

[Editor's Note. John delivered his "Respect is the Answer" to the International Academy of Trial Lawyers, as a Dean's Lecture. We have broken his hour long speech into several Parts, to fit with the concept of **Neoethics** as an eZine with short articles. This is Part 1. The successive Parts will appear in successive future issues of **Neoethics**.]

RESPECT IS THE ANSWER, ISN'T IT?

by Peter C. John



My title is - "Respect Is the Answer, Isn't It?" Maybe it should be "Respect and Trust are the Answers, Aren't They?"

So you will understand my convictions and my mind set, let me read to you a quote from an unusual source-a letter written by Robert E. Lee, to his son when he left for college:

"You must be frank with the world. Frankness is the child of honesty and courage. Say just what you mean to do on every occasion and take it for granted you mean to do right ... Never do anything wrong to make a friend or keep one; the man who requires you to do so is clearly purchased at a sacrifice. Above all, do not appear to others what you are not."

With that frankness in mind, let me just say it. We trial lawyers are a major contributor to the decline in respect and trust of trial lawyers by the well publicized actions of some, but mainly by the inaction of our best, brightest and most successful. Some of our brethren have begun efforts to right the ship, as I will discuss later, but we need many more to contribute. It seems to me we have an obligation to leave the system better than we found it, and we are not doing so.

Critical to continued success and improvement of the jury system is maintaining the press's, the public's, and the litigant's respect for the system. Increase in disapproval ratings for lawyers does more than hurt our feelings and makes us the butt of jokes: far worse, it breeds disrespect of and contempt for our system of justice. I am not naive enough to think our profession will ever gain the respect we would like it to have, but a 70% - 80% disapproval rate and declining, scars not only us, but most importantly, the system. The "System's" requirement that lawyers be partisan and vigorous advocates makes us easy targets for approbation. Partisan lawyers are necessary to protect against government overreaching and corruption, oppression of the economically weak by the economically strong, and importantly, to allow companies and individuals to pursue or defend against claims for compensation for damages caused by others in a fair forum. Because we are the most partisan profession in our country, there is no way to totally overcome criticism, justified or not. Part of the problem is the public's, and many commentators', lack of awareness of how totally partisan our system of justice

requires us to be, and thus the criticism for what they believe is a lack of balance in our words and deeds.

The English lawyer, philosopher H. L. A. Hart wrote:

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The general principle latent in these diverse applications of the idea of justice is that individuals are entitled in respect of each other to a certain relative position of equality or inequality. This is something to be respected in the vicissitudes of social life when burdens or benefits fail to be distributed; it is also something to be restored when it is disturbed. Hence justice is traditionally thought of as maintaining or restoring a balance or proportion ...”

The public expects this balance of justice but views our role as counterproductive to that goal in many cases. They don't really understand that we attain that balance by being the most partisan profession on the planet.

We are educated to be partisan.

We are trained to be partisan.

We think in partisan terms.

We speak in partisan terms.

We act in partisan terms.

Our system works because we have partisan advocates providing fuel for each side of a controversy, but we still have not properly educated the public to the necessity for that type of advocacy.

Unfortunately, an additional problem is that this type of necessary partisan advocacy, previously done with dignity, respect, and hopefully trust within our Code of Ethical Conduct, has changed to personal attacks on each other, our clients, the judges and the court system itself. Little wonder when we don't respect each other, others don't respect us. Little wonder people question the fairness of the System itself when we challenge its fairness.

Let me be more specific. We all know too many lawyers who, as a matter of course, always view their counterpart in litigation as devious, dishonest, obnoxious and even unethical. A judge in Cook County categorized them into (1) the bloodfeud lawyers and (2) the paranoid lawyers. We all know lawyers who are in one or both of those categories. They disbelieve every opponent, whether there is any basis for it or not. Worse yet, they tell their clients their view and it spreads geometrically. Again, little wonder people lose respect for us generally. Maybe some lawyers view their opponents that way to get their juices flowing, but I say find another way. This has to stop before we destroy the system.