

A Matter of Trust

Not too long ago, due to an unfortunate family history of colon cancer, I got a colonoscopy. As the anesthesia was kicking in, the last thing I remember the gastroenterologist telling me was “[y]ou sued my best friend.” Fortunately, when I woke up, he told me he was kidding around, because he knew I was a plaintiff’s lawyer. But I cannot function in Louisville without running into people and businesses I’ve sued. Somehow, I seem to get away with this relatively light heartedly.

I sued a childhood friend twice; this year, our families are spending spring break together. At Rotary Club meetings, I routinely sit next to an ophthalmologist I sued. He always asks about my former client, I ask how he’s enjoying retirement and we discuss our various nonprofit activities. A few weeks ago, over a car wreck, I sued the bartender of my beloved Bonnycastle Club; he seemed grateful it was me. Given the benefit of time, I’m able to be somewhat friendly with these defendants. Never has the suit been taken personally, at least for very long.

I will never get to know what is in the minds of others, but what I think pops in the minds of most when they describe me is ‘affable.’ I think for the most part people enjoy spending a few moments with me. I put people at ease and see them laugh. The other quality I exude is trust. (Or at least I really hope I do; I’d be disappointed to learn otherwise.) When I say I’ll do something, I do it.

I’m grateful to have wonderful relationships with most adverse attorneys I deal with. While far from an exhaustive list, I love seeing Alex Kuebbing, Eric Thomas, Blake Edwards and Anna Rueff on the other side of the ‘v.’ These are good lawyers and fun people. One of the great things about working with them is that we have had so many cases together over the years, we have gotten to be friends. They’re also honest lawyers. They trust me and I trust them implicitly. Working together on opposite sides of the ‘v.’ would be unbearable without trust.

Trust is critical to the law. Our shared discovery rules create this trust. Our Kentucky Supreme Court Rules of Professional Conduct require a duty of candor to the court. SCR 3.130(3.3). Rule 11 of the Kentucky Rules of Procedure requires in pertinent part that: “the signature of any attorney... constitute a certification by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after a reasonable inquiry that it is well grounded in fact and warranted by existing law...”. Pronoun usage aside, this is one of the most important rules of a lawyer not to violate. It simply means, don’t lie. Sanctions can be severe for any trust violation; they should be.

Once I dealt with an unusually aggressive out-of-state firm that filed two Rule 11 sanctions against me, in the same case. I spoke

with others — it is part of the firm’s standard defense tactic. They both were imbedded in other motions. The first I ignored and responded to the substantive motion, as I knew I had never, nor would ever, violate such a bedrock rule. On the second, I took it personally and demanded a hearing. Fortunately, the judge was someone in front of whom I practiced for years. I also got to know her at a variety of Louisville Bar Association events. (Yes, that is a plug for Bar membership!) I cannot say I know her well, but she knows me well enough to know I would never violate such a core rule of trust. Needless to say, with careful consideration from the bench, the hearing did not go well for the out-of-state lawyer, with his pro hac status in jeopardy.

Among my favorite law professors from the University of Louisville was the late Barbara Lewis. She was tough on her students with high standards, and I loved her for it. It made Tax my favorite and most engaged class in law school. She used to remind us that we only get one reputation, and it is easy to ruin it and impossible to rebuild. She was right.

Consider the most memorable aspects of the Clinton presidency. Monica and marijuana and then lying about it. When Clinton said, “I smoked, but didn’t inhale” and denied having sexual relations, he was lampooned all over late-night programs. No one believed him. When Obama was asked about cocaine use, he simply said he did and that was the end of the questioning. The difference: Obama fessed up.

Americans have a profound willingness to forgive. This is exemplified in us having among the world’s most generous bankruptcy laws. When you mess up, and you will, own it. Yes, I did ‘x’; I am sorry, how can I make it right? The ones who try to hide the truth deal with an unbelievable fallout, just look to Martha Stewart. We trust the people who fess up immediately and seek to amend. We slam those who don’t.

Trust does not require you to be meek or overly agreeable. Do what you say you’re going to do. If you threaten an action, follow through. File suit when you say you will. Repay your debts and round up and do it on time. As lawyers, most of what we have are our words. Make them mean something by maintaining others’ trust in you.



Bryan R. Armstrong
LBA President



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