



Defending the Defenders

I'll live a better life if I never hear another lawyer joke. I'm sure many others feel the same way. Although I don't hear them as often as I used to, they're still out there, and the Internet has created a broader forum for them to be told. These jokes perpetuate a negative and unfortunate perception of lawyers.

The fact that we're often called to service when conflict arises certainly contributes to the negative perception. Conflict means someone is unhappy with the position a lawyer is advocating. Although this is regrettable, I believe public perception about lawyers can be changed, but it will take the time and effort of the State Bar and its members.

One issue that contributes to the perception of lawyers is the inability of some to separate the views of lawyers from the views of their clients. As a lawyer who represents elected officials and political clients, I have experienced this firsthand.

I recently spoke about this topic at the State Bar of Arizona's annual CLE by the Sea conference. During my presentation, I recalled the story of Paul Clement, the former U.S. Solicitor General under President Bush, who left his national law firm after the firm asked him to drop a political client. The client was the Republican Leadership in the U.S. House of Representatives, and the case involved defending the Defense of Marriage Act.

According to press accounts, the firm was pressured to drop the client by groups who support same-sex marriage and oppose the Defense of Marriage Act. When told the news by firm management, Paul Clement abruptly resigned, joined another firm and kept the client. The management at his former firm was likely concerned about the political environment surrounding the case rather than the actual merits.

Given the defined role of a lawyer when representing a client, the political factor should not have been a consideration of the firm in deciding to drop the client. In fact, this decision and the publicity surrounding it may have helped fuel the negative perception of lawyers by suggesting that the collective views of a law firm and its attorneys are always reflective of their clients, which ER 1.2(b) tells us should not factor into our representation of a client, whether it's true or not. That rule provides that when representing a


client we are not endorsing the client's political, economic, social or moral views or activities.

The principle embodied in ER 1.2(b) would improve the image of lawyers if the public better understood it. When Paul Clement resigned, he said in a letter to the

firm's chair, "I resign out of the firmly held belief that a representation should not be abandoned because the client's legal position is extremely unpopular in certain quarters. Defending unpopular clients is what lawyers do." And Clement recognized that the statute he was defending "implicates very sensitive

issues that prompt strong views on both sides. But having undertaken the representation, I believe there is no honorable course for me but to complete it."

Paul Clement's rationale for resigning cannot be disputed when considering the role of an attorney. However, the situation in which he found himself illustrates the challenges that attorneys face when their clients' legal issues happen to be controversial or unpopular.

We as a bar should publicly support and defend attorneys like Paul Clement who find themselves suffering criticism as a result of their representation of a client. And we should take care to help the public better understand the role of an attorney. In doing so, we can make great strides toward improving the image of our profession. 

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