By Martin Cole

To Every Thing There Is a Season

This will be my final column for *Bench & Bar of Minnesota* after almost 10 years as director of the Office of Lawyers Professional Responsibility (OLPR), and over 31 years working in the director's office at varying attorney levels. I have served six chief justices of the Minnesota Supreme Court, seven Lawyers Board chairs and five prior directors (plus two other acting directors). As the biblical Ecclesiastes declared, "To every thing there is a season, and a time for every purpose under heaven." My purpose is to retire as director of the OLPR and the time is now.

Some of my predecessors described in their final column how difficult a task it is being director of the OLPR. Having filled that role for almost 10 years, I certainly won't disagree. Dealing with the most notorious lawyer miscreants over the years is taxing at best, disquieting and disheartening at worst. Making decisions that affect a fellow licensed professional's livelihood is not a heartless task, as some of those miscreants may have imagined; it is a heartfelt task that often takes a toll on a person's emotions.

Disciplining lawyers is the most important task of the director's office, but if it was the only function of the director's office, I suspect the average tenure of directors would be even shorter than it has been over the years (an average of just under five years, even after my near-10 years of service, and not even counting one prior director who was appointed to the district court bench after only two months on the job!). The position, however, involves much more. As a result, there have been an almost equal number of opportunities to meet and deal with some of the very best lawyers and public volunteers in this state—those serving as Supreme Court justices and judicial branch staff, as Lawyers Board and Client Security Board members, as district ethics committee volunteers, as fellow CLE instructors, as respondents' counsel and MSBA leaders and members. And of course, I have been privileged to deal on a daily basis with my co-workers in the OLPR, whose quality and dedication are truly special. And many respondent attorneys are, in fact, good lawyers and good people who may have committed perhaps an isolated instance of misconduct. Dealing with all these individuals is what makes this position, and Minnesota's discipline system, special.

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Some individuals who must be especially thanked include Minnesota Supreme Court Chief Justices Russell Anderson and Lorie Skjerven Gildea, who appointed and reappointed me to this position; also recently retired Justice Alan Page, who served as the Court's liaison to the disciplinary system for the majority of my tenure. The Court and the lawyers of this state also should be thanked for providing the funding and resources necessary to have an effective lawyer discipline system.

I thank Kent Gernander and Judith Rush, the two Lawyers Board chairs who oversaw my time as director; plus Pat Burns, Joanne Daubenspeck and Tina Trejo, my remarkably loyal first assistant director and office administrators, also are deserving of special thanks. They've put up with a lot and still made me and the OLPR look good every day.

What Next?

What's next for me is some time off, including time to reflect on the next stage(s) of my life. I'll still be an adjunct professor of professional responsibility at the University of Minnesota Law School, helping to instruct the next generation of lawyers in professional ethics.

But what's next for the lawyer disciplinary system and the OLPR? First off, the Supreme Court has established a search committee to recommend a new director; likely the new director will be in place early next year. In addition, Lawyers Board Chair Judith Rush's six-year term will expire at the end of January and the Court will be naming a new board chair as well, meaning that a substantial change in leadership and direction for the disciplinary system is possible.

I hope that does not prove to be so, and in all likelihood it will not. Why? Because just as I wrote about Minnesota's lawyer discipline system in my first column as director in 2006, "if it ain't broke, don't fix it." That remains substantially as true today as it was then. Minnesota's lawyer discipline system continues to work well, publicly disciplining those lawyers and the misconduct from which the public needs protecting, admonishing and helping those with less substantial problems, and teaching and offering advice to many, many lawyers who thus avoid problems and properly resolve ethical dilemmas. There is nothing wrong with any part of that process and it should require no significant change. That is a credit again to the volunteers who serve the system and to the staff at the OLPR.

On the other hand, changes in the practice of law and delivery of legal services will certainly continue to occur, likely at an ever-increasing pace. While the OLPR has made substantial progress in the area of technological advances, that work will continue and certainly evolve. But the fundamental character traits and honesty that should guide lawyers—their moral compass—will not and should not change. Engaging in serious criminal conduct, misappropriating others' money, lying to courts and clients or other serious misconduct can never become acceptable, even if we regularly read about other professions whose miscreants engage in similar conduct. As lawyers, we must be willing to hold ourselves to the highest standards—one way to show the public that we will do so is by continuing to discipline those who are unwilling to comply with those standards but also by helping those who, for whatever reason, are unable to comply.

The task of enforcing high standards means, perhaps unfortunately, that the work of the director's office will remain necessary for the foreseeable future. Having dedicated the majority of my professional life to that office, I will remain an interested observer of whatever that future holds. Turn, turn, turn. ▲