



Starting Over Today

*Finding the Passion in
Your Life & Your Practice*

A FREE SEMINAR

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**Starting Over Today:
Finding the Passion in Your Life & Your
Practice**

PREFACE

This volume is intended as an aid to the practice of law in Rhode Island. It was prepared by the author as a supplement to a seminar lecture and provides a starting point for independent research by an attorney.

Starting Over Today

Finding the Passion in Your Life and Your Practice

Rhode Island - 2016

Jim Blackburn

If I could tell you how to find passion in your life and your practice for real, and not just provide you notes and a lecture at a Continuing Education program for which you get approved credit, wouldn't that be something? I never wanted to teach CLE seminars on any subject, much less Ethics and Professionalism. In the times that I did teach CLE programs in North Carolina, while I was still practicing law, it most often was in the area of white collar criminal law, which was where I was attempting to develop a practice, having once been a federal prosecutor, and that is what most former prosecutors often try to do.

No, I wanted to be a lawyer, and I wanted to be a good one. And for twenty three years, I was a lawyer, and most of that time I tried to be good. And then it was over, my legal career finished, done in by my own hand. When you have been a lawyer for a long time, and suddenly you are not, then you are really faced with having to start over. Since that cold January day in 1993, when I left the practice of law, I have focused almost entirely, though not always smartly or successfully on starting over, trying to find something else worthwhile to do, trying to convince mainly myself that my life was not over, that I could still perhaps contribute something worthwhile to the world.

Slowly, I learned, by trial and error mostly, how to start over in life. That is what I want to talk with you about when I see you, and what I hope you will get a glimpse of when you read these pages.

If what I say works for me now in life after falling all the way to the bottom, then I hope some of these thoughts can help you in your daily life and practice. So this program is about your law practice, but it is also about your life.

A wise and former trial judge once asked me what I would do differently in my law practice if I could go back and start over, what would I tell lawyers, both young and old, that I have learned in all these years since, what could I tell someone to keep that person from ever losing passion and getting into ethical and legal trouble.

I am not qualified to tell you how to live your life, practice law or find passion. I can however tell you what I have done, what I have learned and what works, even today, for me. I am reminded of a saying that Gracie Allen once wrote to her husband George Burns, just before dying. He found it in an envelope on a desk in their home not long after she passed away. It read in part, "George, do not put a period where God has only placed a comma".

In my own life, all of my friends and everyone who knew me, thought I had put a period to my life when my legal career ended. It turned out to be a comma. So for you, your past, even just yesterday, is not a period...it is only a comma. Treat it that way and see what a difference it can make in your life and career.

In the years I have been holding seminars and speaking to attorneys, I have often started with my own personal story when I practiced law in North Carolina a long time ago, telling people about wanting to become an attorney, starting out in the Attorney General's office, moving to the United States Attorney's office in Raleigh and then in the 1980's becoming involved in private law practice where I stayed until mid- January, 1993.

I have spoken about gaining passion for what I was doing, losing that passion and then finding myself spiraling so much out of control into the kinds of misconduct and ethical lapses that were just awful. I said things to some clients that were not true, often after getting behind in their work, and then just trying to cover myself, transferred money to two clients from the law firm's trust account...money that belonged to someone else, wrote orders in a case that were purported to be signed by various judges, only in reality were signed by me, and finally transferred money from some clients that was intended to go to the law firm but instead went to me as I thought I needed such money to pay other clients.

I rationalized all of this misconduct by saying the court orders were never filed in any court proceeding, that the trust money went elsewhere other than to me, and that I would eventually repay all the money and make everything all right. Of course, such rationalization and thoughts were, and are, totally wrong. I did benefit from my wrongdoing, just not in the normal financial sense.

It has now been over twenty three years since those events. I turned in my license to practice law in April, 1993, was subsequently indicted by the local Wake County Grand Jury in July of that same year and spent a little over three and one-half months in state prison in the winter of 1994.

After getting out of prison, it took me some time to figure out what to do with my life. As Judge Dupree, a former United States Chief District Judge, once said to me, I had really made a mess of things. I got the chance to work first as a host and then as a waiter at a well- known seafood restaurant.

Harlan Bolyes, then the State Treasurer, offered me a position in his department, as an Assistant to the Director of the State's Retirement System, and I stayed there for not quite four years. Fortunately for me, the Treasurer's office was only a few blocks from the restaurant, so I could work a double shift for many months.

Finally, I took Judge Dupree's advice and wrote a book about my difficulties. In making an effort to market and sell this book, I was invited by the North Carolina Bar Association to make several speeches to North Carolina attorneys, for which they received Continuing Legal Education credit, and soon thereafter, asked permission from the State Bar to hold programs on my own. I now have done that in North Carolina and other states for just over twelve years.

This program, **Starting Over Today**, is a summary and compilation of all that I have learned while I was practicing law, what I did incorrectly and some of what I did okay, and much of what I have learned from attorneys all across North Carolina, and in some instances, other states as well.

I have come to believe that it is in telling and hearing true stories that all of us can best learn. And so this manuscript will attempt in part to do that as well. First, though, there are some basic rules for attorneys to live by. These rules are not suggestions; they are important and should be followed.

They are not set in the negative of what an attorney should not do. Rather, these are positive steps an attorney can do now...today...even if they were not done yesterday. That is what I mean by Starting Over Today. Regardless of how you conducted yourself yesterday, you can start over each day and do better and hopefully correct mistakes of the past.

If you as an attorney, or anyone involved in the legal profession, follow these steps, your professional life will be so much better. **Your professional life will be so much better. You will be happier.**

Build and keep trust with clients

Communicate with them often and honestly

Give clients individual and complete attention

Keep all communications with clients confidential

Do not over promise to clients on what is possible – never guarantee a result

Follow through on whatever appropriate promises you have made

Avoid even the appearance of impropriety

Never, never take money from your Trust Account...for any reason

Do not overbill clients

Represent your clients with passion and to the best of your ability...every time

The truth is the most important asset you or your clients have – use it

Now, there are some additional thoughts I want to mention that are important not only for your law practice, but also for your life. The title of this program is **Starting Over Today**. That means just what it says. Regardless of what happened with you yesterday, or last week or whenever, each of us has the opportunity and the capability to start each day fresh and new.

We can change bad habits to good. We can learn new things. It is not always easy to do so, but it is surely possible. You are still practicing law and will likely do so the rest of your professional life. Change might just be a little tweaking here and there. But for me, there was no such chance...not any longer. I had to rebuild my life completely. Following these ideas and thoughts are what have worked for me. Please know that I am not always successful as to every one, but they are what I hope to do, every chance I get.

I believe if I had followed these more carefully, more of the time, I would still be practicing law. They are that important. Here they are...in no particular order:

Show up and be on time – not just physically, but mentally be ready to do your best

Take responsibility for yourself and own your mistakes – is the quickest and least painful way to put mistakes behind you and move forward

Live in the present and let the past go – make the most of now – is difficult to do but it will make you more productive and happier

Watch what you promise and when you make one, keep it – simply put, do not over promise

Treat others as you would want to be treated – show kindness and empathy and treat everyone the same – it is one of the greatest and most productive traits you can have

Get and stay organized, replacing weaknesses with strengths – figure out what you like to do least, or are least good at and then learn how to do it better and do it first

Be persistent in making changes and be willing to try new things – nothing succeeds like keeping at it...that will never change

Be optimistic – look for the humor in your life and career...learn to smile more and show humility – people admire and like optimism, a can do attitude...they will almost always choose that person who best exemplifies that

Manage the stress in your life better whether through exercise or reserving time for pleasure – you cannot forget the importance of taking care of yourself

Find or rekindle your passion – make up your mind to be brave and live a life full of passion – what would you do if you were not afraid to fail

Always have a Plan B and remember that if Plan A does not work, there are 25 more letters in the alphabet

Now, some personal background -

January, 1993

It was a Wednesday morning much like so many others. I drove the four or five miles to my office at the law firm where I worked on West Edenton Street near downtown Raleigh and parked my car in the parking garage under the large brick building that housed both the law firm and the branch of a local bank. Without interruption, I got on the elevator and rode to the third floor that opened into a large expensive lobby with wine colored carpeting, rich traditional furniture and a conference room to the side with a table that could easily have been used at Versailles.

Turning to my right I walked the fifty or so feet to my corner office to sit down at my desk and take stock of what the day might bring. I was early, somewhere between 7:30 a.m. and 8:00 a.m. All was quiet. The telephone had not yet started ringing.

I had been a lawyer for over twenty-three years. I had been a federal prosecutor, a partner in both small and large law firms. I had even once practiced law by myself. I had countless meetings with clients, had argued cases in both trial and appellate courts

I had had a stellar legal career to that point. I had started out as a young lawyer in Robert Morgan's state Attorney General Office, arguing cases before the Court of Appeals and the Supreme Court on a regular basis, ending my time there with a brief stay in the office's new section that dealt with Special Prosecutions of criminal cases throughout North Carolina. I had gone on to great success and some notoriety in the United States Attorney's Office for the Eastern District of North Carolina, eventually becoming the lead prosecutor in the triple murder case of Jeffrey MacDonald in 1979. MacDonald was convicted, and my career was set on a continuing upward spiral.

Small firm practices eventually led to a partnership in a major North Carolina law firm with offices in Charlotte, Greensboro and Raleigh. By 1993, I was one of five partners who sat on the all-powerful Policy Committee of the firm. I was well known. I had a solid reputation as an accomplished trial attorney. I had a warm and supportive family. I made a good living, vacationed in nice spots every year. In short, from the outside, I was a success. I was on top. Or so I thought.

My telephone rang. I answered and heard the tense voice of a local bank employee who fired questions at me about a wire transfer of \$50,000 from one of the firm's trust accounts to one of my clients in the northeast part of the state. I had set in motion and authorized this transfer about six weeks before, the day after Thanksgiving, some weeks before. She rapidly told me her superiors had questioned whether I had the authority to request the transfer, that it should not have been done, and that her job was in question. I told her everything was fine, that I would check into it and call her back immediately.

Not many minutes later, I found myself in the corner office at the opposite end of the building with two of my law partners, one of whom I had been with in law school. The two of them slowly, painfully went over a number of irrefutable facts that included my setting up a case file for a matter that did not legally exist, my writing of at least seventeen court orders of all kinds to resolve the alleged case and then making a down payment to these clients of the \$50,000.

It took some time that morning for me to agree with myself and my partners to tell them the truth. It was hard. It was painful. I did not want to do it. Doing so, I thought, would change my life forever.

I remember finally asking if I could have thirty seconds or so to close my eyes before speaking again, and when I did start talking with them again, I began to tell the truth. It was the beginning of my survival. Telling the truth finally was what ultimately saved my life.

But I did not think I could do that by myself. If left alone, I believed I would have crashed beyond all repair. I would not have survived. I was not that strong. I needed help, and I needed it right then.

As I drove around Raleigh, trying to figure out what to do next, knowing I was going to have to tell my family and friends that I was leaving the law firm and going immediately into an uncertain future, I reached out by telephone to a good friend of mine, a Raleigh lawyer named Wade Smith.

Wade and I had met years before, when he was a primary defense lawyer for Jeffrey MacDonald. We had tried additional cases together over the ensuing years, becoming friends in the process. The truth was that I had made a good living on some of his case rejects when I first started private law practice after leaving the government. So, it was natural to me that I would reach out to him that afternoon.

I told Wade on the phone that I was in trouble, and that I had left my law firm that day, and that I needed to see him as soon as possible. He didn't hesitate. He said he would meet me in an hour at a local restaurant. After getting the obligatory pot of coffee, he opened up a yellow legal pad, took out his pen and turned to me and asked me to tell him the worst things I had done.

And so I started. I told him of making up stories to clients for whom I had not done as much work as I should have done, and that I had taken money from some clients and given it to others. And so it went for about half an hour. At the end, Wade put down his pen, looked at me and told me it would be okay.

I said to him, "What do you mean okay? How can this be okay?"

"Jim, your career has gone a little off track, but we can put it back. You can be okay again. You need a change just now. Do something different. Go for a bike ride across country. Walk the Appalachian Trail for a time. Get some rest. Get away. You have been doing this a long time, and you need a break."

"Wade, I can't do any of those things. How am I going to do that? I need to work. I am not rich. I need to support my family. Jeff wants to go to college in the fall. He has already been accepted at Wake Forest, and they aren't cheap."

"Jim, that all may be true, but you can't do anything unless you first take care of yourself and what got you to this point. But I want you to know that I will be with you, every step of the way. I will help you, and you will never owe me a dime."

"Thanks Wade, I don't have that much money anyway."

That was our first meeting as lawyer and client. It wasn't in a law office, but a local restaurant. We entered into no formal agreement. I never really directly asked Wade to become my lawyer. He volunteered. I never asked him about prices. He just told me I would not owe him any money.

I felt better immediately. I did not feel alone. Wade had asked me if I wanted him to go with me to see my family to tell them about what had happened. That was my next stop. But after talking with him for about an hour, I felt stronger and that I would somehow survive the rest of the day.

The first meeting with a client...for years I had taken them for granted. I could do them in my sleep. I was gracious, supporting and attentive to peoples' comments. I wanted to help. I tried to give them some optimism and hope. I tried to be supportive.

But until this meeting with Wade, in a small local restaurant on one of the worst days of my life, I had no idea how important the first meeting with a client really is.

I was facing the complete collapse of my life. Indeed, one of my law partners would one day say that was the day Jim Blackburn's life was shattered. And so I needed the best from someone, and I got it that day. I got support, hope, optimism and a commitment that my lawyer would be with me the entire way.

I needed all of that. Without all that I received, I might very well not have made it through the day. Wade had helped teach me to fly.

Lawyers take new cases every day of the week. Files are set up, letters of agreement are prepared, fees are set, and the initial interview takes place. And after it is all over, the secretary or legal assistant takes the file and places it in its proper place. And the process begins.

The initial interview is like magic. It is a time when all things seem possible. Everyone has hope. It is a first meeting when the first life stories are told. And then, too often, that file that has within it the hopes and fears of a new client sits somewhere, waiting to begin an uncertain journey that oftentimes does not end in a good place.

The next day, a Thursday, I called another friend of mine, Rick Gammon, with whom I had once briefly practiced law in the early 1980's. I reached him early that morning at his home, before he had left for work.

"Rick, I need to talk with you this morning. Something has happened. I am leaving the law firm."

He was at the law firm within the hour. The two of us got in his car and drove around the Raleigh Beltline several times while I told him what I had done. He listened and offered to clear his calendar and spend the day with me, taking me to the beach to walk and talk if that was what I wanted. He would do whatever I wanted. I never asked Rick to become my lawyer. He just did.

It was the other first interview and meeting. It was equally as good as the one with Wade Smith. Both these men had been long time friends, and both were excellent lawyers. Both acted totally professionally and offered support and encouragement.

They were not judgmental and were totally supportive. They of course did not agree with what I had done, but they were ready to help.

The first interviews with strangers are of course different than with someone you know. But the basics remain the same. Listen carefully, be gracious, offer support and hope. Do not over promise. Never over promise.

Today, many years later, I remember almost verbatim the words Wade and Rick said to me. I bet they do not. And so it is with probably most clients. They hang on your every word, they may take notes. They take whatever you say literally. I know that because that is what I did.

Neither Wade nor Rick ever promised me a rose colored solution. Indeed, it was the opposite. They both persuaded me to seek psychiatric help, soon resulting in a brief stay at Duke University's psychiatric wing of their hospital. They were both quoted in the local newspaper telling the public that I would eventually surrender my license to practice law, that I faced an ongoing criminal investigation,

that they were concerned about my physical health. They said the same thing to me in private. They didn't sugar coat it.

But they were supportive. They were on my side. They met with me and called me on the phone to talk. But not as much as I wanted. I wanted them to be with me and to think about my case all day and night long. Every day. 24-7. I didn't want them to have any other clients or think about anyone else. Certainly no other situation was as dire or as important as mine.

You would think I would have known better, having been a lawyer myself. But I didn't. I was scared...terrified would not be too strong a word. I could put on a good public face, but underneath...well, that was another matter.

And so it is with all clients. Everyone. No matter what they say. They want all of you...all the time.

Building and Keeping Trust with Clients -

My attorneys built trust with me because they were there, and they listened. They asked probing questions. They were never, to my face at least, judgmental; though I am sure they were shocked as to what I was telling them. They did not lay out for me the first time they each met with me all that might happen to me in the future. Rather, they seemed concerned about my wellbeing at that very moment and perhaps a few days going forward.

I knew both my attorneys. I had practiced with Rick Gammon and been on both sides of cases with Wade Smith. I am sure I trusted them from the beginning, and that is not how it is with most attorney-client situations.

Two days after meeting with Wade Smith and one day after talking with Rick Gammon, I found myself in the office for a one hour meeting with Dr. Jean Spaulding, a well-respected psychiatrist. I was a referral to her from Wade Smith. I did not know her. A few minutes after the initial meeting, Dr. Spaulding got up from behind her desk and took the chair beside me, listened a few more minutes, and then when there was a pause in the conversation, she leaned towards me and told me "I want to be on your side. I want to help you."

I have never forgotten those words and that moment. In all the time I practiced law, I am not sure I ever said specifically those words to a client, though surely the client knew that. But I now believe, in building trust with a client, it is important to tell the client in a few short words that you really do want to help them.

A client initially wants to believe all that an attorney is saying. At that point there is no reason for doubt. Doubt creeps in later, perhaps slowly, when the client has trouble reaching the attorney by telephone or email and finds his or her case delegated to someone else. Perhaps a lack of trust begins when an attorney has promised to call or be available, and it does not happen.

If an attorney wants to build and keep trust with any client, all that is required is that the attorney do on a timely basis all that the attorney has said he or she will do. It really is quite simple. Yet all the time I hear attorneys say they have clients they do not want and wish they could make a change.

Perhaps the client is not cooperative or understanding or doing what the attorney thinks should be done, but also perhaps the attorney has not followed through on promises made by returning phone calls or emails and taken whatever action has been promised.

I think every attorney should make the strongest effort possible to return phone calls or even emails to clients with a one day period. If the attorney has not done what he or she thought would be done, or does not know the answer to something, then just say so. In most instances, the client will respect and appreciate that.

From my time as a client, I remember reaching both Wade and Rick within a reasonable time, and they doing likewise. I was scared, nervous and wanting to know what they knew, if anything. Often, one of them would call with the news that there was no news...and that made me feel better.

Then, when it comes time to make tough decisions, as it surely did for me, then there is not so much the question of trust, because over time, they have been there for me, both in personal meetings and telephone conferences. There was little if any email then.

So what is an attorney to do to build and keep trust with clients? Be responsive to their questions, be patient with them and listen to what they are saying, even if you disagree. They want to be heard. They want to believe you are on their side...completely. And they deserve that.

It is an honor for any attorney to have a client to retain him or her for legal representation. Continuing to treat it as an honor though-out the representation, no matter how long or tough it may be, it will help immeasurably in building and keeping trust with any client.

Communicate with them often and honestly –

Clients want to hear from their attorney. They want to know where they stand...how things are going. If the attorney does not speak with them on a regular basis, doubt and fear will come in, making the attorney's position all the more difficult.

During the first several days that Wade and Rick were representing and helping me, they were in regular contact. It is not fun to hear that the Bar is getting ready to come down you, but Rick showed me the letter that had been faxed to him from the Bar, indicating a Motion to stop me from retaining any client funds was soon going to happen. I remember Rick telling me in his office I could not stop this from taking place or anything that would ultimately follow from that.

This conversation took place on a Friday. I met with both Wade and Rick on Saturday and then at least one of them on Sunday before agreeing to a Consent Order that would be presented to the Court the following day.

The news they were telling me was not welcome news. It was not what I wanted to hear. They were my friends as well as my attorneys. They did not like what was happening, but they did not shy away from telling me the truth.

My case with the Bar ended in April and the legal case in December of 1993. Both of my attorneys were there all year, not sugar coating anything...indeed quite the opposite.

The upside of all their telling me bad news was that when they had something good to say, I believed them. When they told me I could get through all this in one piece and start my life over, it gave me hope. They were not empty promises.

I know today many attorneys delegate a great deal of client relations to paralegals, and perhaps that is sometimes and even often necessary. But attorneys need to always remember, it will ultimately be them, and not anyone else, to whom the client will ultimately look for guidance and support.

One of the biggest problems I had as an attorney was the desire to please people and often tell them what they wanted most to hear, not in terms of a guarantee, but often times giving them maybe too much optimism and hope. I wanted them to be happy. I think now the inability to say No remains one of the main liabilities that I had as a practicing attorney.

So, attorneys should communicate with clients on a regular basis, as often as necessary, and even call sometime just to see how they are doing when there is no news to present. And they must always tell clients the truth, even if it is hard.

My attorneys told me I would lose my law license, that I would be indicted, would likely get no plea bargain agreement, and would likely get an active sentence. But they also told me I would one day get the chance to start over, that my life story was not done. They told me the truth, even unpleasant ones, but they also tempered it with hope.

Give clients individual and complete attention –

Clients usually have only one attorney. Most attorneys have many clients. Clients have photographic memories of their times with their attorneys and how they are treated. They may be in error on this but they are never in doubt. That is the way it was with me when I was a client. I remember most meetings, how I was treated...always.

Actually, clients want their attorneys to have only one client – them, but of course they do not want to pay for such special representation. But while you are with them, you need to be with them and nowhere else.

Lots of attorneys have to make important decisions about their clients and have sensitive discussions with them. As an attorney, both as a prosecutor and as a defense attorney, I often had my greatest success with someone when I met with them outside the normal office... maybe on a walk if the weather is good. When it came time for me to decide to turn in my license to practice law, Wade, Joe McGinniss, the Fatal Vision book writer and I went for an afternoon walk in Umstead State Park, complete with a picture being taken of the three of us as though we were just out for a relaxing stroll in the park. In fact, I remember the entire afternoon and much of the conversation as I had to finally decide on what was for me a momentous decision.

The setting was informal and comfortable. I was among friends. They were helpful, not judgmental and gave me hope for the future. There were no phones, no one waiting to see Wade that afternoon. It was just me.

I know this is unusual and cannot be duplicated easily. But what can be done is that the attorney recognize that each client is unique and important and needs and requires the complete focus of the attorney. The client needs to know the attorney is really into him or her.

Often I would visit either Wade or Rick, and they would write a "to do list" on a white board or something similar. We would go over ideas of things to do, and what should be done next.

Once, after stopping practicing law, I was walking down a street in Raleigh and met someone who walked up to me and told me I was once his attorney. It was a speeding case, and it ended well for him, or at least that is what he said. But I did not remember him, but he remembered me. A great lesson for all attorneys. They will remember you long after you have forgotten them, and they will remember how you treated them and how their matter was resolved. Make every effort to focus and listen to each and every client... every day.

Keep all communications with clients confidential –

One of the first things I remember Dr. Spaulding saying to me, in an effort to obtain my confidence and trust was that whatever I told her, she would not tell other people, unless I told her it was okay. Every time she sought to do that, she would hand me a written waiver for me to sign, giving her such permission.

Dr. Spaulding's technique not only protected her but reinforced in me the feeling that she was serious about confidentiality. I believe that was in part responsible for me trusting her more completely as our conversations and her helping me continued.

Most everyone knows that communications between attorneys and clients are privileged with certain exceptions. Attorneys always have to be careful about allowing others into the room when they are talking with clients as what is then said might not be confidential. Clients and everyone of course need to know that.

But also importantly, it is helpful to tell clients from the beginning that all communications are private, privileged and confidential. It is a good way to build immediate trust.

Do not over promise to clients on what is possible – never guarantee a result –

Several years ago, a member of the North Carolina Bar Council told me that he believed that relative young attorneys were often the most in danger of getting into difficulty with the Bar because, driven by economic necessity and perhaps law school debt, they would take cases and clients they should not take.

The pressures of keeping open a young and relatively new law practice, trying to get one's billable hours up in a law firm, just trying to make it and open new files with new clients can induce attorneys to take cases they should not take. That is a huge mistake.

I have a basic rule of thumb I would say to every attorney about taking a new matter. If when deciding to take a new case, you are comfortable with telling those with whom you work most closely about the new case, your reasons for taking it and the terms of the engagement, then perhaps it is okay to go forward. Anything else...stay away and say No.

If your client should ever ask you to do something inappropriate, say No. If a client or prospective client should ever ask you for a guarantee as to a result, say No. If you feel that a particular legal strategy or course is not appropriate, say No to that as well.

Do not try to please and make happy your clients at the expense of solid sound legal advice. Do not tell clients what they want to hear as much as what they need to hear. Tell clients the absolute truth. Doing so will save so much heartache and unpleasantness down the road.

If you cannot get a new client but by overpromising, let that client pass you by. There will be others. I wish I had followed such advice myself.

Avoid even the appearance of impropriety –

The best ways to avoid even the appearance of impropriety are pretty simple. How open and transparent are you as an attorney? Do you ever act in such a way that you would not like to read about your conduct on the front page of your local newspaper? Do you keep notes of your meetings with clients? Do you ever write and confirm to your clients what just happened in an attorney-client conference? Do you keep a detailed accounting each day of what you do and how you spend your time on client matters? Is your practice, and how you conduct it, pretty much an open book? If you left your office for a week's vacation and did not check in with your office, is there anything out of line on your part that would surface while you were away? Do you show up on time for court or client or attorney meetings? How truthful are you when you have bad news to tell?

One day, some years ago, I was invited to speak to a professional group, not attorneys, and at the end of the talk, someone stood and asked me how I wanted to be remembered. I had never really given it much thought. But I do now. If all attorneys would try to go forward and think at the end of the day, week, month or even years, how they would like to be remembered, I bet conduct on the part of some would change and improve.

Take the questions in the first paragraph under this Heading and ask yourself those questions as a test and see how you do. Are there some areas on which you can improve? Are there additional questions you should add?

Your reputation is all you have. Do not let go of it lightly, not so much because of the Bar's rules, but because it is the right thing to do. If you fail in this regard, the consequences can be enormous, and it will take so long to even partially recover.

Never, never take money from your Trust Account... for any reason -

Violating this principle is to ask for a death sentence. Violating this principle will cost you your law license. There will be no extenuating circumstances that can or will save you.

I could cite the Rules of Conduct or play for you a video of Bruno DeMolli on the Random Audit program of the Bar, but I prefer to be personal here with you.

I never ever thought I would get into trouble with Trust Accounts. I knew next to nothing about them. I had never been audited or questioned in any way. But as the year 1992 went by, and I had a

contentious relationship with a former client who wanted money from a matter, I kept trying to figure out a way to either make everything go away or better or something. Finally, at what I thought was the end of my rope, and not knowing where else to turn, the Friday after Thanksgiving, I went to my law office, called a local bank and wired a large sum of money to this client. The money came from the law firm's trust account and was for another client of mine and a good friend. It had been in the firm's account for some time.

In the intervening weeks, I made no effort to fix what I had done. I am sure I was in some form of denial of wrong doing or thought it was something that could be handled later on. While that was true, it was not handled later on in a way favorable to me. It was in mid-January of the following year, 1993, that it all came to light, and my legal career came to a crashing close.

Some years ago, I was in a major North Carolina city, making a presentation to a law firm's attorneys and some of their clients, and a former President of the North Carolina Bar was there, someone whom I had known for some time. At the break, we spoke briefly, and he asked me to tell every attorney I spoke before, that is that attorney took any money from a Trust Account, that attorney would not practice law again. I promised him I would do that, and so I do.

It does not make any difference for what purpose you take the money, what the amount is, or if you pay it back...no difference. It is a death sentence for you! Do not even think about doing that...now or ever!

As a side comment here, I told the person whose money it really was what had happened. He was gracious to me, and said he wished he had known and perhaps something could have been worked out. I told him I appreciated his thoughts, but there was nothing he or I could have done at that point. That was and is very true.

Do not overbill clients –

This principle seems so basic as not to need any mention. I will only say that bills and hours you send to clients, if you bill clients in that way, must be honest and above reproach and be able to withstand any scrutiny. If you did not work those hours, do not say you did. Do not pad your time sheets. Do not inflate your hours. Be able to support and defend what you did, including the quality of your work, to clients, to your firm and to anyone else.

You may think no one will know if you have inflated your bills and time sheets. But you will know and knowing that will take the passion right out of your work and life. You will always be wondering if anyone will find out or question you. Do not go there.

Find passion in your work and always do the best for your clients that is possible –

Of all the suggestions I can make, I believe that finding and keeping passion in your work is one of the most important. I do not say this because passion trumps everything else, but because I believe if you have passion in what you do, you are more likely to do your very best. You are not likely to cut corners. You are not as likely to violate rules. You are painting your career in bold colors.

Every attorney and person in the legal profession can probably point to some representation or event, when he or she had passion for what was being done. You may not have it all the time, but there

is a secret to it. Passion can make you better than you otherwise might be. Passion makes you stretch yourself.

Now, you may not have such great passion every day. But try to find it in what you do. Are you practicing the sort of law you really enjoy? Have you found your niche? Do you like your clients? Do you like practicing law? It may take some time before you find passion.

For me, it took a number of years before I discovered, almost by accident, that I enjoyed being a trial lawyer. My experience as such was minimal before I was thrown into major federal criminal cases. I found that experience to be one of the best times of my life. I worked harder, on more nights and weekends, than either before or after.

One of the greatest mistakes I made in my career was that I found myself, in later years, always waiting for a big case. I got bored easily. I should have realized that every case I took, and every client I had, was a big deal. It was often the only case the client had. It was important to the client. While I knew that on some level, I should have approached every matter that way.

It is easy to say that attorneys should treat every client special, and many do...all the time. But as the years go by, there can be a tendency to let down a bit. That can be a fatal mistake. Do not do that! Try your best...every time...with every client...whether you like the client or not. If you do this, you will find passion once again in your career, and your relationship with the client will vastly improve.

The truth is the most important asset you or your clients have – use it –

This is not an original thought with me. It was told to me by a wise North Carolina attorney who has been around for a long time and has had a remarkable career.

If you are a trial attorney and are often in court before either a judge or jury, if you are an attorney who deals with other attorneys outside the courtroom, or if you are an attorney who only deals with non-attorney clients, the truth is your greatest asset. If you want to be taken as a serious attorney, you will tell the truth...every time. You want this to be your reputation.

The truth is also the most important asset your client has. If that client tells you the total truth, you are so much better able to help the client. If the client tells the truth in a deposition or in testimony in a court proceeding, the ability of the other side's attorney to effectively cross-examine the client is lessened. If the client tells the truth, that is the best way to the best possible outcome.

All of this sounds very basic and straightforward. Almost every attorney has stories to tell about how clients did not always tell them the truth at first. I understand that. It can be difficult for anyone to tell the truth about a situation when the truth is embarrassing, disappointing, or can lead to serious legal consequences. Denial often sets in with people.

But being a good and effective attorney means you do not give up on the search for a client's truth. It requires patience and understanding as well as tough talk and advice.

Likewise, if you want to be taken as a serious attorney, well respected by everyone, you give up telling the truth at your peril. It can be your greatest asset. Do not throw it away.

To this point, I have tried to briefly summarize the points I make in many programs on Continuing Education. I have not stated or printed the Rules of Professional Conduct, but I have tried to touch on them in an informal matter. These points are basic. They should be followed. But I do not want just to write about "Thou shalt nots". I want to suggest that the best way to treat your law practice and your relationship with your clients and everyone involved in the legal profession is do so in a way that you would like to be done to you. If you will do that, I suspect you will be able to have a happy experience as an attorney practicing law in this state.

But you may ask, "Jim knew his attorneys as friends, and they knew him. They had had a relationship with him for years. One tried cases with and against him, and the other was once a law partner." That is not the real world to me. I don't know my clients before they walk in the door, and they do not know me, except perhaps by reputation, and sometimes not even that way. What about that?"

So, here are some more general suggestions and thoughts of dealing with new clients.

The first meeting and the first few weeks -

It is not likely that you will know your prospective client before meeting him or her the first time. Perhaps you know why the client is coming to see you, and you are confident you will be retained as the attorney. However, it may be that the client is attorney shopping, and you are just on the list. Are your actions any different from one circumstance to the other? How do you market yourself to the prospective client who may be visiting various attorneys before making a final decision as to which one to hire?

What do you do?

Before the prospective client comes to see you for the first time, learn as much as you can the circumstances of the visit. Why is the person coming? Is this a case you have the capability of handling? Is the case worth your time? Will the firm, if you belong to one, be accepting of such a case and any fee arrangement you make? If you are a solo practitioner, is the case one that you can properly handle and earn a reasonable compensation? Ask yourself these questions and be prepared to give good hard answers. Are there any potential conflicts with other clients or cases?

These questions are important to consider because the answers to them will play a large part in how you represent your new client, whether you do so with passion to the very best of your ability. If you do not really know what you are doing in a matter, and you do not ask for help, then there is the real risk you will defer taking action for the client with the result that the client's matter will languish, you will not return telephone calls to the client, and all of a sudden, your practice will spiral out of control.

If you are not reasonably paid, you will work on those matters for which you are, and not pay enough attention to the ones for which you are not as well compensated. These may well be the cases and clients that cause your legal career to suffer. These are the ones that may be reported to the Bar.

Finally, the issue of conflicts can potentially damage your ability to act zealously for your client if it requires you to go against another former client in any way. There is the great danger that you will pull back on your representation so as not to offend the former client.

So what do you do if you get a waiver from all the interested parties because you want to be involved in the case or matter? Ask yourself this question and do so honestly. Would your prior representation of the other client, in any way, cause you to pull your punches, make you uncomfortable in representing the new client zealously? If you hesitate in answering these questions, I think the better decision would be to avoid the new client and just wait for another client and case.

The bottom line is that none of these situations are worth becoming involved in if you want to become a great attorney in representing your clients. In fact, they could easily hinder you from being the attorney you wish to be.

Assume then you have resolved these initial questions in your mind and want to take the new matter, and the client wants to hire you.

Ask the person why he or she is there – what can you do for them – this is an invitation for the person to start talking, and for you to start listening. Dr. Spaulding, whom I had never met before seeing her for my first appointment, told me we had about an hour, and why didn't I tell her what she could do for me. I started to talk. She sat in a chair near me, and after a short while, leaned over and told me she wanted to help me. She wanted me to know she was on my side. Wade had previously of course told her who I was and why I was coming. She knew. She just wanted to hear some of it from me.

I do not remember all the details of my first or even second meeting with Dr. Spaulding though I imagine they were taken up with my talking about my situation and her listening. However, I do remember all these years later her telling me she wanted to help me, and she wanted to be on my side. She also said to me that whatever I told her, she would not tell anyone unless I said it was okay to do so.

I think these very words are worth saying to every client you have. It doesn't take long to say them, but clients will remember them for a long time. I remember Dr. Spaulding saying these very words from January, 1993 to the present time. I understand there may be some restrictions on the attorney-client privilege, but to the extent possible, go over that in some of your very first meetings with a new client.

I think all clients want to know this from their attorneys. They want your support and help...unconditionally. If you want them to be your client, tell them so. Tell them they will have your help and support. You might consider giving them a preview of what is going to happen next, and what you plan to do. Dr. Spaulding told me I would be spending a lot of time with her the first few weeks, not only in discussions, but in the taking of various tests so she could have a better overview of who I was.

Wade and Rick did much the same thing. Wade said to me that the month of February was to be a quiet month in that I was to go nowhere, talk to no one but my family and Dr. Spaulding. Their plan was to take the case out of the media and let everything calm down. Meanwhile, they were going to be meeting with me and making sure they had all the factual information they needed.

Do not promise your clients a result...ever. You have no control, only influence over that. You can only do your best. It is not up to you. If this costs you the representation of a client to someone else, you are better off to let the client go. The great danger however may be in the middle. Avoid even

words that could possibly be interpreted as promising a result. Remember, the clients will always think back to your conversations with them in the light most favorable to them.

First, you will not know all the facts of a given situation in the first meeting. The facts may grow and possibly even change. It will take time before you will feel comfortable that you know all that you need to know. In my case, I am sure that it took days and weeks and a number of meetings before Dr. Spaulding, Wade and Rick knew all the facts of my situation. Often this was because I was responding to their questions, and answers I gave would cause a different set of questions that had not initially been considered.

How then can you give your clients hope? By saying you want to help them, to be on their side, to do your best, to listen, to be available, and to offer encouragement is to give them hope. But all of these thoughts must be real and not false hope. When I speak of hope, I am talking about hope for their life as much as with their case.

I was at a loss as to what to do. I could no longer practice law. At some point, I was going to have to work again and earn an income. But all that was in the air of uncertainty as I could not make long term plans with a criminal case unfolding against me. I did not know my future. Hope that I would have a future is what I needed. Often the best hope I got was just having a good week, taking care of myself, seeing Dr. Spaulding, having good sessions, answering questions honestly from Wade and Rick, going for long walks, often by myself, visiting with friends and family, reading and just putting one foot in front of the other.

My attorneys for all their encouragement and support of me never told me the likelihood of any result. They told me the truth as they perceived the truth to be. In terms of my criminal case, they told me there was a significant chance for an active sentence that might be considerable which surely was not what I wanted to hear. The most they would ever say was that they did not know for sure what would happen with the legal system.

With respect to the Bar, they said initially to rest and get stronger. When I had done that and been released from a weeklong stay at Duke Hospital, they then began to say to me the law license would be gone. They told the public I would turn in my license. Still, they gave me some time and said to me that soon I would have to work on an affidavit for the Bar. It would turn out to be about a little shy of three months from the very beginning as to when I turned in my license.

I understand the desire for clients to know a potential final result as soon as possible. Clients want certainty. Generally, that is just not possible, and attorneys need to be firm in not offering what they cannot know for sure.

From the beginning, my attorneys listened and in truth after the first few weeks went by, they knew the entire situation. There would be no more surprises. I had told them the truth. I had done that for a number of reasons. I had nowhere else to go for sure. The truth became the only option available if I wanted to have any chance in surviving and starting over.

In addition, I had learned in January of that year the valuable lesson that once you start telling the truth, it is hard to stop. For me, it became a very freeing experience, and that lesson stayed with me the rest of the year.

Finally, telling the truth to Dr. Spaulding, Wade and Rick became easier for me because they had gained my trust. Trust, I believe, is the most important ingredient in getting any client to tell you the truth.

Building trust in the attorney-client relationship is essential. I think the term “zealous representation of your client” are words not always understood. In my case, those words stood for being there, returning my phone calls, listening to what I was saying, assuring me I could get through all this, and also telling me the hard truth in a kind way when that proved necessary. Throughout it all, at no time was anyone of the three of them judgmental. I think that the zealous representation of a client is more than just applying the law to a given fact situation.

They created an environment in which I could rest and start learning how to survive. I learned then that often a great defense is not a fast race but yet a slow and sometimes painful journey. They gave me time. Time turned out to be so significant for me, and I think for lots of clients. It takes time to adjust, to come to a new reality, to accept, to get past denial and even fear and anger. If you want your client to come to acceptance of any situation, it is likely to take some time, and working to get that for them can be one of the best things you do.

During the first several months of 1993, I met with Dr. Spaulding at least once a week and sometimes more. I am sure Wade and Rick talked to representatives of the Bar, the District Attorney’s office, agents of the S.B. I. and perhaps others. At the end of this initial period, it was time to decide and to act. Both Wade and Rick encouraged me to turn in my license to the Bar, and I did so. They encouraged me to turn over information to the S.B.I., without the necessity of a subpoena, and I did so. It was a time of the legal investigation proceeding, and my main focus was to take care of myself.

Wade told me many times not to worry about my case, that it would take care of itself...rather I should take care of myself, and that included seeing Dr. Spaulding, walking, resting, meeting and talking with friends and of course he and Rick when I needed to do so. In fact, when I was interviewed by two agents of the S.B. I., the only suggestion my attorneys gave to me was to tell them the entire truth and answer all their questions. While both attorneys were present during the several hour interview, there were no objections to any questions, nor were any favors requested.

My attorneys took a longer view of my situation. They wanted to put me in the best possible place at sentencing, and they wanted me to conduct myself so there would be a future for me.

I do not suggest that other attorneys and clients do the same, for every case is different. But I do believe it is important to take a long view of your client’s situation and determine how you want it ultimately to be resolved.

This was a difficult time and no doubt required a lot of patience and understanding on their part for I was at times a difficult client. It was not always smooth with the result that at times we would talk and meet just to clear the air. This is probably a normal occurrence whenever you represent a client over time with high stakes involved, and of course every client thinks the stakes in his or her case is high.

I remember though that no matter our disagreements, there was never one where truth, or the lack of it, was an issue. There was never a disagreement on communication or any concern on my part as to their efforts. The disagreements, to the extent they occurred, were on my ability to make hard decisions.

What I learned from my early experience with my lawyers –

Clients want your unconditional support

Clients want the truth from you

Clients want hope and empathy

Clients often need time to tell you the truth

Clients sometimes need you to lend them a little courage to make tough decisions

There are some final thoughts I have as to my relationship with my attorneys, how we dealt with each other, what I needed and wanted from them. In this respect, I believe I was like lots of clients, and the reason I am writing about this to you is the strong feeling I have that if I had known, when I was a practicing attorney what it was like to be a client, I would have been much better. Perhaps some of these are random thoughts, but they strike really home to me. I am not telling you anything you do not already know. I am just saying these were important to me as a client.

Individual attention – there are so many ways to do that now. Returning phone calls and actually speaking with a client is clearly one good way. The advantage is that you get immediate reaction from the client and can answer questions that only fester if you put off talking with the client. While it is good for paralegals to talk with clients in your absence, often there is no substitute for you as the attorney talking with the client. After all, it is you the client retained.

Emails can be helpful to you as well as the reverse. They give you a record and a time and date stamp as to what you have said to the client. That is also the bad news if you do not do it regularly, are late or worse say something inappropriate or wrong. But emails do give you the chance to have immediate contact and communication with clients.

When I was a client, email was not yet that available and most of the conversations I had with Wade and Rick by telephone were status calls or just asking me for some information that could be handled that way. By far, I got most of their attention by individual or group meetings.

I was made to feel welcome in their law firms. It was a place where I felt everyone was trying or hoping to help me. We had spirited discussions, strong disagreements, usually as to what they wanted me to do, and yet they never rushed me. They gave me the attention I needed.

We also met in open spaces where we could walk and talk, uninterrupted by phone calls and other persons. Such meetings gave me a chance to talk openly and relax. There was no question as to my being given personal attention.

Communication between attorney and client is not always smooth. Telling a client and getting a client to act on that truth is not always easy. It took many months and lots of arguments for me to act on the truths that I was being told.

One conversation I had with one of my attorneys is telling. He said to me that if I were the attorney, I would be telling me the same thing as he was saying. I responded back that I was not the attorney, I was the client, and if he were hearing what I was being told, he would not like it either. I do not remember the outcome of the discussion, but the point is significant. For any attorney to hope and expect the client to take the advice being given, it would be helpful if the attorney could think what it would be like to be that client.

Telling a client the truth is one thing – getting the client to accept it is another –

Sometime in the fall of 1993, months after the Grand Jury indictment in July, I was meeting with Wade in his law office and telling him some thoughts I had as to how everything could go a little better for me. I was hoping for some sort of understanding or deal with the District Attorney's office. I did not want an active sentence anywhere.

Wade was sitting in his chair behind his desk and had an immediate reaction. He got up came to where I was sitting, got in my face and told me words to the effect that if I continued like that I would never come back in life, he didn't know what would become of me. The only way back was to take the best shot anyone could give me and just own it. If no deal was to be offered, then I should not want one. I should just say I was totally responsible.

I cannot express how tough that was for me to hear. I asked him what he thought would happen to me if I did that. I was not asking, and he did not say what the terms of a sentence would be. Rather, he said that if I did that, ultimately I would get my life back and be better than I ever was before.

In looking back all these years later, it is that conversation I remember most. It is the one I needed most to hear. It was the truth from him. There was no promise of a result...only the giving of hope. He told me to go home and read the Sermon on the Mount, particularly that part where it says if someone wants you to go with them one mile, you should go two.

It still took time for me to accept and agree with his recommendations. I met with Dr. Spaulding and also Dr. Seymour Halleck, a doctor at Chapel Hill that the Court had asked me to also see. It was not until late November of that year that I called both Wade and Rick and said I would take their advice and plead guilty to all counts, asking really for nothing specific and just taking it.

I am not sure today how I did that. Perhaps I had no choice for the District Attorney was not disposed to offer any deal. But that I did it with some grace is directly due to my attorneys' effort on my behalf.

Here is why I finally trusted them to do this –

They had worked really hard for me...in every way, and I knew that

I could always reach them and talk with them if I needed to do so

They did not flinch from telling me the truth...even when it was very hard

The only predictions they gave me were tough ones, not easy and pleasant

They prepared me for the worst

Still, I had the feeling that each of them was still on my side and was doing the best that could be done.

In the representation of your clients, be it civil or criminal, if you can do these five things, then you have done a good job. The Rules of Professional Conduct that speak to Ethics also speak to representing your clients. They are essentially one and the same.

Why was all of the year important to the final result I received? If I were to plead guilty to all the charges against me and turn in my license to practice law, why did that take so long...an entire year? What was it that my attorneys did?

I needed an attorney's counseling on life as well as the law. My case was pretty simple. My life was not. I was not mentally or emotionally able to make tough decisions early in the year. I know some attorneys take the position that they are not trained to be counselors. They say that they only know the law and how to give strict legal advice.

In my case, I needed a broader interpretation of an attorney's role. I needed someone who had some empathy for my situation; someone who could help guide me through a very tough year. I could look up the statutes and violations myself. I could talk to the S.B.I. myself. I could put up my home as security myself. I could plead guilty to all charges without an agreement myself. What I could not do very well was to guide and support me and encourage me to make those decisions. While I could do them myself, I could not decide to do them myself. For those decisions, I needed my attorneys.

If it is true that denial is the first emotion for a person in jeopardy, then anger, fear and hopefully acceptance surely follow. I had all of those with the anger primarily being directed at myself. Both my attorneys as well as my doctor were concerned about my mental wellbeing.

Anytime you have a client who stands at risk of losing a great deal, whether it is a house to foreclosure, a child custody case, a civil lawsuit of most any kind, bankruptcy, or criminal, you should be concerned about his or her mental well-being. In order to do this, you must really be connected to your client. You cannot be a stranger. You do not communicate with your clients regularly, be passionate on their behalf, give them individual attention, and your unconditional support because of the Rules of Professional Conduct. You should do this because that is the way you would wish to be treated if you were the client.

I have spoken to attorneys in a number of states. In almost every instance, people want to hear about the risk of suicide. It is an issue for attorneys throughout the United States.

In the cover story of Newsweek magazine in May, 2013, titled Why are We Killing Ourselves and What can We Do About It?, the writer interviews in detail a long time professor at Florida State University, who has spent a lifetime studying this issue, as his father killed himself when he was a young man. The professor determined that in many cases, there was often a perfect storm of events and circumstances that led to the death of someone.

First, there was a strong sense of aloneness. Secondly, there was a feeling that the person involved felt helpless in taking care of him or herself in the future or in the ability to care, perhaps financially for family. Finally, there was the availability of some means by which to carry out the suicide. If all three of these factors are present, the chances for a disaster increase.

Attorneys, as I mentioned in the Manuscript dealing with mental health issues, are strongly at risk due to the stress of looking after the legal well-being of others. You go to work every day oftentimes with someone on the other side wanting to defeat you.

Clients can easily feel alone or helpless in taking care of themselves and others. You should always pay close attention to how they are feeling and doing and consider their reactions and feelings when telling them advice and what might ultimately happen in their case.

I realized this totally when I became one. I wish, when I practiced law, I had started more client meetings and representation by having a good idea as to how I wanted it to play out...to end. I think having an idea; subject to change depending on the circumstances of course, as to how you want your client to resolve the matter can lead you to becoming a greater attorney. If you have no idea as to your goal for your client, then it will be difficult for you to know how to improve the client's legal situation.

In reading the Sermon on the Mount that time that was suggested to me by Wade Smith, I found another verse that I will summarize here, for I believe it is important for your handling of clients and for good ethics in general. It is the concept of letting your yes's be yes's and your no's be no's. That is the way to handle not only yourself but also your relationship with your clients. I think often if I had only done that more.

It assumes you tell your clients the truth, both the good and the bad that you keep your word and you follow through on whatever you tell them. If you say you will do something, then you do it and at the time you said you would.

Many years later, in the late summer of 2005, I was to learn additional lessons that are relevant here. I was no longer a client or an attorney. I was however about to become a witness in a major case.

An allegation was made in federal court that during the MacDonald murder trial in the summer of 1979, I participated in a meeting with a witness who it was alleged said to me that she was present at the murders and knew who had done them, and that it was not MacDonald. According to an individual, now deceased, I said to this person that if she testified that way, then I would indict her for murder. Essentially, it was alleged that I had threatened her to lie and had committed a fraud on the court and jury.

For all purposes, I will say, as I did under oath in federal court, that no such conversation ever took place, though there was a meeting with this witness that was entirely correct and appropriate.

I mention this legal matter for several reasons. First, whenever you as an attorney meet with a client or witness or anyone that has something of substance to say in an important matter, you should strongly consider having another person present to observe the meeting and take notes, which you should keep indefinitely.

I do not think anyone did this in the meeting I have just written about, though there were four attorneys present. The only reason there is any written record anywhere of what this witness said that day is because in the meeting with the other side, a book writer, Joe McGinniss was invited in, and he took notes. Those notes and his presence at the meeting became critically important to the government in the federal court hearing.

I was interviewed twice by the government attorneys prior to my testimony. I was a friendly witness for the government. Yet in both instances, an F. B. I. agent was present. That is a change from practices long ago, but I must say a good one.

Next, attorneys should always tell prospective witnesses not just to listen to the questions asked and answer only those questions, but in all cases and under all circumstances, to tell the truth. The truth is the most important asset any attorney, client or witness has.

Pay attention when your witnesses are taking the oath in order to testify, whether in court or a deposition. It is important. You may have seen it done many times, but your witness, not so much. It is very important and responsible thing to testify under oath in any legal proceeding, and you should be sure your witnesses take this seriously.

I am not sure I understood this in a personal way until it came my time to testify in federal court in Wilmington. I am not sure I realized just how stressful it can be to answer questions from both sides fully and without argument. The best attorneys take care to prepare their clients and their witnesses.

The early morning before I was to testify, I received an email from Joe McGinniss, the writer of **Fatal Vision**, a book about Jeffrey MacDonald, the person I had long ago prosecuted, and who was also to testify later in the Hearing. Joe wrote to me “You look great. You will do great. The truth is hard to screw up, unlike lies.” That was the best note and reassurance I ever received as a witness. I think it is something every attorney ought to say in substance to every witness he or she puts on the stand, whether it is a client or a witness on a client’s behalf. I think that doing so will only make you a better attorney.

There are some additional ideas I have that perhaps are not found specifically in the Rules of Professional Conduct but are perhaps implied there. I think following these ideas are important and essential to being a successful attorney, one who is happy with what he or she does.

The first idea is **to make every effort to be kind to the people you meet**. Plato once famously said to be kind to every one you meet for everyone is fighting a great battle. Kindness is one of the most underrated concepts in the practice of law. Here is the thing – everyone who sees you will remember you for your kindness, whether it be jurors in a courtroom, a clerk, other court personnel, or even witnesses or the judge.

Perhaps the best way I have ever heard it explained to me was by a well-known attorney at a recent CLE program who stood and told everyone there, mainly talking to the younger attorneys, that they needed to be nice to people, not just clients and the court, but to other attorneys. He said not only was it the right thing to do, but doing otherwise would come back to haunt them in the future should they ever need help.

One of the hardest things in this world to do is to **own your mistakes**. This is the surest way back from making a mistake...to say so promptly and completely. I have learned the hard way about this. If I had done this initially all those years ago when I was still practicing law, perhaps it all would have been different. I know it would have been better.

No one likes to listen to someone whine or blame others...no one. It gets you nowhere. People will respect you if you admit your mistakes and hopefully even give you a second chance if that is possible.

A personal story here is relevant. In the fall of 1993, while I was trying to decide what to do with my legal case, my attorneys told me that the District Attorney did not want to give me any sort of a deal at all...no plea bargain of any kind. I remember saying to my attorneys how crazy I thought that was. It was a very contentious meeting and not a lot of fun.

Finally, Wade Smith got out of his chair, came around from his desk, stood in front of me and said I needed to accept everything, to take no deal, just stand up and say I was responsible. I did not want to do that, and it took me a few days to understand and accept all he was saying. In the end, I did that, and for giving me that advice, I will be forever grateful. It was the best decision I ever made. But I will also remember how tough it was. So I understand the tendency to make excuses, to blame someone else or to avoid taking full responsibility. I really do. I can only say how doing that allowed me to finally and slowly begin to start all over again.

A couple of years ago at a Sunday brunch in a Raleigh restaurant, I saw a man across the room who looked directly at me and waved. I got up from my seat, walked over to him, shook his hand, and we spoke warmly to each other for just a few minutes. He told me he had heard I was doing well, and he was glad.

I walked back to my table, sat down, and everyone wanted to know who the person was. I took a deep breath, and said that was the judge who sentenced me to prison. That for me, is about as full circle as I can get. I believe it was made possible, at least partly, by the legal advice I got all those years ago.

It was when I waited tables in that seafood restaurant in Raleigh that I learned the importance of **Showing up and being on time** and for **treating everyone equally**. I learned that if I did not show up on time, someone would give my shift away, and I would make no money. I also learned that I had to treat every table the same for I never knew who was going to leave the biggest tip.

These experiences have relevance to the legal profession. You have to show up for your appointments, your meetings, your depositions, your court appearances, and you have to do it on time.

I remember Judge Dupree always said he tried to start his court on time and to limit the courtroom breaks to a certain time and to stick with them. He said he felt so strongly this way because he remember, not well, how it was when he was in civil practice. He wanted people to be able to count on what he said and the times he gave.

Judge Dupree also used to say so many times to attorneys at Bench Conferences that he wanted to feed everyone out of the same spoon. That is, he wanted to treat everyone equally. That is what clients want from you. They want to be treated as everyone else is, regardless of the significance of their

legal matter to you. Handling yourself this way is so important...to treat every matter as though it is the most important one in the world...it is, to the client.

One of the most difficult things to do, at least for me, is to **live in the present and let the past go**. I still tend to look in the rear view mirror and play the thoughts of “what if” or “if I had only done or not done that”. I struggle with this all the time. For me, though the only way past this is to stay busy and concentrate on doing new things, being productive, even making daily lists of tasks to do and then smiling when I cross items off.

I keep a journal, not every day, but several times a week. I write not only about the events of a particular day, but also what I hope to accomplish at any given time. I also write what I have not done. Doing this helps me focus on the future, and I think it might help you to do so as well.

A former President once said the smartest thing a person can do going forward is to have no memory...what he meant, I believe, is that you have to put what has happened in the past behind you...easy words to say, but very hard to do.

Finally, I believe that regardless of how you have done in the past, you can change and do better today. You get to start all over. That was one of the things I liked most about waiting tables. The next day was totally new with new customers and food. Regardless of how the previous day had been, how much money I had made, I could start all over.

And so, over these last years, while my life has certainly taken different turns from what I initially intended for myself, I am not alone in that. Your law practice may not be what you want it to be or at the very least is different from what you intended. Perhaps you have lost passion for what you are doing.

But if you can fill yourself with optimism, persistent and a willingness to try, you can indeed start over in your own law practice. Practicing law is not like waiting tables. Cases and clients can go on for what seems like forever. But it is possible to start every day with the idea that it can be better than before, and you as an attorney can be a better, more prepared, more honest person than you have ever been before. You do not have to wait for anything or anyone. It is all up to you.

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