Socrates Defends the Professional Parables

Trust (but Verify)

Rule 8.4 – Misconduct (specifically 8.4(c)
Theme connection: Rule 8.4(c) prohibits conduct involving dishonesty, fraud, deceit, or misrepresentation.
This is the *central trustworthiness rule* in the Model Rules, and it speaks directly to an attorney's ethical duty to be honest in all professional dealings. If the chapter is about the idea that trust must be earned—and that lawyers must be people, whose word is reliable—Rule 8.4 is the foundational authority.

- Also relevant: Rule 4.1 – Truthfulness in Statements to Others
    - Requires honesty with opposing counsel, clients, and third parties.
    - Perfect fit for the idea that trustworthiness is not optional in the profession.
- Also relevant: Rule 1.6 – Confidentiality of Information
    - Being trustworthy means protecting client confidences; breaking confidentiality breaks trust.
- Also relevant: Rule 1.4 – Communication
    - Lawyers maintain client trust by being truthful, timely, and transparent in communication.
- A lawyer's credibility is one of their greatest assets, and the ethical rules demand honesty, candor, and integrity—qualities without which trust in the profession collapses.

The Fragile Currency of Trust

H. Mills Gallivan, Esq.

"Trust is the glue of life. It's the most essential ingredient in effective communication. It's the foundational principle that holds all relationships." — Stephen R. Covey

Trust is the quiet currency of a lawyer's life. It looks simple. However, it is anything but. A lawyer's trustworthiness is inseparable from reputation, forged in the crucible of daily interactions with judges, colleagues, and clients. For a young lawyer, it can take years of consistent conduct to earn that badge of honor. Once secured, it requires steady care to preserve. But once betrayed, trust is almost impossible to reclaim.

The Lawyer's Oath[1] affirms that a lawyer's word is his or her bond. For those who take this seriously, it becomes a guiding principle. Early in my career, I learned that someone who could not be trusted in small matters was unlikely to be trustworthy in larger ones.[2] At best, such individuals required a "trust but verify" approach. At worst, they were to be avoided.

A Case That Tested More Than the Law

One of my earliest trials involved defending a 14-year-old driver who tragically struck and killed a 2-year-old child. I was retained by an auto liability carrier and as the case evolved, an overly aggressive Assistant Solicitor charged the young driver with murder. The boy's parents, of limited means, asked our firm to defend the criminal charge given our familiarity with the facts and witnesses. One of my partners and I agreed to defend the murder charge, believing it to be a serious overreach.

The young driver had obtained a daylight license just weeks before the accident. He was inexperienced, yes, but there was no evidence of speeding or other aggravating factors. The unattended child had wandered into the road just beyond a blind curve. The driver braked immediately upon seeing the child in the roadway. Since this accident occurred before the advent of anti-lock brakes, the car skidded into the child with a fatal consequence.

As the criminal trial approached, we discussed a plea bargain. Skid mark analysis proved the car was traveling below the speed limit. Photos, expert testimony, and the highway patrolman's report confirmed the child was not visible until after the driver entered the curve. Despite these facts, the Assistant Solicitor refused to consider anything less than a murder charge. I believed then, as I do now, that the lawyer was primarily interested in padding his résumé with a murder conviction as opposed to pursuing justice.

[1] South Carolina Appellate Court Rule 402 (h) (3)

[2] Luke 16: 10-12

A Breach of Professional Honor

We prepared for a non-jury trial in Juvenile Court. To reduce costs for our clients, I asked the Assistant Solicitor to hold under subpoena any prosecution witnesses not called to testify, so they could be available for the defense. He ***agreed***. In 1980, Greenville's legal community was small, and I had known this lawyer for years. He did not have a great deal of trial experience, but I had no reason to distrust him.

The prosecution rested shortly after lunch on the first day. When I called our first defense witness, he was absent. I searched the hallway outside the courtroom but still there was no sign of the witness. Back in the courtroom, I asked the Assistant Solicitor if he knew the witness's whereabouts. His reply stunned me: "I released all the witnesses from our subpoenas." When I reminded him of our agreement, he simply said, "I changed my mind."

I requested a continuance to locate and subpoena the witnesses needed by the defense. I explained the situation to the judge, including the details of our prior agreement. The judge asked the Assistant Solicitor to confirm my account, which he did. When asked why he released the witnesses, he repeated, "I changed my mind." Pressed further, he admitted he had not informed me of this change.

The judge was visibly incensed. He adjourned the trial until the next morning and ordered the prosecution to reissue subpoenas for any witnesses the defense wished to call. Ultimately, the murder charge was dismissed.

The Cost of a Tactical Win

What did this deception achieve? Was it to gain a fleeting tactical advantage? Instead, it cost the lawyer his reputation. He did not secure a career-defining conviction. Instead, he forfeited his credibility with the court, with me, with my firm, and with the bar.

Though this happened over 45 years ago, it remains vivid in my memory. I worked with that lawyer again, but never without verification. Trust broken by another lawyer or with the court is virtually impossible to reclaim.

In nearly 50 years of practice, I have never filed for sanctions against another lawyer, nor had one filed against me. That is not a boast, rather it is a testament to the value of trust. I have faced fierce adversaries in bitterly contested cases, but I believe they and the courts, always knew my word was good. I was fortunate to work alongside outstanding defense and plaintiff attorneys who I deeply respected, and yet there were some lawyers who I trusted more than others.

Years later, I won a case based on the judge's misinterpretation of my notes as a key piece of evidence. I corrected the record, knowing it would cost me the verdict. I lost the case, but I kept the court's trust, which I could never have regained had I stayed silent.

Civility Begins with Trust

Civility and professionalism are inseparable from trust. Often, you must extend trust to earn it. That is a small but vital step toward a more civil bar and a more civil society.
The most effective and respected lawyers are trusted by clients, colleagues, courts, and communities. As Steven Covey said of trust, "It's the foundational principle that holds all relationships." At the end of a legal career, is there any greater professional legacy than this*:* ***"He/she was a trusted counselor and advocate."***?

H. Mills Gallivan is the Senior Partner with Gallivan White & Boyd P.A.

Respect

Rule 4.4 – Respect for Rights of Third Persons
Theme connection: Rule 4.4 expressly requires lawyers to treat others in the legal process with dignity and restraint, prohibiting conduct meant to embarrass, harass, or burden. Respect is not aspirational here—it is an ethical obligation.

- Also relevant: Rule 3.5 – Impartiality and Decorum of the Tribunal
    - Requires respectful conduct toward the court and courtroom proceedings.
- Also relevant: Rule 8.4(d) – Conduct Prejudicial to the Administration of Justice
    - Disrespectful conduct toward judges, lawyers, or parties undermines the justice system itself.

Respect for others in the legal system is not merely good manners—it is a foundational ethical duty essential to the administration of justice and the integrity of the profession.

FIND COMMON GROUND

Attie B. Carville, Esq.

In thinking about providing a parable on civility and professionalism, several past courtroom scenarios came to mind. Oftentimes it is easy deciding to make a choice that is civil and professional. Such as when opposing counsel misplaces his witness list that must be read during *voir dire,* and you quickly hand him an (accurate) copy from the pre-trial order. Or when counsel has a wardrobe issue or something in their teeth, and you discretely let them know before the jury enters the courtroom. Those choices fall under "do unto others" and should be freely and quickly made to help a colleague.

However, when I tried to decide on the most helpful parable to share, the story that kept coming to my mind did not involve a courtroom or the legal profession at all. Instead, it was a lesson learned (one of many) from my father in an ordinary everyday interaction. Well, at least in Southeast Louisiana.

To get to (what was) our fishing camp down towards Pointe à la Hache in Plaquemines Parish, the fastest route actually takes you across the Mississippi River not once, but twice. First by bridge, the Crescent City Connection, and second by boat, the Belle Chase Ferry that leaves every half hour from the West Bank. My father and I had just missed the ferry, so he pulled into the line, rolled down the windows, and cut the engine. My father got out to get a head start on rigging up the new fishing poles replacing the ones that had been washed away along with our camp almost a year earlier in Hurricane Katrina. Of course, that was nothing compared to the loss of so many others, including members of our own family whose homes had flooded. And, of course, that was nothing compared to those who had lost their lives, or the lives of family members or friends. There was a lot of loss to go around.

A car pulled up behind us in line for the ferry. The car windows were rolled down and the music emitting from inside was loud. It was very loud; so loud that we could not hear each other speak over the music. My father walked over with fishing line in hand still tying the knots to set up a sliding cork and asked the driver if he would please turn down the music. The man emphatically said "no" (and he may have turned the volume up a little). My father started walking to our car but then turned around again. I was nervous and wanted him to let it go. "Please come back to the car, Pops!" My father appeared back at the man's window and asked, "How did your family make out with the storm?" The atmosphere quickly changed from tense friction to a place of common ground. The man turned down the music and shared his Katrina story. He too had suffered. My father listened. They talked until the ferry docked and vehicle engines in front of us cranked up in anticipation of boarding. My father said he was sorry for the man's loss and wished him and his family well. The man did the same.

My father came back to our car and shared with me what the man had said. We boarded the ferry pausing for my father to ask, as he always did, if we could be in the outside lane "so the kids can see out" (mind you I was in my twenties). The deckhand obliged. We parked with the same car behind us. My father rolled down the windows and cut the engine. We crossed the river

deep in thought of shared experience -- hearing nothing but the ferry's engine, waves crashing, and the birds overhead.

Attie B. Carville is of counsel with Laborde Siegel, LLC in New Orleans, LA.

Paying it Forward

Rule 6.1 – Voluntary Pro Bono Publico Service
Theme connection: Rule 6.1 embodies the idea that being a lawyer carries responsibilities beyond one's own clients. "Paying it forward" reflects the profession's expectation that lawyers contribute time, knowledge, and service to strengthen the legal system and those who will inherit it.

- Also relevant: Rule 5.1 – Responsibilities of Partners, Managers, and Supervisory Lawyers
    - Mentorship and guidance of younger lawyers is an ethical responsibility, not merely a courtesy.
- Also relevant: Rule 5.2 – Responsibilities of a Subordinate Lawyer
    - Reinforces the shared responsibility within the profession to model ethical behavior.
- The legal profession endures only when its members invest time, wisdom, and service into those who follow, ensuring the continued integrity of the justice system.

THE PROBLEM

Sean C. Griffin, Esq.

> Between me and the other world there is ever an unasked question: . . . How does it feel to be a problem? [3]

Here's the problem: You never know.

On a macro level, if someone is, say, being uncivil toward you, sometimes you never really know why. Maybe they just had another argument and are still worked up. Maybe their lunch is disagreeing with them. Maybe you gave them a legitimate reason to be upset, and they are taking it too far. Maybe they just do not like you personally.

For me, there's another layer: Is this because I'm Black?

Back in the day, people would just tell you if it was because you were Black. Nowadays, few people and even fewer attorneys will come out and tell you that they are discriminating against you. They are afraid of legal action, censure — or worse, being "canceled." So, they will treat you uncivilly then make up reasons for it. I am under no illusion that things were better back then. There is something to be said for the honesty.

I had my share of uncivil instances during my time as a law firm associate. For example, I worked with one senior partner who was incapable of delivering criticism at less than 140 decibels. And, whereas, most people would withhold their tirades for major snafus, this partner would let me have it with both barrels regardless of whether my mistake was significant or, for that matter, regardless of whether the mistake was mine, or whether any mistake had in fact been made. One time he screamed at me for half an hour for not giving him a document that he was holding in his hand the entire time.

But his rants were rated "E" for Everyone. No matter the race, gender, or creed of his target, anyone could get a rant. He screamed at other partners, and he even screamed at clients. So, I could safely conclude that this was not race-based. That did not really help, because working for him was still miserable. But at least I was not being singled out, which was something (I guess).

On the other hand, I worked with another partner who was generally civil to everyone. He acted courteously and professionally, and he worked to encourage and promote the attorneys with whom he worked. Except me.

Unlike the senior partner, he didn't yell at me face to face. He preferred to send nasty emails to the other partners and copy me. The best example may be when he sent me an email, copied to several other partners, in which he berated my work supporting the litigation settlement team. Specifically, he complained that I was not doing anything. I wrote back, pointing out that I

---

[3] W.E.B. DuBois, "Strivings of the Negro People," The Atlantic, August 1897, accessed at https://www.theatlantic.com/magazine/archive/1897/08/strivings-of-the-negro-people/305446/.

was on the trial team, not on the settlement team. He wrote back in – I kid you not – blue, bolded, in 36-point font: "STOP SENDING THESE MESSAGES!!!!"

I was the only Black attorney in my cohort at the firm, so I did not have any Black attorneys to ask about this conduct. I asked my white friends instead. I would share my confusion and distress. "I can't figure out why this is happening," I said. And each and every one of my white friends said some version of: "He doesn't like you because you're Black. That's obvious."

I did not want to hear this. I did not want to be A Problem. I worked hard to be A Really Good Attorney, but this partner was pushing me into Problemland. Eventually, I resolved my problem by leaving the situation behind.

Years later, after I became a partner, I decided to lead differently. I decided not to lead as I once had been led, but as I wished I had been led. In some respects, this was easier said than done, because I had no senior attorneys to look up to. But eventually, I came up with my own leadership style, which consists largely of (1) never yelling; and (2) overexplaining. I do not know that I would recommend anyone to use my style as a template, but it generally works because our line of work is based on relationships.

As I told my kids, your success in life depends primarily on (1) how many people like you, and (2) how much they like you. If you treat everyone around you well, then you will build a large network of great people who will help you in your career and in your life. By contrast, if you spend your life spreading stress like a rotten Johnny Appleseed, you will leave behind hordes of attorneys, some of whom might recall your behavior in writing.

Anyway, here's the trick to treating diverse attorneys civilly. No, it is not treating them just like everyone else; what if you are a jerk to everyone? And don't go overboard trying to be nice, because that's unsettling. Instead, I would recommend tamping down the less savory aspects of your character. Pretend to be much more patient than you actually are. Take more time to explain something than you think you should have to. Provide feedback more thoughtfully than you really have the time. If you keep this up, you should attain civility for the diverse attorneys with whom you work. Come to think of it, that would probably work for everyone regardless of identity.

Including diverse attorneys within our culture of civility tests the core values upon which we have built our profession. Those who believe in such inclusion are engaged in a struggle not only on their own behalf, but upon the behalf of those whose burdens are almost beyond the measure of their strength. As we come together to meet these challenges, let us remember the attorneys who came before us, who showed us the value of civility either by proving how much it helps or by demonstrating what happens in its absence. With these examples in mind, let us move forward toward a solution.

Sean C. Griffin is a member with Longman & Van Grack LLC in Washington, D.C.

Honor Truth Duty (Integrity)

Rule 8.4 – Misconduct (especially 8.4(c))
Theme connection: Rule 8.4(c)'s prohibition on dishonesty, fraud, deceit, or misrepresentation is the ethical backbone of *honor* and *integrity*. Without honesty, none of the other duties in the Rules can function.

- Also relevant: Rule 3.3 – Candor Toward the Tribunal
    - Requires lawyers to be truthful to the court, even when doing so harms their case.
- Also relevant: Rule 1.3 – Diligence
    - Reflects a lawyer's obligation to faithfully and zealously carry out representation.
- Also relevant: Rule 1.6 – Confidentiality of Information
    - Protecting client confidences is a core mark of professional integrity and trustworthiness.
- Honor, truth, duty, and integrity are not abstract ideals in the practice of law—they are enforceable ethical obligations that define what it means to be a lawyer.

THE SPECTRE OF UNCLE TOMMY

Ned Currie

I may be the only lawyer in Mississippi who by my own undoing lost an uncontested motion. But in so doing lessons learned from a beloved law professor made the loss palliative. When relatively new to the practice of law, I was assigned to defend a personal injury case filed in the Circuit Court of Stone County, Mississippi, then a sparsely populated rural area of the state. First up was filing a motion of some sort. Memory has lapsed of opposing counsel and what kind of motion so long ago, although the details of what and how it happened remain clear as light.

After filing the motion, I called plaintiff's counsel to schedule a hearing on the motion. Like myself, he was youngish and agreeable to the hearing date offered by the judge's deputy bailiff. Plaintiff's filed response to the motion was nothing more than a less than vanilla, "I oppose this motion". No grounds were stated other than a general disagreement with the premise. Upon receipt of this response, I scheduled the hearing and mailed opposing counsel a notice of the hearing in Wiggins, Mississippi, where the courthouse is located. Preparing for the hearing not only involved a review of the law and arguments supporting the motion, I also researched contrary law and arguments that I expected opposing counsel might make.

The morning of the hearing I made the two-hour drive to the courthouse and entered an empty courtroom. After waiting a few minutes, the Circuit Court Judge walked in holding the court file for the case. He was a stately but small statured elderly man with silver hair, aquiline nose, and possessed of a quiet politeness. Upon ensuing introductions, handshakes and mispronouncing my name, he asked, "Mr. Cuddie, what is this motion about and where is the other lawyer?" He was not there. I had no idea why, but I explained the motion and the relief I was seeking for my client. This was a time when cell phones were long into the future, so the judge asked me to run down to the clerk's office, call plaintiff counsel's office, and ascertain his whereabouts. His receptionist advised that she did not know where plaintiff's counsel was, only that he had appeared earlier that morning and, exiting out the door, said that he had some errands to run and that he might not be back for the rest of the day. During the walk back upstairs to the courtroom, I remember thinking of nothing but how easy this win was going to be, what with the weakness of the response to the motion and a no-show from opposing counsel. Piece of cake.

Upon my return to the courtroom, I found the judge reading papers in the court file and I repeated to him what the secretary told me. "Well then, Mr. Cuddie, let's hear what you have to say on your motion." After saying my piece I relaxed, expecting the judge to instruct me to send him an order granting the motion. His next words took me completely by surprise, "Mr. Cuddie, if your opponent were here, what would he say in opposition?" Taken aback, I remember thinking what, indeed, would he have said given that in his filed response to the motion no substantive grounds were asserted? Simultaneously, in a flashback I saw the spectra of my former law professor Tom Etheridge, affectionately referred to by his students as "Uncle Tommy".

Thomas R. Etheridge, born in 1918, was the eldest faculty member when I attended law school at Ole Miss. He was a decorated WWII marine who had served as a Mississippi State Senator and later as the first full-time United States Attorney for the Northern District of Mississippi. After his tenure he set up a law firm in Oxford, Mississippi, home to Ole Miss, where

he practiced law when not teaching it. Active locally, he received many legal accolades including a lifetime achievement award. The current United States Attorney's office is in a building bearing Uncle Tommy's name. And he was my legal ethics professor.

From time-to-time Uncle Tommy would bring in prominent Mississippi lawyers to help teach legal ethics from their experiences. In one such class, a seasoned trial lawyer who years later became a very close friend and President of the Mississippi Bar Association participated in a presentation on several ethical rules. One of them, attended by Uncle Tommy, was Rule 3.3, Code of Professional Conduct, stating that "[a] lawyer shall not knowingly . . . fail to disclose to [the court] legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel . . . ." When invited to comment on this Rule, the guest lawyer emphatically stated that in putting the interests of his client first, he was not about to do opposing counsel's job by arguing the law contrary to his position on a legal point. With that a red-faced Uncle Tommy stepped forward and swept his pointed finger across the classroom, "If I ever, ever, hear or find out that any of you violated this Rule, I will hunt you down and you will have to answer to me!" This was the only time I heard him raise his voice in anger.

Three years later I stood before this judge who asked me what opposing counsel would argue to defeat my motion. A pondering blink moment occurred. Should I respond by saying that I had no idea what opposing counsel would argue, which was true, or should I give the judge the opposing view that I learned when preparing for the motion? In that moment my mind's eye could see Uncle Tommy pointing his finger in my direction, so I made the argument for opposing counsel. The judge listened carefully and paused in deep thought. "Mr. Cuddie, I think your opponent has the stronger side of the argument. So, I'm going to deny your motion. Please send me an order." Thanking me for my candor, the judge turned and walked back to his office carrying the court file. On the long drive back to Jackson all I could think about was how I was going to explain this one to the client.

Forty-six years later memories of past cases fade away. Much the same as with this story, legal issues involved in motion practice, names of opposing counsel and judges. The same may be said of wins and losses in the practice of law. What sticks are those matters of meaningful value such as establishing (and maintaining) credibility and trustworthiness with other lawyers and judges. There are no regrets for the embarrassment of losing an unopposed motion, only a deep and abiding appreciation for Uncle Tommy's tutelage.

Edward J. "Ned" Currie is retired as a founding shareholder of Currie Johnson & Myers, P.A., in Jackson, MS. He resides in Madison and Oxford, MS.