

12-15-2009

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Recommended Citation

Tacha, Deanell Reece, "Packing Your Briefcase" (2009). *Vol. 2: Service & Integrity*. 19.
https://digitalcommons.law.byu.edu/life_law_vol2/19

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Packing Your Briefcase

Deanell Reece Tacha

Thank you so much, Dean Worthen. It's a great privilege to be here at one of my favorite law schools in the country, the J. Reuben Clark Law School at Brigham Young University. It is a particular privilege to celebrate with you, the graduates of 2007, who follow in a long line of great lawyers who have either taught at this school, graduated from this school, or been instrumental in its founding. Dallin Oaks and Rex Lee have left a broad swath, indeed, across the legal profession and throughout this nation.

The human experience rewards each of us with a few days in our lives that stand out as days of reflection, days of celebration, and days of renewed commitment to the ideals that brought us to this place in our journey. Well, today is such a day. So I congratulate you and all those who have supported you thus far. Although you the graduates richly deserve every appellation, every praise, every congratulatory greeting, I remind you that in many ways it is not only your efforts that have brought you to this day. Instead, you are the beneficiaries of a great legacy. You learned this in Wills and Trusts: "A legacy is that which you inherit but do not earn and do not deserve." It is what was left to you from other generations: a nation where the promise of freedom is a daily reality unlike most of the rest of the world; a tradition of religious pluralism that has fostered the growth of this great university; and a long, long line of those who came before you and settled these beautiful western lands. On a day like this, we owe them a great debt of gratitude. Thus it is that today marks another important milestone in your lives, for this is the day that you begin to leave a legacy for those who come after you. Remember what you have inherited, and add luster to that legacy after this day is long lost in history.

Now, to you, the Law School graduates of 2007: Today is the day that you begin to pack your briefcases. Many of you, I suspect, on this day have received a new briefcase as a gift. Perhaps it's one of those beautiful leather

ones or more likely the more hip canvas variety that crowds the overhead bins of the airlines of our nation. A briefcase is the lawyer's most constant companion. You will be with that briefcase more than you will be with any person or other thing in your life. Now I considered whether calling it a briefcase marks my age and whether or not it might be the holder of the laptop. But don't think it is an outdated relic of the age of paper communication, for even the name is drawn from the professional calling of the lawyer, though everyone else has adopted its use.

I am the mother of four children, and when they were very young my briefcase was their favorite toy. I would dump it in the front hall, run off to get ready for dinner or take somebody to Scouts, and inevitably by the time I got back to ready my briefs or finish some little part of an opinion, the papers and briefs would be scattered, the scissors would have transformed some important document into a paper doll, and the pockets would be stuffed with a cornucopia of treasures. In those days it might have been a Star Wars figure, a dirty little sock, a bug, and almost always a note tucked somewhere that contained a very lopsided heart inscribed, "I love you, Mom." On more than one occasion I would open my briefcase somewhere far from home and find a Cheerio or the remains of an Oreo sifting onto the bench. They were a bit of a nuisance, but those treasures became for me a symbol of the bits and pieces of our lawyer lives that inhabit our briefcases and speak volumes about who we are. They speak of professional commitment—of moving from desk to courthouse to corporate office, meeting with clients, and visiting the sites of great new developments, scenes of accidents, homes of foster children, and the host of places where lawyers and their briefcases go together to carry out their professional responsibilities.

Those briefcases speak of hard work and constantly learning about new issues and new areas of the law. You will have in that briefcase all the equipment of the lawyer, and it will constantly change with clients, court decisions, the will of the body politic, and especially the needs of society—for the law requires you to take a veritable moveable feast with you in those briefcases. The law that you enter is never static. The tools of your work and the substance of what you do will constantly change. So you, too, must be opening and closing and opening and closing that briefcase as rapidly as that change.

For you, the Law School graduates of 2007, I have a packing list for your briefcase, a list of those things I hope you'll include as you go about your lives as lawyers, a list of symbols that will come tumbling out of your briefcase along with the briefs, books, and paperclips.

First and foremost, keep a treasured memento of your loved ones affixed to the top of the upper compartment of that briefcase in a place where it will always be in plain view. It might not be a Star Wars figure, and it won't be the CD of all my husband's favorite music that I have kept

my whole career and play from time to time and even in far corners dance to myself, but make sure it speaks instantly and always to you about the treasure of human commitments and friendships. Make sure that it evokes powerful reminders that we lawyers are also loving and passionate people who although deeply engaged professionally place the highest priority in every respect on our human ties and human commitments. So frequently I have seen lawyers lose their way and become so preoccupied with the case of the day or the bill of the hour that they don't hear the chatter of their children or the longing or even loneliness of spouses or aging parents. Keep something right there in your briefcase that will remind you of those human ties of incalculable worth.

Second, but related to the first, tuck into that front corner an old dishrag or a torn piece of a kitchen towel to remind you that the good lawyer is also the helping family member, roommate, friend, and community volunteer. Your responsibilities span a far wider range than those that come under the technical definition of lawyer. The law can be an all-consuming passion, but do not let it become so. You will be truer to yourself, more empathetic with those around you, and ultimately represent your clients with more understanding if you see each day, each and every day, as including both professional and personal responsibilities, purposefully keeping in equal poles the measure of yourself that you devote to each. So whether it is to pick up that dishrag and clean the kitchen, set the mousetraps in the garage, or ladle soup in a homeless meal site, be a caring, down-and-dirty working member of your household and community. It will pay rich rewards far beyond those that are represented by your billable hours.

Third, place conspicuously in that briefcase some symbol of your faith commitment. You at BYU have a long and rich legacy of those faith symbols. For some of you they will be the symbols you are accustomed to here. For others they will be a Star of David, a crescent, or a simple set of philosophical guideposts. But remind yourselves constantly that your behavior as a lawyer, as a citizen, and as a person must be guided by a set of ethical, moral, or religious principles that rise far above the letter of the law. For remember always that the law and its codes of conduct are the lowest common denominator of conduct. They are the minimum thresholds upon which we can all agree. But each of us individually is called as a lawyer from whatever religious and ethical groups we come from to pattern our behavior far above the minimal requirements of the various laws and codes that govern us. It is tragically evident in the world around us that when people attempt the minimal ethical standard of the letter of the law—to say nothing of the societal consequences—they often fail and then suffer the personal and legal consequences of inaccurate line drawing. A good lawyer is guided by a set of standards far above the letter of the law. So keep those symbols in front of you. I could not be here on this day

and not mention that I am also national president of the American Inns of Court and that the American Inns of Court were founded right here in this state by my good colleague the late Judge A. Sherman Christensen along with Chief Justice Warren E. Burger. The American Inns of Court are committed to the higher ideals of professionalism, civility, ethics, and legal excellence. This is my commercial message: Everyone, join the Inns.

Fourth, tuck into that briefcase a kite, a harmonica, a Frisbee, or a paintbrush. Never forget to play. Never forget the common language of music and the arts so beautifully demonstrated here today. It is in these shared expressions of our human interests and talents that we can bridge the gap between cultures, communities, and chasms of misunderstanding. When we humbly and joyfully embrace the parts of us that connect us to every other human being, we become world players on a level playing field. We discover new dimensions of our personalities and join hands with the rest of the human race in shared experience. Much too often lawyers are too busy, too distracted, and, yes, even too arrogant to sing the same songs, dance the same dances, or fly the same kites on that rich playground of life. If we do not play or paint with our neighbors, why would they trust us to settle their controversies or determine their liberties? Keep your kites and paintbrushes close.

Fifth, throw in there a pair of handcuffs and a dirty nail or two, so they rattle around and bother you a bit every time you carry that briefcase. Why? To remind you of and propel you toward the important responsibility of every lawyer: to contribute your time and professional expertise to providing high-quality legal services for those among us who cannot pay. This responsibility is an important part of what gives us the right to call ourselves professionals. To the extent that we see our work only in terms of billable hours, we have no right to the badge of honor of a professional even though we have paid a handsome price for our law degree. Many distinguished lawyers and judges before us have made the difference in perpetuating the legacy of a free nation where there is equal justice under the law. Your generation perhaps more than any other generation carries on that essential legacy. Many among us and on every street and byway in America feel forgotten by the system. They feel powerless. They do not think the law and legal system either apply to them or belong to them. You, all of you, must be part of changing these perceptions. Whether you are the representative for criminal defendants, build houses for Habitat for Humanity, or teach schoolchildren about the legal system, you must be out there among the people spreading the message that the rule of law is essential to a free people, and it is equally available to all. So let the clanking of the handcuffs and those nails draw you to representation for the greater good.

Sixth, put a little magnetic board somewhere in your briefcase, and get those little magnetic words to describe your opponents, the judges, other lawyers, and all those with whom you interact as you go about your work.

Now, listen carefully as they say those words, and describe those essential players in the system. Do you speak in respectful and professional tones, or do you allow yourself to be seduced into the rhetoric of the day that is so derisive and so harsh? The language of the law is the language of civilized people. Learn to carry out conflict, to settle our differences under the law, in a civilized discourse and not in shouting at each other. To a great extent lawyers have brought upon themselves the culture of lawyer jokes and serious mistrust because they have allowed the ethos of media show-casing to replace respectful professional interaction.

Seventh, embellish your briefcase with a leaf, a pine bow, or just handfuls of dirt. These emblems of our natural world serve several purposes. They can be simple reminders of the joy of the natural world that requires you to look up from your desk and briefcase and absorb this gift of beauty. But they can also be conscience pricklers reminding us that lawyers have an important role to play in preserving and revitalizing the natural treasures of the earth. Here in the West we have a job to do. We do not have enough water. We have all kinds of issues with the quality of our air, natural resources, and endangered species. The list goes on and on. Most certainly these emblems of the natural world will keep you and your work grounded in a commitment that this earth and its bounty and beauty will last, God willing, long after we are gone, for we are but a single organism in the rich procession of a living, constantly changing, ever-adapting universe.

Eighth, inevitably your briefcase will be packed with law books, cases, and all of those equivalents; but remember your common law heritage. It is linked in no small way to the optimistic but historical perspective that we build upon the past to add to our collective understanding of the world and its human institutions and alter its course to meet the needs of changing times. Lawyers have the potential and the training to be essential agents of both stability and change if we will but force ourselves to look at the big picture. Are we illuminating or advancing the course of history? Or do we see our work only as a series of cases and clients? If so, we will have missed our brief opportunity to be stewards for another generation.

The only book I recommend you keep in your briefcase is a little pamphlet I keep. It contains the full text of the Constitution of the United States. Although you will live and work in a global society, never forget that this nation stands as a beacon of freedom for the rest of the world. Well over two centuries ago, a ragged bunch of revolutionaries practiced not a code of law but a short and stunningly idealistic set of principles that would stand the test of time and constant challenges to lead us to this time and place. It was in large measure the lawyers who guided the orderly change and progress for this nation. Their briefcases were packed with patriotic fervor, a sense of purpose, and a commitment to preserving those freedoms for future generations. Their briefcases contained no paralyzing

cynicism. Today, join that long and distinguished line of the guardians of our national and professional heritage.

Pack your briefcases carefully. Let them be symbols of who you are and what you stand for. I hope very much that out of your briefcases will come tumbling a Cheerio, a diaper, or a crumbled Oreo to remind you that another generation depends on you for the right to someday realize the dream and the privilege that are yours today.

This J. Reuben Clark Law School convocation address was given at the Provo Tabernacle on April 27, 2007. Reprinted from the Clark Memorandum, fall 2007, 2–9.

Deanell Reece Tacha received her JD from the University of Michigan Law School in 1971. She served as law professor at the University of Kansas School of Law 1974–85, member of the U.S. Sentencing Commission 1994–98, and chief judge of the U.S. Court of Appeals for the Tenth Circuit 2001–2007. She began her current service in 1985 as judge on the U.S. Court of Appeals for the Tenth Circuit in Denver, Colorado.