as a billable hour. It's a ratio between work and gain. A lawyer is more efficient than others if she gets more results from a billable hour or if she gets the same results in less than a billable hour.

The efficient lawyer prospers while the inefficient lawyer works hard without having much to show for it. Many business clients now audit their own law firms' bills to figure out whether the lawyers have used the most cost-effective ways of solving problems. Law firms that fail this scrutiny lose clients. It's difficult to be efficient without working hard, but hard work isn't the same as efficiency. Many inefficient lawyers work long hours without serving their clients well—and they lose clients who figure that out.

Time—including other people's time—is a resource to be used efficiently. A 20-minute conversation with a partner or a client wastes everyone's time if it covers only five minutes of content. The client or partner will assume that the lawyer who has wasted their time uses her own time inefficiently in other respects as well. The client will think about that when deciding whether to pay all or only part of the lawyer's bill. The supervising partner will think about it when deciding whether the lawyer's salary is being used efficiently.

§2.2.6 THOROUGH PREPARATION IS ESSENTIAL

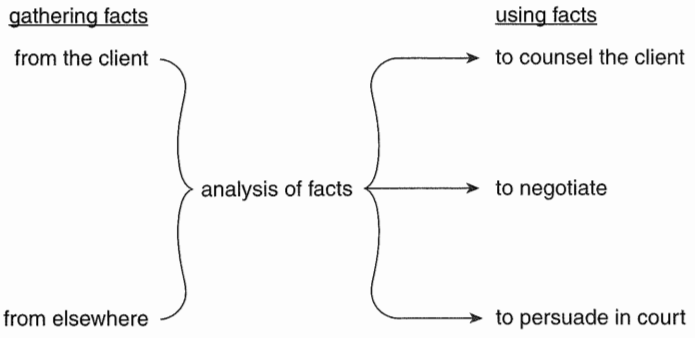
"Winging it" is sloppy and dangerous lawyering. Many lawyering tasks are like icebergs: What the bystander sees (the tip of the iceberg or the visible part of the lawyer's performance) is a tiny fraction of what supports it (the undersea part of the iceberg or the preparation for the performance). In lawyering, the ratio of preparation to performance can easily reach 15 or 20 to 1. It might take 10 hours to prepare for a half-hour counseling session with a client, and it might take 15 hours to prepare for a negotiating meeting that lasts 2 hours. That is why this book devotes entire chapters to preparing to counsel and preparing to negotiate.

In preparation, resourcefulness counts more than brilliance does. Few legal problems are solved by astute insights that no one has thought of before. Most legal problems are solved by diligently learning the details that matter and putting them together into a package that gets results.

§2.2.7 EVERYTHING REVOLVES AROUND FACTS

Law school can mislead you. You are spending so much time learning law and how to analyze law that you might get the impression that factual issues are easy.

They are not easy, and they are not marginal, either. Fact analysis permeates this book because it permeates the practice of law.



§2.2.8 ASSUMPTIONS CAN SABOTAGE GOOD LAWYERING

You realize that you need to make a decision soon. You also realize that you need to know six things to make this decision. You already know five of them. You have made a guess about the sixth thing, and you are confident that your guess is accurate. You could rely on your guess (make an assumption), or you could devote some effort to finding out what the truth is.

When lawyers make assumptions, they and their clients can get hurt. That is because our guesses turn out to be wrong surprisingly often. It is also because clients hire lawyers for important matters, where mistakes cause real harming.

Not all assumptions are bad. Sometimes, a lawyer will properly make a *temporary* assumption because the truth cannot yet be ascertained and work must proceed in the meantime. Sometimes a lawyer will balance risks and make an assumption because the decision involved is small and the cost of learning the truth is too large. And sometimes a lawyer will have to make an assumption because the truth cannot be learned.

But many of the assumptions you will be tempted to make should not be made. As a general rule, if you do not know whether something is true, find out. And if you must make an assumption, do it explicitly so that you and the people who rely on you know what is happening.

The most dangerous assumptions are the *unconscious* ones—the ones you do not even realize you are making. Suppose that you are chatting with someone in a social situation. Some of the things the other person says are derived from matters that you do not fully know. You might ask a few questions, but for the most part you assume underlying facts without even realizing that you are doing it. You make these assumptions for three reasons. You do not want to appear dumb. You do not want to be a pest, constantly interrupting with questions. And most of the subjects of social conversations are not important enough to merit the kind of thorough exploration that would have to be undertaken if we made no assumptions.

In lawyering, an unconscious assumption is especially dangerous because you do not realize you are making it and therefore cannot control it. You cannot gauge the risk posed by an unconscious assumption, for example, and you cannot commit yourself to learning the truth as soon as possible.

The only way to overcome this problem is to learn to recognize what you do not know and consciously decide what to do about it.

§2.2.9 REPRESENTING CLIENTS IN DISPUTES IS ONLY PART OF WHAT LAWYERS DO—THE REST IS TRANSACTIONAL

Movies and television almost invariably portray lawyers as cross-examining witnesses and making arguments to judges and juries—in other words, litigating. And law school law is taught through cases, or more precisely through judicial opinions that resolve litigation. But many lawyers almost never go near a courtroom. The practice of law is divided into two parts. One is the resolution of disputes, often through litigation. The other is transactional: advising and representing clients in situations where there is no dispute. Sometimes the situation is contractual: two companies have agreed to do business with each other, for example, and the lawyer will turn the agreement into a contract. Sometimes, it involves noncontractual transfers, such as will-drafting and other forms of estate planning. And sometimes it involves advising the client on how to behave to avoid liability of some kind. Some lawyers do only dispute work. Some do only transactional work. And some do both.

Dispute lawyers and transactional lawyers approach legal problems differently and in some respects see the world differently. Most fundamentally, dispute lawyers fight to protect clients who are already in conflict with somebody else. Transactional lawyers plan and draft documents to achieve the client's goals while minimizing the risk of conflict, because conflict could prevent or make more expensive the accomplishment of those goals. Dispute lawyers try to beat the other side through public performances in courtrooms. Or they negotiate settlements in which one side takes something from the other (though perhaps not as much as the taker had hoped to get).

A dispute is what social scientists call a zero-sum game: what one side gains is what the other side loses, averaging out to zero. If a plaintiff gains $100,000, the defendant loses $100,000. (Actually, the average is less than zero because each side has to pay its lawyers and other expenses to resolve the conflict.) Transactional work, however, usually is not a zero-sum game. If two companies do a deal—agree to trade money for goods, services, or other things of value—each of them anticipates becoming better off as a result. If the deal works as planned, it is a win-win situation. The deal lawyer's job is to plan and draft to increase the odds that the deal will work as the client had planned. The lawyers still struggle for control and advantage, but a client who considers a proposed deal a loss can simply walk away and deal with someone else.

§2.2.10 TO BE EFFECTIVE, A LAWYER MUST KNOW HOW—AND WHEN—TO FUNCTION IN INQUIRING MODE AS WELL AS IN PERSUASION MODE

Persuasion mode[9] is the thinking and talking that manipulates a situation. Persuasion is one of the cores of lawyers' work, and the persuasion mode obviously is valuable to lawyers. But it also has disadvantages.

A person in persuasion mode tends to act more or less continually on hidden agendas and strategies, "to minimize self-analysis and to reserve it for private moments when it will not weaken instrumental effectiveness,"[10] to argue in ways that are subtle but "needlessly stylized and hyperbolic,"[11] and to treat others often as objects and as types, rather than as individually unique. When a person in persuasion mode listens, it is less out of curiosity than out of a search for ammunition that can be used to gain or maintain control. Persuasion-mode behavior is profitable in situations where the struggle is for control rather than insight, and where the "self-sealing properties of persuasion-mode habits"[12] minimize tentativeness, doubt, and perplexity over the unknowable and gray areas of life.

Persuasion-mode behavior can be destructive in other ways as well. Unrestrained persuasion-mode behavior produces over-simplified reasoning, self-serving speech, and a reduced loyalty to truth. "Persuasion-mode habits predispose lawyers to take evaluative stands automatically" so that they "make statements that, on reflection, they know to be false."[13] "It causes one to impute rather than explore others' ends, shut off rather than encourage legitimate objection, . . . and accumulate rather than share decision-making authority."[14] Other people see it as manipulative and controlling.

> [T]he persuasion mode is not always associated with bad, unpleasant, aggressive behavior. The mode is just as often a low-visibility, indirect, and even cordial method of manipulating others. . . . The persuasion mode is used among friends as well as enemies and people feel good about it as often as they feel resentful. . . . [T]he true test of persuasion-mode behavior is in what it seeks to accomplish (e.g., victory rather than understanding or uncoerced agreement) and by what strategies (e.g., private, unilateral, competitive, and self-sealing actions rather than public, bilateral, cooperative, and self-reflective ones).[15]

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9. Lawyers do not use the term *persuasion mode*. Persuasion-mode behavior was first described by Chris Argyris & Donald Schön, *Theory in Practice: Increasing Professional Effectiveness* (1974), although Argyris and Schön used different terminology to describe it. Robert Condlin was the first to discuss it in the legal literature. See Condlin, *The Moral Failure of Clinical Legal Education* in *The Good Lawyer: Lawyers' Roles and Lawyers' Ethics* 318 (D. Luban ed. 1983) [hereinafter Condlin, *Moral Failure*] and Condlin, *Socrates' New Clothes: Substituting Persuasion For Learning in Clinical Practice Instruction*, 40 Md. L. Rev. 223 (1981) [hereinafter Condlin, *Socrates' New Clothes*]. Schön later explored the subject in further detail. See Donald Schön, *Educating the Reflective Practitioner* (1987).

10. Condlin, *Moral Failure, supra* note 9, at 330.

11. *Id.* at 326.

12. *Id.*

13. *Id.*

14. *Id.* at 329.

15. *Id.* at 328.

Even when accompanied by pleasantness and charm, persuasion-mode behavior is recognized by others, who often react defensively.

The opposite pattern of behavior might be called the inquiring mode: open-ended curiosity and an interest in exploring things regardless of the consequences. A person in inquiring mode is not trying to accomplish anything except learn. The following illustrates the difference. In each column, a lawyer is asking questions.

Persuasion Mode	*Inquiring Mode*
Q: Didn't your company's lab tests show that this tire disintegrates at 90 miles per hour?	*Q:* Could you tell me everything you know about how this tire was tested in the lab?
Q: And didn't your company advertise this tire as suitable for use on police cars?	*Q:* What were the results of those tests?
Q: Police sometimes have to chase criminals at high speeds, don't they?	*Q:* What did the advertisements say about using the tire on police cars?
(Are you persuaded that the tire manufacturer did something wrong?)	*Q:* Where were the advertisements placed?
	Q: How was the decision made to advertise the tire that way?
	Q: Could you tell me everything you know about the stresses tires are subjected to when used on police cars?
	(Would you learn more from the answers to these questions than from the answers to the questions in the persuasion mode column?)

Although the answers are omitted here, you can easily imagine what they might look like. The answers to the persuasion-mode questions will typically be short and perhaps defensive. (At trial, that might persuade a fact-finder to agree with the lawyer.) The answers to the inquiring-mode questions will typically be much longer and include far more information. From the answers to the inquiring-mode questions, you would know much more about what *really* happened than you would from the answers to the persuasion-mode questions.

The persuasion mode and the inquiring mode both have their uses in the practice of law. To be an effective lawyer, you need to know how to function well in both modes. The problem is that many lawyers are so locked into persuasion mode that they do not know when or how to switch into inquiring mode.

In the skills covered in this book, the inquiring mode is more valuable than you might think. Most—but not all—of what a lawyer does in interviewing and counseling is best done in inquiring mode. In those and similar situations, the very qualities many lawyers use to project forcefulness can inhibit open-ended inquiry.

Negotiation, on the other hand, is often primarily persuasion. But even in negotiation, there are times when it is best to stop trying to persuade and instead to switch into the inquiring mode.

§2.2.11 NUMBERS MATTER

A great deal of what lawyers do involves reallocating money. In counseling, you develop a list of options from which the client will choose. If money is a significant part of the decision, each option can be valued in money terms. Suppose that Option A offers a 50% chance of getting $100,000, while Option B offers a 75% chance of getting $50,000. If you dislike numbers, you might describe the options only in words and never do the math. But that would be an incomplete job of counseling. Without the numbers, the client cannot decide. (By the way, the expected value of Option A is $50,000 because the client has a 50% expectation of getting $100,000, and the expected value of Option B is $37,500 because the client has a 75% expectation of getting $50,000. For why, see §20.3.2.)

In negotiation, you might be taken advantage of if you are bargaining about money and if the other lawyer is much better at numbers than you are. Suppose you represent a plaintiff and have reached a tentative agreement with the defendant that will produce $500,000 for your client. The defendant's lawyer proposes that the money be paid out in five annual installments of $500,000. Why should you consider resisting this proposal? Money paid out over time is worth less than the same amount paid in one lump sum. Wherever the money is, it can grow because it can earn interest. While the defendant keeps some of the money, it earns interest for the defendant and not for your client. This is called the time value of money. See §§20.3.2 and 24.6.

Except in a few fields where money is usually not the focus, an effective lawyer knows how to work out the numbers and how to present and explain numbers to other people.

§2.2.12 TAXES MATTER

Whenever money changes hands, the transaction might have tax consequences, and you cannot counsel or negotiate without knowing what those consequences are.

Suppose you represent a plaintiff who has pleaded claims of wrongful discharge and battery. The defendant offers to settle by paying an amount of money that your client finds satisfactory, and the defendant prefers to pay the money entirely as back pay. He would rather be thought of as someone who fires an employee illegally than as someone who swings a tire iron at an employee while screaming "You're fired." "It's a good amount of money," your client tells you. "Does it matter whether we call it back pay or damages for battery?"

"Yes," you reply. "It does matter. The $100,000 they are offering is worth only $65,000 to you because you'll pay federal and state income tax on it. But $100,000 in damages for battery is $100,000 because it's not taxed." If you fail to tell your client that, you have committed malpractice. And when you do say it, your client will probably send you back to tell the defendant that the money will be acceptable only as damages for battery. See §20.3.2.

You don't need to know the tax code from end to end. Instead, you need to know how tax law affects the issues you deal with frequently. A personal injury lawyer would know how tort recoveries are taxed. If you're inexperienced in the type of transaction you're doing, you should be able to recognize *potential* tax issues and know when to get answers from a lawyer who specializes in tax.

§2.2.13 OVERLAWYERING CAN BE AS DAMAGING AS UNDERLAWYERING

Underlawyering is doing a cursory or half-hearted job. Overlawyering is making an issue out of everything, whether it really matters or not.

Business people use the term "deal killers" to refer to lawyers who regularly overlawyer. Suppose that Dynamo Electric, Inc., a chain of retail stores, wants to rent a warehouse to store household appliances such as refrigerators and stereos. The most suitable warehouse is owned by Belinsky Properties, Inc. Dynamo talks to Belinsky, and they agree on how much rent Belinsky will receive and how many years Dynamo will occupy the building. Because a lease must be drawn up, each company calls in its lawyers. The lawyers start by arguing with each other over who will bear the risk of loss to Dynamo's merchandise if the warehouse burns down. This is a useful argument. Lawyers are paid to identify potential problems like that and then make sure that harm is minimized.

But we are long past the point of diminishing returns when Belinsky's lawyer demands that Dynamo post a bond to indemnify Belinsky in case Belinsky is ever named as a defendant in a products liability suit concerning an appliance stored in the warehouse by Dynamo. When the clients learn of this, Dynamo will think that if Belinsky is this unreasonable now, things will only get worse later. So Dynamo will instead rent a different warehouse from Franken & Partners. And Belinsky will want to know what went wrong.

"It isn't that the lawyers are actually trying to kill the deal. They just want to . . . dot the 'i's [and] cross the 't's . . . And they love to 'one-up' the other party's lawyers; in this game, being the last one to add a clause gains them great face."[16] This can get so bad that "some business people . . . never allow[] their own lawyer to talk to someone else's without supervision—the goal is to keep the lawyers from arguing back and forth until the contract is [too] long and the deal is dead."[17] "Friends who practice law in Canada have commented that 'The American lawyers do seem to try and squeeze every drop out of a deal.'"[18] From the client's point of view, the last few drops are rarely cost-efficient: they cost too much in legal fees, in deal-killing risk, and in damage to the ongoing relationship between the parties (if there is one).

Focus on what is really needed to accomplish the client's goals. Provide just the right amount of lawyering to do that—not more and not less.

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16. Nicholas Carroll, *Dancing with Lawyers: How to Take Charge and Get Results* 60 (1992).
17. *Id.* at 61.
18. *Id.* at 60.

§2.2.14 FOR MOST LAWYERS, IT'S A STRUGGLE TO LEAD A BALANCED LIFE, BUT IT'S A STRUGGLE YOU CAN WIN

A study by Lawrence Krieger and Kennon Sheldon[19] of thousands of lawyers showed that happiness—both in a job and generally—is most strongly correlated with the extent to which a lawyer has autonomy, such as the freedom to choose how to do one's work; competence; relatedness, such as meaningful interaction with clients, colleagues, friends, and family; and internally motivated fulfillment, such as enjoyment in doing one's work and awareness that the work furthers one's values. Happiness comes in part from how you experience a job and in part from the life you lead away from the job. A healthy relationship between a job and the rest of life is called *balance*.

Your family and the other people you care about are *not* less important than lawyering. Each day that you do not spend time with them is a day you cannot recover later, no matter how much you might want to. Do some things that have nothing to do with law—sports, cooking for the pleasure of it, gardening, something artistic or spiritual. Not only will they refresh you, but they will also help you become a happier and more complete person.

Integrity plays a special role in this. It is a professional asset (§2.2.2) and it is also one of the keys to happiness generally. If you know that you have acted with integrity, you can have more respect for yourself and know that you have truly earned the love, affection, and respect of others.[20]

§2.3 PROFESSIONALISM IS A WAY OF BEING

Becoming a professional is a long and gradual process, beginning in law school and continuing for years afterward. Throughout that time, you make choices about the kind of professional you'll be. Some of those choices are made in many small steps—so many and so small that you might not realize that they add up to important decisions. You have been making these choices since the first day of law school when teachers began to pressure you to speak and listen—and to read and eventually write—with more precision than had ever been expected of you before. If you met that challenge, you've made some choices about the kind of lawyer you want to be, and you have probably become stronger for it and learned to see many things around you with greater clarity.

As you become a professional—an effective problem-solver, with excellent judgment and integrity, who communicates precisely, produces high-quality work reliably and efficiently, and accomplishes client goals with a minimum of supervision—you're becoming a different person. In their path-breaking lawyering

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19. Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers*, 83 G.W. L. Rev. ____ (2015 forthcoming).

20. If the subject of balance resonates with you, we recommend that you read a book by Steven Keeva: *Transforming Practices: Finding Joy and Satisfaction in the Legal Life* (1999), as well as two articles by Patrick J. Schiltz, previously a law school teacher and now a federal judge: *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 Minn. L. Rev. 705 (1998), and *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 Vand. L. Rev. 871 (1999).

skills textbook, Gary Bellow and Bea Moulton began with this quote from Coles' biography of Erik Erikson:

> In this life we prepare for things, for moments and events and situations. . . . We worry about things, think about injustices, read what Tolstoi or Ruskin . . . has to say. . . . Then, all of a sudden, the issue is not whether we agree with what we have heard and read and studied. . . . The issue is *us*, and what we have become.[21]

This is true for every lawyer, doctor, therapist, architect or other professional. It's not just that a professional knows things that other people don't know or can use that knowledge. It's also that a professional thinks differently and sees the world differently. This issue is every one of us—what kind of lawyer each has become or is becoming.

We are what we do. The *manner* in which we win a victory becomes a fact that affects the situation that follows, the client's appreciation of it, and—ultimately, after many such victories—the kind of people we are. Victories won by bullying and deceit leave a residue that is very different from victories won with integrity.

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21. Gary Bellow & Bea Moulton, *The Lawyering Process: Materials for Clinical Instruction in Advocacy* 1 (1978), quoting from Robert Coles, *Erik H. Erikson, The Growth of His Work* 39 (1970).