

## **“That’s a Terrible Job”**

### **How this lawyer ended up director of the OLPR**

By

Susan Humiston

Office of Lawyers Professional Responsibility

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In December 2015, I told a family member, that I had an interview for the position of director of the Office of Lawyers Professional Responsibility (OLPR) and the Client Security Board (CSB). His response? “That’s a terrible job: whiny complainants, lawyers as respondents (!) and opposing counsel, mostly frivolous complaints, and your peers think you are out to get them.” Of course, when I read the job description, my reaction was the exact opposite: interesting investigations, challenging legal issues and procedures, hard fought litigation, appellate advocacy before the Minnesota Supreme Court, proactive educational outreach, and the opportunity to be of service to a profession that has served me extremely well. Our reactions may tell you more about the differences between myself and this family member than anything else, but I do think they illustrate an important point about practicing in the area of attorney discipline—it is a difficult job that provides the right person the opportunity for challenging, meaningful work that truly makes a difference in the profession. Fortunately for me, the Minnesota Supreme Court appointed me as director effective March 7, 2016, and I would like to take this opportunity to introduce myself to you.

### **My Background**

My background is varied; it includes in-house work, private practice litigation, a clerkship, adjunct teaching in legal writing and research, attorney discipline work as part of the 4th District Ethics Committee, business and government ethics exposure, and personnel and office management experience. For the last six and half years, I worked for a publicly-traded company, with my most recent position being vice-president and assistant general counsel for Alliant Techsystems Inc. (ATK) and its publicly traded spin-off Vista Outdoor Inc. At ATK, I was fortunate to lead the legal, government contracting, and trade compliance functions for a business unit that grew exponentially during my tenure.

When I started at ATK in 2009, my business unit was the smallest segment in the company. When it was spun off, the same unit had approximately \$2.4 billion in annual

sales, and had acquired four companies in five years. As you might expect, a growing business that manufactures and sells ammunition, firearms, and hunting and shooting accessories demands a lot from its legal and compliance team. In addition to providing me with great experience in a wide variety of legal areas, my years at ATK taught me a lot about effective program and process management.

Prior to joining ATK, I spent approximately 13 years at Leonard, Street and Deinard (now Stinson Leonard Street) as an associate, then partner, in its litigation group. Most of that time was spent in the firm's product liability department, defending manufacturers of consumer goods and industrial products. While at Leonard, Street, I volunteered on the 4th District Ethics Committee, a committee of the Hennepin County Bar Association that investigates a large number of attorney discipline cases for the OLPR. The Minneapolis City Council also appointed me to the Minneapolis Ethical Practices Board, a public board that assists the city to implement its Ethics in Government Code and investigates complaints against city employees alleged to have violated the Code. I also taught legal research and writing at William Mitchell College of Law (now Mitchell Hamline School of Law). After law school at the University of Iowa College of Law and before starting work at Leonard, Street, I had the great good fortune to clerk for U.S. District Court Judge David S. Doty.

### **My Perspective**

Judge Doty taught me a number of things during my clerkship, but two things in particular have stayed with me during the last 20 years of practice and I believe they are particularly relevant to my new position. The first relates to the challenge of being a lawyer. After one summary judgment argument during the first year of my clerkship, Judge Doty and I were walking from the courtroom to chambers and I was complaining about the quality of one of the attorney's substantive arguments. After all, I had just gotten out of law school, thought I knew a lot, and could not believe the arguments being made. Judge Doty stopped walking, looked at me and said, "You have no idea how hard it is to practice law and actually represent clients who have their own views." Of course I didn't, and in my youthful arrogance, I had not even appreciated that fact. As I have practiced, and dealt with any number of extremely difficult situations and clients, those words keep coming back to me. What we do is often very hard. Most of our clients do not want to have to deal with us; often, something bad has happened, and we have to do something about it, and to add insult to the client's injury, they usually have to pay for that privilege. I understand that, and from my initial interactions with the attorneys in the OLPR, they understand that too. There really is a sense in the office of, "There but by the grace of God go I."

The second Judge Doty lesson relates to decision-making and taking action. When Judge Doty joined the bench, Chief Judge Donald Alsop gave Judge Doty a picture of General Omar Bradley, with the following quote:

A second-best decision quickly made and vigorously carried out is better than the best decision too late arrived at and half-heartedly carried out. In everyday affairs, as in battle, we are given one life to live, and the decision is ours, whether to wait for circumstances to make up our mind—or to act, and in acting, to live.

Judge Doty has given a copy of this quote to all of his law clerks. At first, I had a difficult time applying this quote to clerking and the practice of law. The concept of a “second-best” decision did not make sense to me as a lawyer. The issues are too important. I have to be perfect. My work has to be perfect. Today, however, this quote resonates with me. It does not advocate getting it wrong; nor does it advocate arbitrariness. Rather, it advocates timely decision making and prompt execution. Too often as we search for the “best” result, we fail to appreciate the harm caused by lack of timeliness itself.

Both lessons from Judge Doty have served me well throughout my career in private practice and in-house, and I believe they will continue to serve me well with regards to administration of the disciplinary system.

### **My Approach**

The legal profession is a self-regulating profession. As such, it must hold itself accountable to ensure the protection of the public. The Minnesota Rules of Professional Conduct establish the standard of conduct for lawyers, and must be applied fairly and consistently to the bar in order to preserve the public’s respect and trust in the profession, as well as the bar’s trust and confidence in the disciplinary system. It is the responsibility of the Director’s Office to ensure that claims of unprofessional conduct are investigated promptly and thoroughly, and that the discipline pursued, when warranted, is in accord with positions the Minnesota Supreme Court has taken in like matters, recognizing that all discipline cases have unique facts.

I am committed to ensuring that the office continues to discharge its investigatory and prosecutorial responsibilities promptly and fairly. Unfortunately, the Lawyers Professional Responsibility Board and the Supreme Court, as well as various members of the bar, have raised concerns regarding whether the office is, in fact, promptly addressing claims given the number of matters pending more than a year, and the

length of time it has taken in certain instances to bring a matter to conclusion. The concern is well taken, and addressing it is the number one priority of the office. All parties, including the office, have an interest in ensuring the prompt resolution of complaints.

Educational outreach is also a core responsibility and priority of the office. One of the most valuable services the office provides is the advisory opinion service. Each year, thousands of attorneys call the office seeking guidance as to how to prospectively and correctly address particular ethics issues. Do not guess, call and ask for guidance. Although in-house counsel conduct does not generally give rise to complaints for discipline, I know from firsthand experience that ethics issues for house counsel can be just as fraught with challenge as those found in private practice, and I look forward to the opportunity to expand the office's education outreach in that regard.

### **My Thanks**

I am extremely honored to be appointed to serve as the director of the OLPR and CSB. I would like to thank the justices of the Minnesota Supreme Court for putting their faith and trust in me, and, in particular, would like to acknowledge Chief Justice Gildea, Justice Stras (the liaison justice for the OLPR and CSB) and Justice Anderson (who participated in each one of my interviews). An engaged and supportive Court is critical to the success of the state's disciplinary system, and throughout the interview process, the Court demonstrated its strong commitment to and support for the work of the office. I am also very excited to be working with the talented and committed attorneys, paralegals and staff here. The work is largely thankless and very challenging, but it is important, and even one week in (as I write this column), it is clear to me that every member of the office is truly committed to doing the right thing for the good of the profession. Finally, I look forward to working with the hundreds of attorney and public volunteers that support the disciplinary system, from the Lawyers Professional Responsibility Board and Client Security Board to all of the members of the district ethics committees. Thank you for your commitment.

As my brother's initial reaction demonstrates, lawyer discipline is not for everyone, but it is important work that must be done to protect the profession and the public. While I hope I do not run into you because you have a matter with the office, I do hope we have the opportunity to work together to ensure that the attorney discipline process in Minnesota continues to be fair, just and a credit to the profession.