LEGAL ETHICS & MALPRACTICE REPORTER

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FEATURED TOPIC
DILIGENCE

There are few legal ethics rules that are shorter than Rule 1.3, but even fewer have a longer history or are more frequently violated. KRPC 1.3 reads:

> A lawyer shall act with reasonable diligence and promptness in representing a client.

The Rule seems quite simple, and most non-lawyers would think that compliance with it would be easy. But three words in the Rule have caused problems for lawyers for more than a century and continue to trouble lawyers today: "reasonable diligence" and "promptness." This article explores both ideas that are essential to the Rule.

Reasonable Diligence

Comment 1 to KRPC 1.3 reads:

> A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and may take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. However, a lawyer is not bound to press for every advantage that might be realized for a client. A lawyer has professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. A lawyer's workload should be controlled so that each matter can be handled adequately.

The language of Comment 1 represents a combination and attempted reconciliation of two opposing views of a lawyer's duty to his client. The first view reaches back to the medieval Catholic view that knowledge is a gift of God ("*scientia donum Dei*") and that to use God-given knowledge to defend those who have committed bad acts or to act badly in the defense of a lawyer is sinful. Since legal knowledge in the medieval view was one of the most important forms of such a divine gift, lawyers were generally ethically prohibited from representing guilty clients or using immoral means in the representation of a client. In effect, lawyers were deemed to be "gatekeepers" and tasked with deciding who should have legal representation and how that representation should be limited. Lawyers were barred from using illegal or immoral means even to defend clients whom they believed to be innocent. This approach to representation was strengthened by the widespread notion that lawyers were more than tradesmen simply at the service of their clients and bound to do their clients' wishes. Lawyers were autonomous professionals, who exercised divinely gifted

knowledge, and, therefore, were bound by a higher authority than the "morals of the marketplace."

This medieval theory of legal ethics blended well into the secular notion of the lawyer as a "gentleman" that began to dominate juristic thought in the eighteenth century and underlies Blackstone's concept of a lawyer expressed in his *Commentaries*. A gentleman, by definition, was not a tradesman working for the sole purpose of earning a living. A gentleman was someone of higher social standing than a merchant or laborer, someone who answered to a higher standard of morality. A gentleman always "played fair" and "did the right thing." Of course, what constituted "playing fair" and "doing the right thing" was very much determined by the beliefs and prejudices of the day.

The second approach to a lawyer's duty of diligence to his client really began with Henry Brougham (the future Lord Brougham) and his representation of Queen Caroline, the wife of King George IV of England, at the beginning of the nineteenth century. King George IV wanted to divorce Queen Caroline. Both spouses had been unfaithful to the other. Adultery was, in fact, the only grounds on which George IV could obtain a divorce. But a divorce granted on such grounds would have been absolutely disastrous for Caroline. Further, the divorce was intimately tied to the complex politics of the era. As a result, passions were elevated on both sides, and the divorce became a sensational story in the British press. Those who favored the King's cause did all they could to stop Caroline from finding a lawyer to represent her. Eventually, Henry Brougham, a Scotsman, agreed to serve as her lawyer. He threatened to reveal details about the King's immoral (and potentially unconstitutional) affairs in retaliation to the King's adultery charges against his client. Such a revelation would have caused a constitutional crisis. Because of his use of such tactics, Brougham became a target of the tabloids and those aligned with the King. The trial itself was not heard by an ordinary judge. Because of the parties and the charges, that case was heard before the House of Lords. In his opening speech at the proceedings there, Brougham began by justifying his controversial tactics based on his conception of a lawyer's duties to his client:

[A]n advocate, in the discharge of his duty, knows but one person in all the world, and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and, amongst them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, he destruction which he may bring upon others.

While Brougham' statement was rhetorically powerful, it was also quite extreme. If followed, meant that a lawyer may do anything—no matter the morality of the actions nor what would be the cost of the actions to himself and to others—to win a case for his client. As extreme as Brougham's statements were, there have been many lawyers and jurists in England and the United States who have endorsed it over the past two hundred years.

Model Rule 1.3 (and KRPC 1.3, which follows the Model Rule) is a compromise between the two extreme views outlined above. Even the title of the Rule—changed from its original use of the term zealous advocacy to the term diligence—is a compromise (although the term zealous advocacy is retained in Comment 1). Comment 1, in fact, provides a guide for how a lawyer may navigate the two traditional extreme approaches. First, a lawyer's actions on behalf of her client must be both lawful and ethical (*i.e.,* they must comply with law in the jurisdiction and the *Rules of Professional Conduct*). Within those constraints, the lawyer *may* take whatever actions she deems prudent and necessary. Second, the Comment points out that the lawyer *should* show "commitment" and "dedication" to her client's interests and act with zeal in advocacy. The juxtaposition of the terms "may" and "should" are not insignificant here. The second statement clearly reflects a lawyer's duty of loyalty as the fiduciary of her client. But it is the next statement that is most important: "a lawyer is not bound to press for every advantage that might be realized for a client." This is followed by a reference to Rule 1.2 (specifically 1.2(a), which gives the client authority to determine the ends of litigation, but gives the lawyer the authority to determine the means by which the litigation will be carried out, with consultation with her client). This is the famous "means versus ends" distinction that permits a lawyer to refuse to use tactics which she deems to be repugnant or imprudent even though a client may want them used.

When analyzed in this way, the message of KRPC 1.3 is that a lawyer must always act within legal and ethical bounds and must be committed and devoted to her client's interests, but she need not do everything her client wishes her to do. The question then becomes, within these boundaries, how far should a lawyer go tactically? Every lawyer knows of another lawyer who will always be exceptionally aggressive, push the bounds of the *Rules of Professional Conduct* and use whatever advantage he can so long as it is ethical and legal. That lawyer will justify this behavior based on a heightened conception of his duty to his client in the manner Brougham enunciated in his famous speech. But, in fact, such a justification is not consistent with Rule 1.3. Lawyers need not be "zealous" to the extreme. That is a choice they choose make, one that they are not obligated to make under the *Rules*.

Promptness

KRPC 1.3, Comment 2 reads:

Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness.

Failure to act promptly is one of the leading bases for disciplinary complaints as well as malpractice claims against lawyers. At the extreme, as the Comment points out, procrastination may cause a client serious legal and financial damage if deadlines are missed or the statute of limitations is permitted to lapse. However, even less serious cases of delay can be problematic. Disciplinary decisions are rife with tales of lawyers failing to answer client emails or telephone calls or promising to take prompt actions on the client's behalf and then failing to do so. Not only can such behavior lead to a disciplinary complaint or malpractice claim, it also may often lead to the loss of a client when all that was necessary was pick up a phone or send a short email reply.

Unfortunately, many cases involving disciplinary complaints of violating KRPC 1.3 also involve claims of incompetence under KRPC 1.1 and failure to communicate adequately with clients under KRPC 1.4 because the procrastination was caused by substance abuse or clinical depression. When these factors are involved, lawyers should immediately seek help from a physician or psychologist or a Bar impaired lawyers' committee, both to correct the problem as well as to justify mitigation of sanctions if the complaint reaches that stage.

KRPC 1.3 is focused on the lawyer-client relationship. However, there is another procrastination problem at the Bar: when lawyers procrastinate in dealing with other lawyers. To the extent that these delays affect a client's interests, they fall within the scope of KRPC 1.3. But delays that do not affect client representation, such as when lawyers fail to return telephone calls or emails to other lawyers on bar association matters or other non-client issues, do not. Although these delays are rude and may harm a lawyer's reputation amongst his peers, they do not fall within the scope of KRPC 1.3. Instead, such procrastination must be handled as issues of professional civility for which the disciplinary process and formal sanctions will not be available.

NEW AUTHORITY
REPRESENTING THE CANNABIS INDUSTRY UNDER MODEL RULE 1.2(D)

Over the past few years, a number of states, including Oregon, Missouri, Colorado, Ohio, and California, have passed laws to legalize the use of cannabis for certain purposes. This has led to the rapid growth of investment in producing and selling the drug in its various forms following the new state legislation. It has also prompted a serious issue for lawyers who wish to advise clients in the cannabis industry. The problem arises from Model Rule 1.2(d) as it has been adopted in the various jurisdictions since Rule 1.2(d) states that:

> A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

KRPC 1.2(d) is a verbatim adoption of Model Rule 1.2(d). The difficulty for lawyers is that the production and sale of cannabis to the public remains a crime under federal law. So what does a lawyer do when he is asked to advise a client about his cannabis business when that business is legal under state law but criminal under federal law?

Various states have adopted different answers to this question. Ohio and Oregon actually amended Rule 1.2(d), and Colorado, Nevada, and Washington amended their comments. The Supreme Courts of Connecticut and New Jersey issued opinions barring lawyers from advising cannabis industry clients because of Rule 1.2(d), but the highest courts in New York, Illinois, and Arizona have issued opinions permitting lawyers to represent cannabis industry clients to some degree. Now, the Standing Committee on Professional Responsibility and Conduct of the State Bar of California has issued Formal Opinion 2020-202 interpreting "Rule 1.2.1 (Advising or Assisting the Violation of Law); Rule 8.4(b) (commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects)" as well as other California laws applicable to lawyers who advise clients in the cannabis industry.

Opinion 2020-202 is a complex and lengthy opinion that begins by explaining that federal law and California law are in conflict as to the production and sale of cannabis. This, then, causes an ethical problem for any lawyer engaged in advising or assisting those who engage in these activities. California Rule 1.2.1 reads:

> (a) A lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows* is criminal, fraudulent,* or a violation of any law, rule, or ruling of a tribunal.*

> (b) Notwithstanding paragraph (a), a lawyer may:
> (1) discuss the legal consequences of any proposed course of conduct with a client; and
> (2) counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of a law, rule or ruling of a tribunal.

Comment 6 to Rule 1.2.1 reads:

> Paragraph (b) permits a lawyer to advise a client regarding the validity, scope, and meaning of California laws that might conflict with federal or tribal law. In the event of such a conflict, the lawyer may assist a client in drafting, or administering, or interpreting or complying with, California laws, including statutes, regulations, orders and other state or local provisions, even if the client's actions might violate the conflicting federal or tribal law. If California law conflicts with federal or tribal law, the lawyer must inform the client about related tribal or federal law and policy and under certain circumstances may also be required to provide legal advice to the client regarding the conflict (see rules 1.1 and 1.4).

Pursuant to Opinion 2020-202's analysis of these provisions, a lawyer who advises a client in the cannabis industry regarding how to comply with relevant California law must also advise the client regarding the status of cannabis under federal law:

> Comment [6] requires that any advice the lawyer gives about California law must be accompanied by information about any conflict with related federal law and policy. The Comment does not specify the level of detail that the lawyer must provide, but given the current conflict between California and federal law related to cannabis, the lawyer's ethical obligations both to the client and to respect federal law require that the lawyer explain clearly that the client's contemplated conduct violates federal criminal law, the penalties for such a violation, and any related risks of civil forfeiture. Often, as Comment [6] suggests, the lawyer's duties of competence or communication may require more detailed advice…. In addition, the lawyer's right to advise concerning compliance with California law does not extend to advice about how to avoid detection of, or to conceal, a violation of California or federal law.

In terms of what lawyers are permitted to do in assisting clients in the cannabis industry, the Opinion advises they may provide "all the services that lawyers customarily provide to business clients," including:

> entity formation, applying for permits or other regulatory approvals, negotiating and drafting in connection with all forms of business transactions, and general business and regulatory counseling.

The Opinion emphasizes that there are still ethical boundaries:

> The lawyer's permission to assist is not, however, unlimited. It, too, is conditioned upon the lawyer having provided information about the conflict between state and federal law in the manner required by the rule. Moreover, the lawyer's permission to assist, like the permission to give advice, does not extend to assistance in evading detection or prosecution under state or federal law. (Rule 1.2.1, Comment [1]; Los Angeles County Bar Assn. Formal Opn. No. 527, at p. 12.) 8 Limitations on the lawyer's ability to provide assistance imposed by rule 1.2.1 may also trigger obligations to communicate with the client under rule 1.4.9 Specifically, rule 1.4(a)(4) provides that a lawyer, who knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law, must advise the client of the relevant limitations on the lawyer's conduct.

Opinion 2020-202 goes on to discuss the other provisions in California law that may impact lawyers who advise cannabis business owners. As to the applicability and interpretation of Rule 8.4, which states that it is "professional misconduct for a lawyer to: . . . (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects," the Opinion states:

> The rule potentially applies because there could be circumstances where a lawyer's counseling or assistance in conduct permitted by California cannabis law could be prosecuted as a criminal act under federal law. Our conclusion is that so long as the lawyer's conduct at issue complies with rule 1.2.1 and, in particular, with the balance struck in that rule between promoting the objectives of state law and candid advice and non-deceptive conduct concerning state and federal law, that conduct should not be viewed for disciplinary purposes as "reflecting adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects."

One of the factual issues under consideration in Opinion 2020-202 was whether a lawyer could assist "the client to create a 'rainy day fund,' and keep it in the lawyer's trust account to protect against the risk of a federal seizure of the client's assets." The Opinion holds that this would be impermissible under Rule 1.2.1 because:

> …it seems principally intended to conceal those assets from federal law enforcement. Depending on, among other things, the client's intent, the client's request for assistance in establishing offshore bank accounts to receive the proceeds of the business may very well fall into the forbidden category as well. If the lawyer knows that the client expects forbidden assistance, the lawyer must advise the client of the limitations

> on the lawyer's conduct imposed by the Rules of Professional Conduct and the State Bar Act. Rule 1.4(a)(4).

A second factual issue treated by the Opinion is whether a lawyer would be ethically permitted to take a financial interest in the client's cannabis business as a fee. Here, again, the Opinion states that such an arrangement would be impermissible:

> [T]he protections of rule 1.2.1 and Comment [6] do not extend to the client's proposal to compensate the lawyer for rendering legal services by giving the lawyer an interest in the client's business in lieu of fees. Simply put, those provisions cannot be read to authorize a lawyer to acquire an interest in a cannabis business, or to participate on an ongoing basis in such a business, if such acquisition or participation violates federal criminal law. As explained above, the terms of rule 1.2.1 and Comment [6], read together, permit lawyers to "counsel" or "assist" clients whose cannabis-related business activities may violate federal law. Both the text of rule and the text of the Comment are concerned exclusively with the scope of prohibited and permitted counseling and assistance. Neither says anything about whether a lawyer may invest in or otherwise participate in such a business. While there is an argument that the California regulatory and disciplinary policies reflected in rule 1.2.1 and Comment [6] would be advanced by permitting lawyers to accept this form of compensation for legal services, the Rules themselves do not enact that permission.

It is likely that many lawyers, both in California and out, will disagree with the Opinion on both of these factual points and how Rule 1.2.1 should be interpreted.

At the present time, there exists great uncertainty in many states about the ethical implications of representing cannabis industry clients. Because California is both one of the largest and wealthiest states in the U.S. and because its cannabis industry is also among the largest in the nation, lawyers, judges, and courts, and legislatures are sure to take great interest in Opinion 2020-202. Any lawyer intending to take on clients in this industry should familiarize herself with this new advisory opinion.

It would also be wise to consult these less recent, but still thoroughly instructive, sources on the subject:

Peter Joy & Kevin C. McMunigal, "Lawyers, Marijuana, and Ethics," Washington University Research Paper Series Paper No. 17-12-01 (December 2017), online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3091236;

Hayley Hollis, "Cannabis Law, The Constitution, and the ABA Model Rules," Lewis & Clark Law Review, vol. 23:3 (2019), 1063-1075, online at https://law.lclark.edu/live/news/41676-lewis-clark-law-review-publishes-edition-on.

TECH TIP
ANTI-VIRUS SELECTION

by Matthew Beal, JD, MCSE, MCP, A+, SEC+

As discussed in a previous column, the protection of client information on a lawyer's computer requires a reasonable effort to protect that data. Protection of a computer and its contents can be thought of as a multi-layered process. The first layer is the physical security. The second layer is software protection. This Tech Tip will discuss that second layer—the measures attorneys should implement to protect and secure the information on their devices.

A robust anti-virus application should be maintained as part of the security used to protect your computer and access to client information stored on it.

A virus is an application or process that allows unapproved activities to occur on your computer. These programs can be installed without the user's permission or awareness and can be used to carry out unauthorized activities such as scouring your device for specific information or taking over the operation of the computer for unauthorized external use. An anti-virus program attempts to prevent this interference by monitoring the computer's activity and comparing it to the expected processes of the computer. Because any computer that accesses the internet is vulnerable to this sort of intrusion, anti-virus programs are an essential part of a secure computing environment.

With both Windows and IOS systems, the operating system itself inserts a layer of protection that acts as an anti-virus. Web browsing programs such as Google's Chrome browser also have processes that monitor a computer for virus-like activities and then attempt to intercede or otherwise prevent the inappropriate activity from happening. While these programs provide a general layer of security, an anti-virus program typically will offer more robust options and a significantly higher level of protection. This protection is established through a more vigorous inspection of new and changed files—often through the comparison of a files checksum (a unique value assigned to a file based on an algorithm), isolation of computer activities that allow the program to test for inappropriate activities, and direct comparison of known master file processes.

Often, a computer will come with a program preinstalled that simply requires a subscription. These pre-installed anti-virus applications are typically tightly integrated into the operating system's core functionality, which generally means the program is easier to use—though its impact on the speed and functionality of the computer may be significant. But a subscription-based anti-virus application may not be necessary for all needs; there are some very good free programs.

Selecting an appropriate anti-virus program for your computer does not need to be intimidating. Factors to be considered include the impact the program has on the functionality of the computer, how the features of the anti-virus program mesh with your approach to managing your computer, and the source of the anti-virus program.

For some users, an anti-virus program that significantly impairs the speed or functionality of the computer is an unacceptable impact on usability. It is not unusual for an anti-virus program to slow down a computer's boot up time as the program runs its processes. Anti-virus programs frequently update their database of known viruses, so, if you are on a limited data plan, when or how this update occurs may be an important consideration.

Note that some anti-virus programs will download data to the vendor's master server for inspection or testing. This may be a consideration if, for legal or other reasons, that client data cannot be stored or accessible outside of the United States.

Due to the multiple factors of consideration when choosing an effective anti-virus program, it is important to evaluate your needs individually and to identify a solution that is most suitable. Often, it will be advisable to consult an IT professional as to what type of program should be used. Factors that will influence this choice will not only be the level of protection provided and the impact on computer efficiency, but, also, the cost of the virus protection. Additionally, the level of confidentiality necessary will be a factor. The Rules of Professional Conduct require that lawyers make "reasonable" efforts to protect client confidential information. All of the factors discussed will help to determine what a "reasonable" level of protection is.

ETHICS & MALPRACTICE RESEARCH TIP
LEGAL ETHICS EXPERTS TO REMEMBER

It is often difficult for practicing lawyers to determine which legal ethics experts they should turn to when they need to research an issue. Because ethics experts often disagree on even fundamental questions of ethics and professional responsibility, a researcher looking at sources may well find herself confused as to whose opinion she should follow. This month's research column will briefly discuss three of the most important academic experts and authors on professional responsibility matters who are no longer living: Geoffrey Hazard, Ron Rotunda, and Monroe Freedman.[1]

Geoffrey Hazard

In his prime, Geoffrey Hazard was one of the leading American experts and authors on legal ethics. He taught or mentored several generations of ethicists and was a professor at the University of California at Hastings College of Law, The Yale Law School, and the University of Pennsylvania. He also served as the Director of the American Law Institute from 1994 until 1999.

Hazard was a prolific author on legal ethics. He wrote dozens of articles in law reviews on the subject, many books, and served as a legal ethics expert witness in some of the most important cases of the last half of the twentieth and first decades of the twenty-first century, including Koch v. Koch here on Kansas. Among his most important books are The Law of Lawyering (4th ed. 2020), which he co-authored with William H. Hodes and Peter Jarvis, and Legal Ethics: A Comparative Study (2004), which he co-authored with Angela Dondi.

Geoff Hazard was a true master of his subject. He knew virtually every ruling, case, and advisory opinion on the subject of legal ethics. He died in 2018.

Monroe Freedman

Monroe Freedman served on the faculty of the Hofstra Law School for three decades and was Dean of the school from 1973 to 1977. He devoted his academic and professional writings to legal ethics and civil rights.

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[1] In the spirit of full disclosure, the Legal Ethics & Malpractice Reporter notes that Editor Michael Hoeflich was a student of and research assistant for Geoff Hazard when he taught at Yale Law School. In addition, Ron Rotunda was his colleague, friend, and mentor for many years, beginning when Hoeflich joined the faculty at the University of Illinois College of Law in 1981.

Freedman was, in many ways, a legal radical, and he brought this philosophy to his work on legal ethics. A brief biography of Freedman on the web page of the "Monroe Freedman Institute for Legal Ethics" at Hofstra makes this clear:

> Professor Freedman left an indelible mark, helping to define Hofstra Law and established our reputation as a place where social justice and ethical lawyering form our backbone. His extraordinary accomplishments in bringing legal ethics to the forefront and creating a field of study where none previously existed are unparalleled and respected by all in the legal community. In the classroom and beyond, Professor Freedman was what is known today as a "disruptor." He helped us to question the status quo and made us think deeply about the complexity of legal representation, particularly for those marginalized by society.
>
> [online at https://freedmaninstitute.hofstra.edu].

Among Freedman's best known works are Lawyers' Ethics in an Adversary System (1975) and Understanding Lawyers' Ethics (5th ed. 2016 with Abbe Smith). His writings are particularly useful for lawyers involved in criminal practice and civil rights.

Ronald Rotunda

Ronald Rotunda began his career as a lawyer on the staff of the Watergate Committee before teaching at the University of Illinois, George Mason, and Chapman University law schools and becoming a senior fellow of the Cato Institute. Rotunda, too, was one of the preeminent American experts in legal ethics and constitutional law. His casebook on legal ethics, co-authored with Professor Tom Morgan went through multiple editions.

The Federalist Society lauded him after his death as a scholar who worked at the "intersection of constitutional law and legal ethics." He brought his conservative legal sensibility to the study of both of these fields and his books and articles on legal ethics are a rich source for anyone working on a legal ethics issue.

Among his most important works are his co-authored casebook book with Professor Tom Morgan, Professional Responsibility. Problems and Materials (13th ed. 2018), Legal Ethics in a Nutshell (5th ed. 2018), and Legal Ethics. The Lawyer's Deskbook on Professional Responsibility (2008). Professor Rotunda died in 2018.

BLAST FROM THE PAST
THOUGHTS FROM SIMON GREENLEAF

Simon Greenleaf was an antebellum period professor at Harvard Law School. He was America's first expert on the rules of evidence and also lectured about legal ethics. In one of these lectures, he said:

> The character of an upright lawyer shines with mild but genial luster. He concerns himself with the beginnings of controversies, not to inflame but to extinguish them. He is not concerned with the doubtful morality of suffering clients, whose passions are aroused, to rush blindly into conflict. His conscience can find no balm in the reflection, that he has but obeyed the orders of an angry man. He feels that his first duty is to the community in which he lives… I look with pity on the man, who regards himself as a mere machine of the law;--whose conceptions of moral and social duty are all absorbed in the sense of supposed obligation to his client, and this of so low a nature as to render him a very tool and slave, to serve the worst passions of men…

From Simon Greenleaf, *A Discourse Pronounced at the Inauguration of the Author as Royall Professor of Law in Harvard University* (1834), reprinted in M.H. Hoeflich, *The Gladsome Light of Jurisprudence* (1988), at 134.

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