

A Man for the Situation

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I met Geoff Hazard in Fall 1983, when I took two classes from him, Advanced Civil Procedure and the Legal Profession (roughly our Professional Responsibility). I was more looking forward to the Civil Procedure class—Civil Procedure had been my favorite subject in my first year. But it's the Legal Profession class that more sticks with me.

Geoff taught the class out of the Model Rules of Professional Conduct, partly because he had largely written them,¹ and partly because it was the concepts rather than the pinpoint rules that held more pedagogic value. And of course one of the most important concepts is that a lawyer may not accept a representation which places him/her in conflict with a client.

Yet think of how many times people who are nominally on the same side have potentially divergent interests. When a corporation is in financial trouble, the officers, rank and file employees, shareholders and creditors have sharply diverging interests. The partners in a law firm or medical practice. An insurer and its insured. All these individuals have potentially conflicting interests, and so they may need their own lawyers.

If there's enough money involved, there's no problem. Lawyers for everybody! But what about when there isn't a lot of money involved? Think about family law. Every member of the family can have potentially divergent interests. But typically there's not going to be enough money involved to make that practical.

Geoff used to say that in those situations what might really be needed is not a lawyer for every client, but *a lawyer for the situation*. Make full disclosure to every person involved and give them their options. Heretical as it may sound, Geoff saw that as the most pragmatic solution to a ubiquitous problem. It wasn't right for every situation, but when it was the *only* practical solution, it was the *best* solution.

From my vantage point as a student, and later as a colleague, Geoff had three main values: pragmatism, "technical virtuosity," and decency. I'd like to say a word about each of these values.

When I got to law school, I was an ideologue. Ideologies were the most

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1. He served as Reporter to the American Bar Association Committee on Evaluation of Professional Standards, commonly known as the "Kutak Commission" after its chairman, Robert Kutak.

interesting thing to me, the sexiest thing, and I was initially attracted to the professors whose lectures hewed to their well-defined ideologies. Geoff wasn't that. He offered taxonomies and typologies, but they were descriptive, not prescriptive.

What I learned from Geoff was how to take stock of a situation and move forward. Don't impose your own pre-conceived template on the situation—see it for what it is, and figure out how to help. He told me, “The definition of a lawyer is someone who can walk into an ongoing meeting absolutely cold, having no idea what they're talking about, and within fifteen minutes more or less understand the dynamic and be able to make a contribution.” You don't walk in and say, “I'm the lawyer, and I'm going to say what lawyers say.” You read the room and adjust your mental frame to what's actually going on. And there were many times, especially in administration, that this piece of advice really helped me.

Technical virtuosity: such a felicitous phrase, isn't it? It really caught my attention because it would seem that “technical merit” and “moral virtue” are apples and baseballs—you wouldn't dream of marrying the two concepts. But Geoff always had that totally unique way with words, and whenever he said “technical virtuosity,” it was with a wink and a wry smile.

But there was never any doubt: Geoff held craft essential to professionalism. There was a right way to do things—address all key points, check all references, proper attributions for everything. Write well and speak well. Turn square corners.

When he would speak of reporters of ALI restatements or projects, or when he would speak of judges—ones he particularly respected—they always had two things in common. They had great judgment and were technically virtuous.

To say Geoff was a pragmatist and a stickler for technical merit is not to say that he didn't have political or moral beliefs. Of course he did. Some years ago there was a push to get the ALI to condemn the death penalty. (The original Model Penal Code hadn't taken a position on it.) He didn't think it was a good idea. He told me, “Look, any decent person considers the death penalty an abomination.” But he said the ALI didn't have any unique insights, and he didn't want to dilute the ALI's credibility on more technical matters where it DID have unique insights. Geoff was a highly decent man, and nothing was more important to him. But he never acted as if he was the only one who knew decency when he saw it.

He was decent to the end. Just a few months ago, right before Geoff and Beth were about to move back to Philadelphia, I asked whether I could call on him at their house here in San Francisco. The house was completely packed up in boxes, and it was going to be highly inconvenient. But he said, “of course.” And Beth, gracious as always, found a little table and a couple of chairs for us, and Geoff and I had a wonderful chat. I knew it was probably going to be my last chance to see him because neither one of us was going to do much traveling. He knew how important it was to me, and he went out of his way to

accommodate me. A highly decent gentleman.

In the end, although Geoff was a lawyer, a teacher, a scholar, an executive director, a dean, I don't think he rigidly identified himself with any one of those roles or positions. He was a man for the situation. He was my teacher, my colleague, and my friend, and I will miss him.
