



FIVE MINUTES PEACE

by Hon. Lisa A. Langton
Family Court Judge

During my first year, my first month, in fact one of my first weeks as an Oakland County Circuit judge, a well-known and well-seasoned attorney appeared in my court. I could only assume that because I was a new and inexperienced judge, he decided he would test my patience and perhaps my skills. He engaged in petty slights and even had to be reminded by my clerk to stand when addressing the court.

Instead of advocating his case using patient firmness, he chose to be belligerent and theatrical. He was imperinent, disrespectful and condescending. Frankly, I was shocked. Is this how it's going to be? Is this how judges are treated? My temperature began to rise. How was I going to handle this? What should I do? Should I slam down my gavel? (I'd seen that on TV and it seemed to work.) Should I alert the media? Maybe I should just file a grievance against him with the state bar association citing his obvious unprofessionalism. With all of these options racing in my head I soon reached my boiling point. Thankfully, at that exact moment, my mind slipped back to a children's book called "Five Minutes Peace." I took a mental breather, took a five-minute break and continued on with the case.

I subsequently learned that this was simply how this particular attorney chose to conduct himself in front of me. His challenging behavior continued during the pendency of the case. His publicly filed pleadings were no better. He didn't constrain himself to legal arguments. On the contrary, he broadened his range to include personal attacks on me, culminating in a line that to this day I find amusing. Apparently, I wasn't just a judge. No, I was "a one-woman embargo against justice." Wow! All that in my first few weeks as a judge.

Certainly, his personal attacks presented no evidence or argument in law to advance his case. They did nothing to further the advocacy of his client. His theatrics served not to advance or resolve his case, but only to prolong it and heighten the animosity for the family he represented. I looked past his actions and took that five minutes to focus only on the merits of the issues with the goal of resolution.

Thankfully, I have found this particular lawyer to be a rare exception to the many fine, talented and wise attorneys I have had the honor to practice with.

What restored my patience that day? A children's book. The storyline is simple yet profound. Mama elephant has two little, rambunctious baby elephants whom she tries her best to raise and contain. Throughout the book she desperately seeks just *five minutes peace*. At the end of the tale we find her sitting in a hot bath with the youngsters edging their way into the room. Alas, she never finds that five minutes peace. This was a favorite book of mine to read to my small, rambunctious boys when I was a young, single mom. I shared mama elephant's fate and never found that five minutes. My point ... I have come to realize that as lawyers and judges we MUST find that five minutes.

When your mother or father told you to count to five or take a deep breath before you spoke or acted in frustration or anger, they were imparting wisdom that we lawyers sometimes struggle to embrace. As lawyers we face unique challenges. We must deal with our client, opposing counsel, judges and judges' staff – all at the same time – and we do so in a highly charged emotional environment with significant consequences.

We see article after article about civility in our practice. They all cite the same mantra: be patient, try to see both sides, be fair in your recitations and cordial to all parties. Of course we all aspire to that, but why is it so hard to do? I suspect there are many reasons. Given that many of the skills we learn as lawyers are founded in the cauldron of confrontation, it's no wonder we struggle to train for battle while vowing to be civil.

If we taught ourselves to stop and take a deep breath, if we could possibly pause and NOT say that next negative, personally offensive statement, we would be better equipped to represent our clients and preserve our professionalism. Our profession has been under attack for years. That's primarily because of the behavior that we have come to normalize. Defaulting to "attack mode" is

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counterproductive to the process, exacerbates the plight of our clients, and impedes the cause of justice. Do we win because we say awful, hurtful, personally offensive things about other litigants, opposing counsel or to the judge? Never. Never. Never. I repeat – never!

Our courtroom bible, the **Michigan Rules of Professional Conduct**, has quite a bit to say about this. MRPC 3.5 speaks to exactly this issue. It reads, in part, that a lawyer shall not engage in “undignified or discourteous conduct toward the tribunal.” The comments to this section are reflective and should be required reading for all lawyers and judges.

The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from undignified or discourteous conduct is a corollary of the advocate's right to speak on behalf of the litigants. (Here is my favorite line.) An advocate can present the cause, protect the record for subsequent review and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics. To that I say “AMEN!”

But how do we do that? My best advice is to follow mama elephant's path and find that *five minutes peace*. For some, those five minutes might be a weekend away from the office, or Thursday yoga class, or a quiet night at home with our family. Whatever your five minutes is, take it.

I see lawyers, witnesses and litigants day after day presenting e-mails, texts and a multitude of posts from every type of social media. Almost without exception they are offensive and derogatory. Many times lawyers tell me they wish they had not said it, sent it or posted it – but in the heat of the moment they pressed “Send.” Those words never go away. They can never be deleted and while they may be forgiven, they are usually never forgotten.

I have found that taking five minutes is a powerful tool. But it is not always intuitive. As a judge, it does not always fit with a long trial that needs to be concluded or hearing 40 motions on a Wednesday morning. Certainly it's the same for lawyers. It often doesn't fit with the rigors of trying a case, taking a deposition or arguing a motion. It can only serve us if we put it into practice. While at times it requires my conscious effort to employ, it allows me to focus on the merits of the case and not the belligerence or theatrics of those who fail to preserve the integrity of the courtroom.