

A Nostalgic Touch

A Model of Professionalism: John Carpenter

By Matthew Keenan, Shook, Hardy & Bacon, Kansas City, Mo.

These days it seems anything competitive can quickly become almost a life or death proposition. We just finished an election cycle with negative ads and negative campaigning reaching a new low. Look at sports. Baseball is now basebrawl. Fans follow suit; trading punches with each other, or in some cases, bullets. Consider this headline that appeared in the national news in October 2008: “Massachusetts barber pleads guilty in fatal Sox-Yankee fan fight.” Or this one in November: “Two dead in argument over Alabama-LSU game.” Even sandlot games are ripe fodder for parents who confuse little league with a pro tryout.

Our profession is adversarial; everyone understands that. Indeed it would be unethical to be anything less than a zealous advocate. But sometimes, under the heading of aggressive advocacy, lawyers believe it's an entitlement to rude, loathsome, abusive conduct. Searching the word “civility” on www.abajournal.com reveals the latest incidences of lawyers behaving badly.

National surveys of attorneys reveal a consensus that civility and professionalism among lawyers is at an all-time low. Almost 70 percent of lawyers surveyed for the “Pulse of the Legal Profession” — a comprehensive 2006 ABA study — stated that “lawyers have become less civil to each other over time.”

Some attorneys believe the antithesis of civility breeds success. The Florida bar challenged, successfully, one attorney whose ads featured a pit bull with a spiked collar. The notion, at least in Kansas, that a nice guy can't be a successful advocate is demonstrably false. Indeed, in many communities here, in fact most, civility and professionalism is the rule, not the exception. And active and successful practices follow.

Which leads me to John Carpenter, a member of the Barton County Bar for 40 years, until he passed in September 2004. “John was a big man, maybe 6' 4” tall. He carried himself in a classy elegant, way, and he was simply a great lawyer, a great guy. Maybe my best friend,” Tom Berscheidt told me recently. But Berscheidt and Carpenter weren't law partners. They were adversaries. In multiple cases over the 36 years they worked in the same town, Great Bend. They had many jury trials against one another — three in the same year. “Neither one of us ever raised an objection. I didn't try to push the rules; neither did he,” Berscheidt recalled. Motions to compel, motions to dismiss marginal claims — not necessary. “I opened up my file, he took what he wanted, and then he did the same for me.”

Because by any conventional measurement, the notion that a plaintiff's lawyer and a defense lawyer could be best friends might strike an East Coast or West Coast lawyer in an unsettling kind of way. Yet their relationship was in spite of their differences. One dedicated to plaintiffs work. The other, for the defense. Carpenter — KU, Berscheidt — Washburn. Democrat, Republican, KTLA, KADC. Berscheidt — local kid, Carpen-

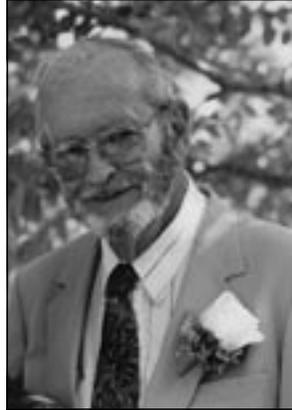
ter and his wife, Mickey — interlopers from Lawrence.

But it's what they had in common that predominated. “Good Scotch” for starters. A simple approach to preparing relatively simple cases. That fact-witness depositions should be finished in less than two hours. That the law was an honorable profession. Civility wasn't a word. It was way of life. “You knew with John Carpenter he would prepare his case thoroughly, but he never made it personal. His practice reflected three important tenants — civility, openness, and honesty,” said Bob Peter, his former partner. Carpenter's reputation earned him the Southwest Kansas Bar Association Civility Award.

Don Vasos was co-counsel with John in a case tried in Barton County in 1991. “I was an Eastern Kansas attorney, but couldn't have been treated better. I'm sure that was a reflection of the esteem in which John was held by the court and opposing counsel. John was always a gentleman, an advocate for his client and knew how to relax at the end of a day's work. We got a verdict,” said Vasos.

John's sudden passing four years ago was not before he had the privilege of mentoring his daughter, Gail, who now owns the building her father once rented. She practices with Brown, Isern & Carpenter. “I had the absolute privilege of practicing with Dad for 18 years. We did okay together and I wouldn't trade it for anything.”

John Carpenter's funeral jammed the Trinity Lutheran Church, with the local bar represented, and the pall bearers were fellow attorneys. And to deliver the eulogy? Mickey had one choice. The law partner John never had. Tom Berscheidt. ■



John Carpenter
1933 – 2004

About the Author



Matthew Keenan has practiced with Shook, Hardy & Bacon since 1985. He may be reached at mkeenan@shb.com.

Do you have a story about civility among our fellow bar members? I am looking for column ideas about Kansas lawyers who embody traits of professionalism and civility. War stories welcome. Send your idea or suggestion to mkeenan@shb.com

Thank you,
Matt Keenan