

KEYS TO BEING HAPPY SUCCESSFUL AND FULFILLED

BY JUDGE J. CLIFFORD WALLACE >> PHOTOGRAPHY BY BRADLEY SLADE

I WANT FIRST TO PAY TRIBUTE TO THE LAW SCHOOL'S NEW DEAN, PROFESSOR JAMES RASBAND. I HAVE KNOWN JIM FOR A NUMBER OF YEARS. HE WAS ONE OF MY FINEST LAW CLERKS AND HAS TURNED OUT TO BE AN OUTSTANDING PROFESSOR. I PREDICT HE WILL ALSO BECOME AN OUTSTANDING DEAN. I APPRECIATE HIS INVITATION TO ADDRESS YOU TODAY.

>> THIRTY-EIGHT YEARS AGO, AT THE 1992 BRIGHAM YOUNG UNIVERSITY MAIN CAMPUS COMMENCEMENT, I SPOKE ON THE TOPIC OF MEDIOCRITY. MY CONCERN WAS THAT THERE WERE TOO MANY WHO WERE WILLING TO WORK JUST ENOUGH TO GET BY AND THE RESULT WAS IMMEDIATE MEDIOCRITY IN THEIR PRODUCTION. BECAUSE THAT ATTITUDE WAS SPREADING SO RAPIDLY, I TITLED MY REMARKS "THE CANCER OF MEDIOCRITY." I WISH I COULD SAY THAT, LIKE OTHER CANCERS, PROGRESS HAS BEEN MADE TO OVERCOME THIS MALADY. UNFORTUNATELY, I CANNOT. IT IS STILL A PROBLEM. AND, AS YOU MIGHT EXPECT, IT IS FREQUENTLY A PROBLEM WITHIN THE PRACTICE OF LAW.

>> TOO OFTEN, LAWYERS ARE SATISFIED WITH A POOR WORK PRODUCT—JUST GET THE JOB DONE AND GO ON TO OTHER THINGS. TOO MANY BRIEFS ARE INADEQUATELY RESEARCHED AND POORLY WRITTEN. TOO MANY LAWYERS COME TO COURT UNPREPARED, OR AT LEAST NOT PREPARED TO THE EXTENT THEY SHOULD BE.



J. Clifford Wallace was appointed to the Ninth Circuit Court of Appeals in 1972, serving as chief judge from 1991 to 1996. He assumed senior status in 1996 but continues to hear cases in the Ninth Circuit and spends time as a visiting judge on other federal appellate courts. The American Judicature Society honored Judge Wallace with its 24th Annual Edward J. Devitt Distinguished Service to Justice Award. The award is one recognizing “significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole” and was formally presented to Judge Wallace by U.S. Supreme Court Associate Justice Anthony Kennedy in 2006.

When you take on the responsibility of representing clients, you commit yourself to doing your best. If you are unwilling to make this commitment and carry it out, you are just another lawyer-victim of the cancer of mediocrity.

Sometimes lawyers decide how much work they will do based on the fee they believe they will collect. This is counterproductive and, in my view, morally wrong. You have a commitment that must be followed to do your best regardless of the fee.

That brings me to the point I wish to make, which I hope you will remember. The practice of law is a practice of best service. I recall at a general conference of our Church I heard a speaker say: “I was a lawyer until I repented.” I was sitting in the section reserved for the regional representatives of the Twelve next to another lawyer. He responded, “I am glad I do not practice law that way.” I agreed with him.

In the practice of law, we provide a service for clients to accomplish something they cannot do for themselves. It is an honorable profession; thus, there should be no cause for repentance.

No discussion about the practice of law would be complete without discussing honesty and fidelity. Honesty still is the best policy. So why are there so many lawyer jokes? I hear very few jokes about doctors, dentists, plumbers, or carpenters. But lawyer jokes abound. How much of this comedy has truth behind it?

When I completed law school at the University of California at Berkeley, I was hired by a major firm in San Diego as a new associate. The partner in charge of the litigation department was James Archer, a tough litigator, and one who never stepped over the line. I learned by carrying his briefcase and attending court with him. He stressed, “No case is worth winning by being less than honest.”

During World War II, Consolidated Aircraft Company in San Diego produced the B-24, the medium bomber used in the Pacific. Because the facility was a possible target, camouflage had been stretched over the building and the road next to it. On my way to the beach, the bus would travel under

this camouflage and all of a sudden it would be dark. However, on the side of the building, painted in large white letters, you could observe a statement, which I still remember: “Nothing short of right is right.” That became extremely important to me as I practiced law. It was my touchstone.

You fairly quickly learn which lawyers you can trust and which you cannot. You establish a reputation by how you practice. Those who consistently do not misstate the holding of a case for their cause or do not miscite the

record from which they are arguing stand out in the minds of observing lawyers and judges. There are other lawyers about whom you learn just the opposite. If they tell you that it is raining, you go to the window to check. You simply cannot trust them.

The practice of law takes time and effort. It is no secret that only the industrious become outstanding lawyers. Good law practice is not for those who are not industrious or are simply wimps. You must be prepared to serve and to serve well.

With all of the above, which is the appropriate way to practice law, you necessarily will also face conflicts in your life because you have responsibilities in addition to the high bar you place before yourself as a lawyer. Most and maybe all of you will enter into marriage and have family responsibilities. They too can be demanding and time-consuming.

Many of you have and most of you will enter into the temples of The Church of Jesus Christ of Latter-day Saints to receive sacred ordinances. You will there take upon yourself commitments, such as dedication of your time and talents. The sealing ordinance of the temple named “This Order of the Priesthood” provides an additional commitment and responsibility.

You will have calls to Church positions. If you do not fulfill them properly, unfortunate results may occur for those whom you are called to serve but failed to do so.

And then there is the legal practice with its demands. As you can see, already it is too much—too much—too much. How do you balance all of these important responsibilities that appear to be more than any human being can master?

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This address was presented to the J. Reuben Clark Law School graduating class of 2010 in convocation exercises on April 23, 2010.

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ELDER RICHARDS SAID,

“YOUR FIRST RESPONSIBILITY IS TO YOUR FAMILY,

THE SECOND IS TO THE CHURCH, AND IF YOU HAVE

ANY TIME LEFT OVER, YOU CAN EARN A LIVING.”

I started the practice of law in 1955 (55 years ago). Two years later I was married. I was serving in a Young Men stake presidency of the Church and seemed to be handling my life fairly well—it appeared to be in balance.

Then I was called as second counselor in a stake presidency. I was 29 years old, an expecting father, and trying as a young associate to qualify for partnership.

LeGrand Richards of the Quorum of the Twelve was the presiding authority. He noticed my concern and asked me if I had any questions. I said I had just one. I outlined my commitment to my family, to my profession, and now to this time-consuming call in the Church. Elder Richards responded by winking at me and said, “Your first responsibility is to your family, the second is to the Church, and if you have any time left over, you can earn a living. This statement, as I

understood it, was not an indication that I was not to be successful as a lawyer. To the contrary, he expected that I would be a very successful lawyer. He was just stating priorities: family, Church, profession. It was up to me to grow to accomplish all three.

This harkens back to what I believe to be the excellent advice we all received from Elder Dallin Oaks of the Quorum of the Twelve in his remarkable discussion at the October 2007 general conference of the Church on “Good, Better, Best.” It is a scale we all need to learn in determining what we will do with our lives. Taking control of our lives, we move up from good to better to best use of our time and talents.

President Henry D. Moyle gave me important advice. He stated that I would not fail in the practice of law by accepting what I am called to do in the Church. His view was that there is a law of compensation from the

Lord that occurs if you are faithful to your primary responsibilities.

Four years after I was set apart as a counselor, I became the president of the stake and had to learn more about priorities; the choices of good, better, and best; and to rely on faith to accomplish all that I had before me. My lesson came from then-Elder Spencer W. Kimball, later the president of the Church. He was the presiding officer when I was called as a stake president. As I drove him back to the airport after the stake conference, he told me that we all have the same amount of time each day, that time can be analogized to a bucket. Everybody has the same-size bucket. “If you crowd all of the rocks you can into the bucket,” said Elder Kimball, “then you are using all of your time. Is that correct?” he asked. I responded, “Yes,” and he told me I was wrong, because you can pound sand in between the rocks.

Then he asked, "Will you then use all your time?" I thought so, but misunderstood that the task was over. He explained that the successful person learns that you can put water between the grains of sand. Clearly, he was advising me about the proper use of my time, that I had to become a master of my time so that I could accomplish all my major responsibilities: family, Church, profession. It is still good advice and I still follow it. You might want to also.

As you can tell, I believe that law is important. It is a major part of my life, and I have grown to love the law. But it is not the most important thing to me. Indeed, there probably will be no need for lawyers in the next life. So each of us has to keep our eyes open to the big picture here and hereafter. My experience tells me that if you are willing to use all of your time wisely and focus on the three priorities, you can be successful, happy, and fulfilled.

Now, I realize that currently the climate is not encouraging for a starting lawyer. But I have always believed there is room at the top. You have had a good legal education. Some 14 million people have contributed to your tuition and expenses through tithing funds freely given to the Church. Those tithe payers need to be paid back. How are you going to do that? I suggest you pay them back by fulfilling their expectations, by your becoming an honest, hardworking, quality lawyer who sets a good example in all you do and accepts responsibility in your family and your church.

At the end of your professional life, you will look back and you will then decide whether you have been successful in the way I have described today. I recall some years ago I was asked to present a lecture at Brigham Young University as part of the Last Lecture Series. The idea was, if it were my last lecture in this life, what would I say? My remarks were entitled "Looking at Life Through a Rearview Mirror." How do you want to be remembered professionally?

Potter Stewart, now deceased, was a member of the United States Supreme Court. At the time of his retirement, he was asked the question "How do you want to be remembered?" His response was meaningful. He said he wanted to be remembered "as a good lawyer who did his best." I recommend it to you.

