

## **Landmines on the Way to the Top and How to Avoid Them Night Falls Fast**

**January, 1993**

It was a Wednesday morning much like so many others. I drove the four or five miles to my office at the law firm where I worked on West Edenton Street near downtown Raleigh and parked my car in the parking garage under the large brick building that housed both the law firm and the branch of a local bank. Without interruption, I got on the elevator and rode to the third floor that opened into a large expensive lobby with wine colored carpeting, rich traditional furniture and a conference room to the side with a table that could easily have been used at Versailles.

Turning to my right I walked the fifty or so feet to my corner office to sit down at my desk and take stock of what the day might bring. I was early, somewhere between 7:30 a.m. and 8:00 a.m. All was quiet. The telephone had not yet started ringing.

I had been a lawyer for over twenty-three years. I had been a federal prosecutor, a partner in both small and large law firms. I had even once practiced law by myself. I had countless meetings with clients, had argued cases in both trial and appellate courts

I had had a stellar legal career to that point. I had started out as a young lawyer in Robert Morgan's state Attorney General Office, arguing cases before the Court of Appeals and the Supreme Court on a regular basis, ending my time there with a brief stay in the office's new section that dealt with Special Prosecutions of criminal cases throughout North Carolina. I had gone on to great success and some notoriety in the United States Attorney's Office for the Eastern District of North Carolina, eventually becoming the lead prosecutor in the triple murder case of Jeffrey MacDonald in 1979. MacDonald was convicted, and my career was set on a continuing upward spiral.

Small firm practices eventually led to a partnership in a major North Carolina law firm with offices in Charlotte, Greensboro and Raleigh. By 1993, I was one of five partners who sat on the all powerful Policy Committee of the firm. I was well known. I had a solid reputation as an accomplished trial attorney. I had a warm and supportive family. I made a good living, vacationed in nice spots every year. In short, from the outside, I was a success. I was on top. Or so I thought.

My telephone rang. I answered and heard the tense voice of a local bank employee who fired questions at me about a wire transfer of \$50,000 from one of the firm's trust accounts to one of my clients in the northeast part of the state. I had set in motion and authorized this transfer about six weeks before, the day after Thanksgiving. She rapidly told me her superiors had questioned whether I had the authority to request the transfer, that it should not have been done, and that her job was in question. I told her everything was fine, that I would check into it and call her back immediately.

Not many minutes later, I found myself in the corner office at the opposite end of the building with two of my law partners, one of whom I had been with in law school. The two of them slowly, painfully went over a number of irrefutable facts that included my setting up a case file for a matter that did not legally exist, my writing of at least seventeen court orders of all kinds to resolve the alleged case and then making a down payment to these clients of the \$50,000.

It took some time that morning for me to agree with myself and my partners to tell them the truth. It was hard. It was painful. I did not want to do it. Doing so, I thought, would change my life forever.

I remember finally asking if I could have thirty seconds or so to close my eyes before speaking again, and when I did start talking with them again, I began to tell the truth. It was the beginning of my survival. Telling the truth finally was what ultimately saved my life.

I think the best definition of the word “faith” that I have ever heard is “that feeling or belief that a person has when he or she gets ready to walk off a cliff and believes that he or she can learn then to fly”. That is what I was doing, or at least attempting to do.

But I could not do that by myself. If left alone, I would have crashed. I would not have survived. I was not that strong. I needed help, and I needed it right then.

As I drove around Raleigh, trying to figure out what to do next, knowing I was going to have to tell my family and friends that I was leaving the law firm and going immediately into an uncertain future, I reached out by telephone to a good friend of mine, a Raleigh lawyer named Wade Smith.

Wade and I had met years before, when he was a primary defense lawyer for Jeffrey MacDonald. We had tried additional cases together over the ensuing years, becoming friends in the process. The truth was that I had made a good living on some of his case rejects when I first started private law practice after leaving the government. So, it was natural to me that I would reach out to him that afternoon.

I told Wade on the phone that I was in trouble, and that I had left my law firm that day, and that I needed to see him as soon as possible. He didn't hesitate. He said he would meet me in an hour at a local restaurant. After getting the obligatory pot of coffee, he opened up a yellow legal pad, took out his pen and turned to me and asked me to tell him the worst things I had done.

And so I started. I told him of making up stories to clients for whom I had not done as much work as I should have done, and that I had taken money from some clients and given it to others. And so it went for about half an hour. At the end, Wade put down his pen, looked at me and told me it would be okay.

I said to him, “What do you mean okay? How can this be okay?”

“Jim, your career has gone a little off track, but we can put it back. You can be okay again. You need a change just now. Do something different. Go for a bike ride across country. Walk the Appalachian Trail for a time. Get some rest. Get away. You have been doing this a long time, and you need a break.”

“Wade, I can’t do any of those things. How am I going to do that? I need to work. I am not rich. I need to support my family. Jeff wants to go to college in the fall. He has already been accepted at Wake Forest, and they aren’t cheap.’

“Jim, that all may be true, but you can’t do anything unless you first take care of yourself and what got you to this point. But I want you to know that I will be with you, every step of the way. I will help you, and you will never owe me a dime.”

“Thanks Wade, I don’t have that much money anyway.”

That was our first meeting as lawyer and client. It wasn’t in a law office, but a local restaurant. We entered into no formal agreement. I never really directly asked Wade to become my lawyer. He volunteered. I never asked him about prices. He just told me I would not owe him any money.

I felt better immediately. I did not feel alone. Wade had asked me if I wanted him to go with me to see my family to tell them about what had happened. That was my next stop. But after talking with him for about an hour, I felt stronger and that I would somehow survive the rest of the day.

The first meeting with a client...for years I had taken them for granted. I could do them in my sleep. I was gracious, supporting and attentive to peoples’ comments. I wanted to help. I tried to give them some optimism and hope. I tried to be supportive.

But until this meeting with Wade, in a small local restaurant on one of the worst days of my life, I had no idea how important the first meeting with a client really is.

I was facing the complete collapse of my life. Indeed, one of my law partners would one day say that was the day Jim Blackburn’s life was shattered. And so I needed the best from someone, and I got it that day. I got support, hope, optimism and a commitment that my lawyer would be with me the entire way.

I needed all of that. Without all that I received, I might very well not have made it through the day. Wade had helped teach me to fly.

Lawyers take new cases every day of the week. Files are set up, letters of agreement are prepared, fees are set, and the initial interview takes place. And after it is all over, the secretary or legal assistant takes the file and places it in its proper place. And the process begins.

The initial interview is like magic. It is a time when all things seem possible. Everyone has hope. It is a first meeting when the first life stories are told. And then, too often, that file that has within it the hopes and fears of a new client sits somewhere, waiting to begin an uncertain journey that oftentimes does not end in a good place.

The next day, a Thursday, I called another friend of mine, Rick Gammon, with whom I had once briefly practiced law in the early 1980's. I reached him early that morning at his home, before he had left for work.

“Rick, I need to talk with you this morning. Something has happened. I am leaving the law firm.”

He was at the law firm within the hour. The two of us got in his car and drove around the Raleigh Beltline several times while I told him what I had done. He listened and offered to clear his calendar and spend the day with me, taking me to the beach to walk and talk if that was what I wanted. He would do whatever I wanted. I never asked Rick to become my lawyer. He just did.

It was the other first interview and meeting. It was equally as good as the one with Wade Smith. Both these men had been long time friends, and both were excellent lawyers. Both acted totally professionally and offered support and encouragement.

They were not judgmental and were totally supportive. They of course did not agree with what I had done, but they were ready to help.

The first interviews with strangers are of course different than with someone you know. But the basics remain the same. Listen carefully, be gracious, offer support and hope. Do not over promise. Never over promise.

Today, many years later, I remember almost verbatim the words Wade and Rick said to me. I bet they do not. And so it is with probably most clients. They hang on your every word, they may take notes. They take whatever you say literally. I know that because that is what I did.

Neither Wade nor Rick ever promised me a rose colored solution. Indeed, it was the opposite. They both persuaded me to seek psychiatric help, soon resulting in a brief stay at Duke University's psychiatric wing of their hospital. They were both quoted in the local newspaper telling the public that I would eventually surrender my license to practice law, that I faced an ongoing criminal investigation, that they were concerned about my physical health. They said the same thing to me in private. They didn't sugar coat it.

But they were supportive. They were on my side. They met with me and called me on the phone to talk. But not as much as I wanted. I wanted them to be with me and to think about my case all day and night long. Every day. 24-7. I didn't want them to

have any other clients or think about anyone else. Certainly no other situation was as dire or as important as mine.

You would think I would have known better, having been a lawyer myself. But I didn't. I was scared...terrified would not be too strong a word. I could put on a good public face, but underneath...well, that was another matter.

And so it is with all clients. Everyone. No matter what they say. They want all of you...all the time. You can't really do that and make a living, so what do you do? I think you can do the next best thing. Make two of you. Duplicate yourself.

Do you have a legal assistant? If not, get one. Bring that person into the case. Don't just let him or her do filing and keep your schedule and run to the courthouse to get continuances. While the legal assistant can never substitute totally for the lawyer, that person can be the next best thing.

Clients, after the first day, are paranoid. If they can't reach you, then perhaps they can reach your assistant. If you don't have the time to talk to the client, then let the paralegal know what is going on so that information can be passed to the client. It will prevent a lot of heartache, unhappiness and complaints.

If it is true that in real estate sales, the most important thing is location, then in the practice of law, with clients, it is communication. And that starts at the beginning of the relationship. Let the client know that talking to the assistant is like talking to the lawyer in the sense that the information will get through.

In those first weeks of being a client, I often reached Wade's or Rick's assistant if I couldn't get them. That helped. They spoke to me in reassuring tones, asking always how I was doing, and that they were thinking of me and to just hang in there, it would get better.

Later in the year, not long before I went to prison, Wade, his legal assistant and I met together in the cold on the Fayetteville Street Mall to have a ceremonial burning of a promissory note that I had paid off. I don't remember much about it except that his assistant brought the matches and lit the fire.

Recently, I asked Rick if he thought I got any special treatment while I was being investigated and prosecuted. He said yes, he thought so. He said everyone gave me time...time to take a deep breath and to accept what was happening. That didn't happen by accident. It happened because they asked for the time. Asking is important. You might get told no, but you know what will happen if you don't try? Nothing good.

During the year that my case was progressing through the justice system, the three of us...Wade, Rick and I, had our stressful moments together. I think they wanted to fire me several times as a client, and I am certain there were times when I didn't trust that they were acting in my best interest.

In a stressful representation of someone, such situations may be common. The divorce between lawyer and client may take place. Usually when it does, one side is not happy. And that can lead to future problems. The way to prevent that divorce is found, in my opinion, in the pages that follow.

Today, years later, I believe that Wade and Rick gave me terrific legal advice and acted always in my best interest. I did not always believe that then. But I see those times more clearly today because passions have cooled and life has moved on. But when passions are white hot, and you are in the middle, it can be tough on everyone. And so, I want to give you some personal thoughts on what might help you walk yourself safely through the minefield of attorney – client relations.

Think of these concepts as being a landmine in the practice of law – by that, I mean that if you choose not to follow them, then, in my opinion, you are putting your legal career at great risk.

## **Clients want Your Individual Attention while they are meeting with You**

My first meetings with Wade and Rick both had one thing in common. There was no one else there. No secretaries, no cell phones, no interruptions...nothing...just each one of them and me. I could take, within reason, as long as I wanted. They were patient. They didn't hurry me. They allowed me to take my time.

While it is true that neither of these first meetings took place in a law office, the principle remains the same. The first meeting belongs to the client. No one else. They met me immediately. I didn't have to wait. They were certain in trying to help me.

We would have dozens of meetings over the following year. But it is the first one that stands out today most in my mind. It was that important. It set the tone for everything else that followed.

I have often said that the best definition of faith is that feeling or belief that a person has when he or she is getting ready to walk off a cliff and believes he or she will learn to fly. But you cannot do that without help. You cannot. That is what Wade and Rick were helping me do that first week. They were holding me up until I could learn to fly. Everything I have been able to do in all the years since those early days stems in large measure from what they did for me.

And so it will be or could be with you and your clients.

Wade and Rick realized early on that they were lawyers, and while they were very good, they needed some help. They needed someone to assist them in going through very uncharted waters. It was Wade who suggested, somewhat strongly, that I see Dr. Jean Spaulding.

Let me tell you of my first meeting with Dr. Jean Spaulding, my psychiatrist, whose office was in Durham. I did not want to go see her. Indeed, the law firm had my secretary follow me in a car to make sure I went. But after settling into her office, I noticed that she came around from behind her desk and sat in a chair beside me. She took some notes and listened intently to what I was saying in response to her questions.

We were not interrupted by anyone. The meeting lasted almost an hour. She never rushed me, looked at her watch or used the phone. She sat there and told me she wanted to help me and was on my side.

At the end of the first hour, I left her office, feeling better than I had in days. It was all coming together. I had two lawyers, both of whom were good friends. I now had a doctor who wanted to help. And of course I had my family. I was not alone.

As a new client, it would have been easy to have been alone. That might have been disastrous for me. Clients are often alone. These people made sure I was not.

Essentially what each one of these professionals was doing that first day and first week was earning my trust. We were about to go down a long and uncertain road. They had to gain a lot of trust from me at the beginning because as the year went on, they would have to spend some of it. And they did.

All three pushed me two weeks later to go voluntarily into Duke Hospital. All three recommended I turn my license to practice law into the North Carolina State Bar. All three recommended that I accept what was coming to me and take the consequences as best I could. I will tell you that without the trust that they earned in these first meetings, I would never have done what they suggested. While I knew both Wade and Rick from the past, until January 15, 1993, I had never met Dr. Jean Spaulding in my life.

Do not ever underestimate the first meeting. It is so much more than just seeing the client for the first time, preparing a letter of agreement, and getting a fee or retainer. It is the first step in building trust between you and the client.

Think of it as you would a first date. Do you like or trust the person enough to go on a second one and the one after that? It is a matter of trust.

## **Clients need a sense of Calmness and Security**

I went to Duke Hospital because my attorneys and doctor thought I needed the security of that place when my world went to hell and everyone found out about it. Oh, they wanted to find out what was perhaps wrong with me and what had caused me to act in such unusual ways as a lawyer, but what really motivated them was the fear that I would do something to myself to avoid the collapse of my world and life that was surely very publicly coming.

Dr. Spaulding's own notes from a summary of her Chart reflect her concern: "One thing was readily apparent – this man was severely depressed and there was obviously serious potential for self-harm. It was my impression that Mr. Blackburn did not even understand himself the level and severity of his depression. By contrast, this was a legal expert who did not believe in psychiatry or psychotherapy any more than he would believe in witch doctors or voodoo. His denial would hold him safe for a while, but in this case with this particular man, timing would be everything. One slip and all could be lost. As yet, we, Mr. Blackburn and I, had no working alliance. Given the potential for him losing his career, his law license, his family and perhaps even his freedom and liberty, there could be ample cause for this man to seriously contemplate suicide and to seriously act on those thoughts."

Whew!

So clients need for you to make them calm and secure. This is true for both attorneys and paralegals. While every situation might not be as serious as mine was, some will be and more. How you respond is absolutely critical. You need to be able to give your best support and your best advice. You can make everything smooth. You can be there to answer questions. You can find out answers. You can keep open the lines of communication. It may cause you to have to act outside your normal thinking. It might be that you have to depend on your own personality and beliefs, things that you didn't learn in school or legal courses.

Wade used to say to me all the time, "We need to help you take care of yourself. If we do that, then the case will take care of itself." He was right. But in order for that to happen, I first needed security. Can you think that way? Are you willing to do so?

Dr. Spaulding wrote "...the psychiatric hospital was simply a way station on this journey through hell...the hospital was a way to keep him alive long enough to work through some of the issues that were propelling depression."

Every client, no matter what the issue, is going through a period of uncertainty. If it is civil in nature, it might be about money, real estate or domestic. If it is criminal, it is about freedom. They are all initially frightened just a bit. Your job is to make them less so.

## **Clients want Trust and Confidentiality**

One of the first things Dr. Spaulding said to me the first time I met her was that whatever I said to her, she wouldn't tell anyone, not Wade, not Rick, not my family, not anyone, unless I agreed to allow her to do so. That was so important to me because she was asking me questions about myself and expecting answers that before that day, I would have told no one.

I had always known the attorney-client privilege was important, but I assumed that clients always knew about it and what it meant. It meant that whatever you told an attorney, stayed with that attorney. I don't remember always telling the client that on the first meeting, or perhaps even the second.

But I remember to this day the effect it had on me when Dr. Spaulding told me that she wouldn't tell anyone what I told her. It made me trust her just a little bit more. It made me open up to her so that eventually I told her more about myself and my feelings than I had ever shared with anyone before in my life.

Dr. Spaulding took a principle of medicine and of law and used it to build trust. It wasn't something on the shelf. It was an active part of our relationship. It was a passive term that every first year law student knows about. But in our relationship, it became an active and vibrant part of the healing process. If I could talk with her in private, then perhaps I could tell her anything.

In your law practice, it is the same. Think about confidentiality and trust. They go together. When clients tell you, someone whom they have never met before, their secrets, they want to know that you will keep them that way. Do so, and you will earn their trust, and they will tell you more. Make it an active part of your practice. Tell them right up front that they can trust you, and that whatever they tell you, remains solely with you.

I understand the attorney-client privilege has been determined not to be absolute by the North Carolina Supreme Court. But to the extent that you can do so, use it as an affirmative aspect of your representation, not just a by-product and something to mention in passing.

Are you good enough or special enough that a complete stranger will come to your law firm and tell you things he or she would not tell anyone else? The client must trust you, and part of that trust is the ability to convey to the client that you will keep what is told to you completely confidential.

Think about it. How do you want to be made to feel when you go see an attorney on a matter of importance to you? You want to be made to feel as though you are important. You want to be reassured. You want to know you can trust the person you are trusting with a part of your life and future.

Just because you have done this a number of times for clients makes no difference to the new one who has just come into your office. What you have done before for someone else does not matter to them. What matters is how you make them feel. If you can do that well, you can be very good.

## Unconditional Support

It doesn't mean you are a hired gun, to do whatever the client wants. It doesn't mean you are the client's friend. It does mean that you help your client get the best result possible, without making moral judgments on whatever situation brought that person to you in the first place. Another way to say this is that you should zealously represent the interests of your client.

I remember a call that I got from a friend of mine years ago, not long after my troubled situation became public. He was a Superior Court Judge in North Carolina and a long standing friend. He commented that while he didn't agree with what I had done and could not condone it in any way, he wanted me to know that he was still on my side and wished me well.

While this judge was of course never my attorney and never gave me any legal advice in any way, that call still stands out in my memory. I used to represent lots of people who had done things I had never considered doing. I rarely agreed with the conduct of many of my clients. But that fact did not, for the most part, stop me from trying to do my best for the client.

But of course you know already that you are supposed to be on your client's side. So what makes this particular principle so important? You need to be passionate about your client. You need to make the client feel that he or she can count on you. Sometimes it means tough support. It does not mean telling the client what he or she wants to hear.

In my case, I remember a paralegal for Rick tell both Rick and me that we were making a huge mistake in not letting everyone know everything wrong that I had done at one time...to get it all out...to let the world know right now...don't just dribble out information. But then, she smiled and said, "But whatever you do, just know I want to help anyway I can." She was right. And eventually we followed her advice.

I remember conversations in Wade's law office with both Rick and Wade where they spent hours telling me what they thought I should do. They wanted me to give up material things and privileges that I wasn't yet ready to do, and we had tremendous arguments about those matters. But, at the end of the conversations, we all came together, and they always let me know that they stood with me.

My first night in the Wake County Jail...Rick came to see me. My first day on work release in Robert Morgan's law office...Wade came to see me. They walked with me to the jail the first day. They had their picture taken with me. They talked with me the night before sentencing at my home. They talked with me at Wade's law office immediately after the sentencing. And most of all, I remember a Sunday morning at Raleigh-Durham's Airport in General Aviation, walking for miles around small planes, with Rick, talking about how to handle my case and what I should do.

Neither Wade nor Rick agreed or accepted what I had done with my career. They were both in continued astonishment. But they never wavered. I knew I could count on both of them to support me and to help me, whatever I asked. It was a question of trust. My life depended on them and their advice. So do the lives of many of your clients. It is a tough burden, perhaps tougher than you know. I didn't realize any of this until I was the client and the one doing the trusting.

But this seems a good time to say that it was not all peaches. Wade and Rick and I had lots of disagreements. You might call them fights. We got in each other's faces. I talked with Dr. Spaulding about them. They talked with Dr. Spaulding about me. We sometimes went round and round.

Their representation of me was not a straight road. I did not always want to follow their advice. I thought I knew better. The fact that they turned out to be right, and I turned out to be wrong, was not always so apparent. At least, not to me.

So it may be with your clients. In all probability, there will be good times and bad with your clients. Rarely will it always be smooth. But, if you have initially built a measure of trust and kept communication open, it can be lasting.

## **Do not be Judgmental**

While I was in Duke Hospital, I got a letter from a friend with whom I had previously taught Senior High Sunday School at the church to which I belonged. She wrote in part that “she didn’t know what I had done, but it didn’t matter, she was on my side unconditionally.”

I have always remembered that note. That was also the way my lawyers were towards me. Even today. I see Wade and Rick on the street, and they still treat me the same way they always did. I am sure they were amazed and disappointed at what I had done, but they remained on my side.

Lawyers and paralegals cannot afford to be judgmental of clients. If you are, you will not have many clients. People do not come to see you because of what they have done correctly. They come, most times, because of mistakes they have made. If they wanted judgmental responses, they would go somewhere else.

I often tell people it is like falling overboard from a ship into the ocean. You are wet and in danger of drowning. It is too late to worry why and how you got there. What you want is for someone to throw you a line and a life preserver and drag you back to the ship and then somehow get you back on board. There will be time later to ask serious questions.

So it is with clients. They want you to save them from the mess they are in. They know they are wet and likely to get wetter. But they want to live, and they want you to help them. That is your job. If you can do that well, then you will be successful.

I was wet, almost drowning. Wade used to say, “We need to pray for a miracle”. While I suppose there are some judgmental thoughts in that request, it didn’t come across that way. I think it was heartfelt on his part. Fortunately, for me, the miracle came, and we were able to save my life. But I can tell you that if they had been the slightest judgmental of me, as some were, I would not have survived.

This is being a lawyer at your best. I have often heard the expression that a lawyer is at his or her best when representing an unpopular client in an unpopular cause. That is because the lawyer is then acting in the best interest of fair and impartial justice for everyone. But if you think about it, representing anyone who has done something you would not do, and representing that person as best you can, is really the highest you will ever go in the practice of law.

This is a point that I learned late in life, long after I stopped practicing law. I used to think some cases and clients were more important than others. I misunderstood. The cases didn’t belong to me or the law firm. They belonged to the client. It was his or her case, not mine. And to that client, it was the most important case in the world. There was

no other. If I had only realized this simple and easy to understand point, I might still be practicing law.

Judge Dupree used to say that he “wanted to feed everyone out of the same spoon.” And so it should be with all lawyers all the time...treat everyone as equal...the smallest as well as the most lucrative. That is the real secret to success and happiness in the practice of law. You never know when the least shall become the greatest. Do not be judgmental of your clients. Treat them as you would want to be treated.

There is a tremendous relationship between waiting tables, which I did for quite some time, and practicing law. It is where I learned the wisdom of what Judge Dupree had known for years and practiced as a federal judge.

I used to have three tables or booths on any given night. One table might be what is called a four top; that is, four people sitting there. They order lots of food and perhaps drinks. Their bill goes over \$100.00. I want to make a 20% tip or \$20.00. But the next table is only two people or, oh my gosh, one person. The tip probably is not going to be as good. But I learned quickly to treat each table the same...because you never know when that small table might come back and ask that you wait on them again, and they bring a large crowd with them, and then you make a bigger tip.

And besides, it is the right thing to do. It makes the evening go better, and eventually by mid-night, you have no worries or regrets. You have done the best you can do. And the next night, you get to start all over again.

Try to practice law or work in a law office the same way. It is the only way you can enjoy yourself and keep passion for what you do.

**Give your Clients Time to tell you the Truth  
(Denial is not just a River in Egypt)**

On that January day, now a long time ago when I was first meeting with Wade Smith, in response to his question about telling him all that I had done, I spoke for about thirty minutes or so. And then, I just sort of sighed and said to him, “there’s more to tell you, but I really don’t want to do it now, can it wait until later...this is about all I can do.” He responded to me that yes, I could take my time, as much as I needed.

“Jim, take your time. You don’t have to tell me everything this afternoon. We have plenty of time.”

That was one of the best things Wade did for me that day. I was not yet ready to explain all that I had done wrong, not because I didn’t know it, but because it simply hurt too much to say. Every time I opened my mouth and spoke, something bad came out, and I heard myself saying things, that as soon as people knew, my life was going to change.

People have this idea that so long as you don’t know about them, they are okay. That is normal. We are all like that. We don’t want others to know about the mistakes we have made or some of the thoughts that have gone through our mind. We believe that so long as we can keep everything quiet, we can be okay. It is called denial.

During the impeachment proceedings of President Clinton, some press person asked the President’s Press Secretary what he thought his job description was. He responded that his job description was to tell the truth, but to do it slowly. That is what so many of us, including clients, do. We tell the truth slowly. It doesn’t mean we are bad people for doing that. It means we are human.

A good lawyer and legal assistant will recognize how far one can push at any given time. It isn’t so much that the client wants to tell you something that is untrue; it is that the client is afraid of the consequences once the truth is out.

Dr. Spaulding and I once spent about a month debating the real definition of a lie. I thought a lie was when I said something to someone that was not true. She believed this was too narrow a definition. To her, a lie was when I allowed her to think something that was not true without correcting her and telling her everything. Finally, she won this argument. It cost me a lot of money in doctor bills to lose that argument.

Many of your clients will be like I was then. They will not tell you the truth... by omitting important facts. It will take time to get all the information from them. But only then, unfortunately, will you be able to adequately represent their best interests. The client is not capable of making the good decision of what should be done. Don’t let them

do that. This will be one of the most difficult times of representing a client, but it is easily one of the most important.

But be realistic. You can push. You can argue. You can threaten to get a client to tell you the truth. But you must be, if you have the time, patient. That is part of being a good lawyer and a good paralegal.

Over the last couple of years, I have spoken with lots of lawyers and paralegals at CLE seminars. I have often laughed and said it is so much easier to talk with paralegals than lawyers. They seem to be more real. All legal professionals, in dealing with clients, whether lawyer or paralegal, need to be real in dealing with clients.

Remember to listen.

## **Do Not Over Promise**

When a client comes to your office late in the month with cash in his or her pocket wanting to retain your services, you want to take the case. You need the money. The client tells you a factual scenario that raises flags in your mind as to the merits of the case. The client wants you to tell him or her that all will be well, that you can win the case and life can be good again. Do not do this.

Big Mistake! Clients take whatever you say literally. If you tell them there is a good chance they will prevail, they hear you say it is a slam-dunk. When you tell them there will be a favorable result for them, they believe you and will hold you to it.

Too often, lawyers tell clients what they want to hear because they want the case. It is far better to let a client go somewhere else than to over promise. But there is a way out here. Wade and Rick both told me that I would be okay, that I could eventually get my life back. They didn't tell me I would practice law again without severe consequences. They didn't promise I would not be indicted or go to prison. They just told me I would be okay.

They told me if I could take care of myself, then the case would take care of itself. That is not what I wanted to hear. But it was the truth.

I often asked them what they thought would happen to me. It would have been easy for them to reassure me that nothing bad would happen, but they had no control over that. If they had, then perhaps they would have been justified in saying something like that to me.

As a lawyer, you don't control the result. You can influence its possibilities, but that is about it. You can only tell the client you will do your best, tell them the range of possibilities and tell them where there is hope for them. There is nothing wrong with giving clients hope. Indeed, you should do that. It just has to be reasonable hope with reasonable expectations.

I remember well the night before my sentencing. Wade and Rick had come to my house in the early evening, and we all discussed what might happen the next day. I wanted a sentence of probation. I did not want to go to prison and told them so. They both responded that they hoped I would not, but they didn't assure me of that.

Indeed, I remember Wade saying to me that in his opinion, if I got an active sentence the following day, I should be prepared to go to prison immediately and get started so that I would be released as soon as possible. He was not telling me what I wanted to hear. Our meeting broke up that night with me thinking there was at least a good chance that I would get an active sentence, not what I wanted.

The next day in court, that is what I got - an active sentence of three years, which since it was before structured sentencing, meant a month for a year or a little over three months. Actually, it turned out to be three and one-half months. Wade leaned over to me during the sentencing and whispered, “so far, we haven’t gotten anything we can’t handle”. My humor kicked in, and I whispered back, “what is this we stuff”?

One of the reasons I could handle my sentence and my earlier indictment was because my lawyers didn’t promise me something they had no control over. I saw my sentence that day, and I still see it today, as simply one more marker on my way back to my life.

## Give your Clients Hope

Of all the gifts you can give your clients, the most important thing is hope. Without hope in those first days of January, 1993, I would not be here today. It took over a year for my case and circumstances to play out on the legal stage. Imagine living a year with no hope. For me, it would not have been possible.

After I was released from Duke Hospital, on my doctor's orders, I spend a very quiet February inside my house, where I did not answer the phone or go to the mailbox. I went nowhere, except to see Dr. Spaulding. Finally, in early March, Wade Smith decided I needed to get out of the house and slowly see what the world was like for me.

We went on a long walk one rainy afternoon in Umstead State Park, not far from Raleigh, and then as dirty and muddy as we could be, went to dinner at the 42<sup>nd</sup> Street Oyster Bar. Wade had arranged for Joe McGinniss, the author of Fatal Vision, the story of the murder case of Jeffrey MacDonald, to fly in from New York, just to go for that walk and dinner. I was able to smile, talk and laugh. I was able to see that life was still possible.

From that first step, I started walking outside, taking long walks, having good conversations with friends. On occasion, I would go out for a meal with someone. I started going back to church and seeing people. I learned that people could be kind and forgiving.

Former Attorney General and U.S. Senator Robert Morgan took me places. He used to say that people would be nice to him, and that if I were with him, they would be nice to me. He was right. He gave me hope.

Every time you make a phone call to clients or members of their family, you should try to give them some hope. It is support when they need it. Do not put clients in a box and tie it up tight with a ribbon so they can't get out. If you do, one thing is certain. They will try to get out, and the results could be disastrous.

You don't tell clients things that aren't true. You don't hold back on bad news. You tell them the complete truth. Let them know all the possibilities. Tell them what you are going to do to help them, and how you think you can make a difference. Just don't promise them a result. Clients are stronger than you think they are. They are just like you.

Wade used to tell me all the time the corniest cliché I thought I had ever heard. He said to me, "Jim, I have always been told that if you bear a cross with dignity, it will end up bearing you."

Several weeks ago, at lunch, Wade and I were discussing the Duke Lacrosse case. He had represented one of the three players. He told me that every week; the player's mother would either call or email him, quoting that exact same line back to him. It was a part of the hope that got her through that terrible time.

## **Communicate Often and When You say You Will**

I can now laugh when I talk about it, but I remember that when Wade and Rick said they would call me at a certain time, I believed them. Of course, sometimes they did, and on occasion, other cases and clients might interfere, and they were unable to get with me when they said they would. At the time, though, I was very sensitive to that.

I hung on every word they said, and if they didn't call when they said they would, I became increasingly paranoid that something had gone terribly wrong. Usually it hadn't, and the delay didn't have anything to do with me. But I didn't know that, and as a client, and one in serious trouble, I was consistently fearful of the worst.

If you asked a member of the North Carolina Bar today what causes the most complaints against lawyers, you will be told that it is the failure of lawyers to communicate with their clients in a timely manner. The reason is pretty simple for the most part. You don't have good news to tell them, and so rather than tell them bad news or nothing at all, you just don't call them.

As a former client, I can tell you that is a huge mistake. Clients love to hear from their lawyers, even if there is no news to tell. But you are busy with other, more pressing matters. So, ask your assistant to call the client on a regular basis to let them know the status of the case. Set up a regular time table in which to communicate with clients. You may think this takes too much time, but it will save you heartache in the future.

Communication also has to do with trust. Let your client know what is going on in the case or matter every step of the way. Make your communication realistic. That is the only way the client can go on with his or her life in the meantime and is the only way to build the necessary trust between you and the client.

I had lots of communications with Wade and Rick, much of it not good. But that meant that when they told me something favorably, I tended to believe them. The best example I can give of that is the night before the Grand Jury met to consider an indictment of me. Wade and I were already sitting at a local restaurant on a Monday evening when Rick walked in with some yellow sheets of paper which contained a summary of the indictment that would be presented to the Grand Jury the next day.

Rick asked me if I wanted to read his notes or hear what he had to say. I said no, I just wanted to know if I could handle it. He laughed and said yes, after all I had been through that year, I could certainly handle this. And I could and did. I trusted both Wade and Rick enough to know that, on a very bad day in my life, they had done the best they could, and the advice they were giving me was the best. All of this was made possible, not because they were good lawyers and my friends, but because of the trust that had developed among the three of us.

## **Treat your Clients as though Their Case is the most important one in the World**

Years after I got in trouble, I was walking down the Fayetteville Street Mall one day when a gentleman walked up to me and asked if I weren't Jim Blackburn. I said yes, I was, and he responded that he had once been a client of mine. I didn't remember him. He didn't look familiar to me.

Somewhat gingerly, I asked him, "What was your case? How did we do?" He laughed and said it was a speeding ticket, and it had all come out great. He remembered me. I didn't remember him. I bet it is that way with some of your former clients. To you, the person is a client, now resting comfortably somewhere in a file, perhaps off site from your law firm, waiting ultimate destruction one day. But to that client, your representation of him or her is one of the most important things in the world.

I wish that I had realized that a long time ago. I wish that I had not just wanted to work on major cases. I wish that I hadn't gotten bored with smaller ones. I wish that I had known each case was so important to someone. What a concept! It is so easy. Just treat each client as you would wish to be treated in all respects, and you will enjoy the practice of law. You will like what you do. You will have passion for your clients. Because you would for yourself.

## Passion

In looking back on my career as a lawyer, as a waiter and most anything else I have done in my life, I think the most important characteristic for success and happiness and ethics is passion.

I first learned about passion in the MacDonald murder case when I went to the boarded up and sealed apartment for the first time and saw the personal items of the family Jeffrey MacDonald had left behind. That feeling I had helped mightily to fuel the energy and work I put into that case. The thought of doing anything wrong in that prosecution never entered my mind as I was just energized and excited to do the best I could.

When I was being transported from the Wake County Jail to a state prison in Troy for a week or so for what is called “processing”, I was handcuffed and walked that way on my way to the van that would take me there. I didn’t like this and asked if this were necessary. I was told it was; that it was procedure and not to take it personally.

My driver, perhaps sensing my unhappiness, stopped the van shortly after we left Raleigh, and pulled over to the shoulder of the road...U.S. 1. As he opened the door to where I was sitting in the back seat, he said to me...

“Mr. Blackburn, my wife knows who you are, and that I was going to be driving you today, and so she made for both of us a special pot of coffee. How would you like yours?” I have never forgotten that moment, now a very long time ago.

If I am right about the importance of passion, and you are in danger of losing yours, or it has been some time since you had any, the best way I know of getting it back is to do something nice for someone who is not your client or cannot pay you any money or do anything for you. You just do it, whether it is at the local courthouse or someplace else. You will be amazed.

That person will never forget you, and you will feel so much better. By doing such a small thing, answering a question or giving directions, you will smile inside and feel a twinge of passion for who you are and what you do.

And if you have passion, you will be okay, and you will be safe.

## Thoughts on Depression

I did not always follow the advice and suggestions I have just given you in the preceding pages. Why I didn't has been a struggle that continues to this day, for me to fully understand. I do know that I lost the passion in my career. It did not happen all at once, but slowly, gradually over some period of time. I could regain it on occasion for certain legal matters and some cases, but not all.

It has taken me all these years since to try to gain some understanding of what I did and why. Between 1993 and 1996, when I was seeing Dr. Spaulding on a regular basis, I learned that I was suffering from major and severe clinical depression. If you had seen me during that time and the years before, you might not have known it, for certainly when I was practicing law and very often after I fell, I made every effort to show outward calm and happiness. I did not look depressed, however one is supposed to look.

I have yet to speak to any seminar for lawyers, paralegals or almost any group where someone afterwards doesn't come up to me and tell me he or she is suffering from depression, or that a spouse or child or friend is ill. So depression exists, and it particularly exists within the legal profession.

What are some, though not all, of troubling signs of depression? If a lawyer has difficulty keeping commitments to people, clients or other lawyers or judges, if a lawyer doesn't return phone calls on a regular basis, if a lawyer is late for work or court, or not prepared or always seeking extensions of time or asking for continuances for court cases, if a lawyer has trouble sitting still, staying in meetings, writing letters or seeks escape through drinking or drugs or staying away from his or her family, then it is quite possible that lawyer is suffering from some form of depression. Depression is the inability to concentrate. Dr. Spaulding once told me, "Depression is the cancer of the soul".

What can be done to help? In North Carolina today, the State Bar has two programs known as PALS and FRIENDS that are confidential in nature and are designed solely to get help for lawyers who are suffering from depression, drugs or alcohol or some combination thereof. The Bar Association has a program known as BAR CARES that offers similar help to lawyers.

In short, there are specific programs available to lawyers. Call these agencies and ask for assistance and guidance. Go to their respective websites and get help. Again, the request is confidential. It is the policy of the State Bar and the Bar Association to try to help lawyers in trouble.

But here frankly is a major problem. Lawyers who are in trouble often will not admit it and will not easily or voluntarily seek help. So there is no greater act of friendship, even though it may be tough friendship, than to try to help someone in trouble.

But you cannot be judgmental. You cannot be self righteous. Do that and you will do no good. You will not succeed. Be a compassionate friend. Be patient. Give the person time. Be willing to fail. Start a conversation that goes both ways.

And of course, be smart enough to know that depression hits not only lawyers, but paralegals, secretaries and your friends and family. It is a disease that does not discriminate.

I have generally found that if I tell someone something about me that leads them to be more open about themselves. I think that is true with all of us. It helps to take the stigma of depression away.

I was once on double the normal amount of Prozac, for several years. For a short time, I was on lithium as the doctors attempted to settle my mood swings. I was on medication for high cholesterol since my doctors determined that a level of over 300 was not healthy.

I saw Dr. Spaulding for many years, often twice a week, if not more. She helped me...a lot. All my friends knew I was going to see her. They all knew I was on medication. News of this was printed in the local newspaper...sometimes on the front page.

Openness and honesty was the best treatment for my depression. Dr. Spaulding told me once that I would be on medication the rest of my life. I am not now, and have not been for several years. I believe I got better because of treatment, medication, friends, and perhaps most of all because of openness. I did not try to hide my illness. Indeed, when I waited tables at 42<sup>nd</sup> Street Oyster Bar in Raleigh all those years, I often gave the customers pens, with the word Prozac on them, with which to sign their bills. I learned to laugh.

It was the lack of secrets that helped me get better. Dr. Spaulding once asked me “what in your life is in Technicolor and what is in black and white”? A great question, and the answer to that question for you is a good guideline as to where you are in your own life...right now.

It is easy to understand why those in the legal profession might suffer from depression. Life and careers do not always match the idealism of youth.

I know it is difficult for lawyers and paralegals to admit to personal problems. Lawyers are human beings and are subject to enormous pressures to succeed and to solve problems every day. There are clients who are in desperate need for help...clients, whose companies and businesses may not survive unless a miracle occurs. The problem is that you, the lawyer or you the paralegal may not be able to deliver that miracle. I want to tell you, as strongly as I can, that that is okay. It is not your job or life requirement to solve

an unsolvable problem. All you can do, and all you are supposed to do, is your best. No more. And no less.

## **Lessons Learned**

**(These can apply to survive adversity or to keep it from happening)**

Over the last several years, through the counsel and advice of friends, I slowly learned a number of principles that have helped me get through tough times. In the hope that some of them might help you as well, I write about them briefly below...

**Faith** – I had to learn to pray and talk with God. This took some time because at first, I simply prayed to get out of the bad situation in which I found myself. This did not work.

I tried to bargain and attach conditions. This also did not work. Only when I surrendered and gave up and told God that He won, that I could not do this alone, did I begin to make any progress.

Finally, I learned to pray for strength and courage to get through the bad time in my life. I prayed that God's will, whatever that was, would be done. I deeply believe that this is the only thing that ultimately saved me.

And when did I start really doing this? The day I first went to prison. I was scared. I was going to be alone in a strange place. So I asked for help. Though I was somewhat late in asking, I did get help in the form of peace and strength and optimism and laughter and humility. And I survived.

**Taking Care of Yourself** – That was the advice from my lawyers...Jim; take care of yourself and your health. Your case will take care of itself. At first, I did not accept that. I wanted a legal defense, not a personal one. I wanted motions filed and dismissals sought. It was not to be. And it would never have worked.

It took long walks by myself and with others. It took music...often, loud music. It took hundreds of hours of psychotherapy. It took laughter and friendship and love. It took a lot of help from a lot of people. It took optimism and openness and humility.

It did not always come at once or easily. I made lots of mistakes. But slowly wisdom came, and I learned "to accept what I could not change and to change what I could".

I learned finally to allow myself to be vulnerable. The honesty of that is very strong.

**Knowledge becomes Freedom** - When my life became an open book, I no longer had anything to hide. It was in keeping secrets that I got off track.

That does not mean that you have to go out and tell the world your mistakes. But you do not need to be obsessed about keeping them hidden. Most people are

understanding and forgiving. You will find that they can better relate to you because you suddenly appear like them. They feel better about themselves, and therefore, they feel better about you.

For lawyers, this is particularly difficult. No lawyer whom I have ever met wants to admit mistakes and let other people find them out. But one thing I have learned. Clients will forgive you almost any mistake if you tell them and are honest with them. But clients will forgive you no mistake if you do not do that.

How many times have you read that a person has done a greater wrong to prevent someone from finding out a lesser one? Happens all the time. Just close your eyes and let it happen. What you will find when you open them will astonish you. You will still be there. A burden will have been lifted from you. There will be less stress. You will be able to relax and realize the world will go on for you.

None of this is easy. I do think it is right. It will be one of the hardest things you have ever done. It goes against every bit of human impulse that is self-protection. But it is in not protecting that you are protected. It is in not hiding that you become free. And it is only when you are free that you become who you really are.

**Grace** – Grace is best defined as something you get that you do not deserve. It happened to me a lot. It happened to me when I practiced law, with my friends, in the court system, in prison, on work release with Sen. Robert Morgan, at the 42<sup>nd</sup> Street Oyster Bar, where I waited tables, and ultimately with people whom I had never met. It still happens to me every day. I suspect that it does to you as well. Learn to recognize and accept it.

**Acceptance of Responsibility** – I did not want to do this. I did not want to plead guilty to all the criminal charges against me with no plea agreement. But today, I consider it one of the best decisions I ever made. But I didn't do it on my own. I had a lot of help and encouragement from a lot of friends and lawyers and judges.

I believe in taking punishment and responsibility and turning it upside down. Make it a good thing in your life. I decided not to blame others for my mistakes, and neither should you. I tried not to complain quite so much. I tried not to ask for too many special favors, though I got some.

Wade and Rick told me that the defining moment of my life would be how I reacted and handled adversity...not the adversity itself but what came afterward. They are so right. It helped me get well. It helped me defeat depression. It allowed me to have my life back.

I learned there is nothing you cannot come back from, if you will only try.

**Never Too Late to say You're Sorry** – This really proved true for me. As I earlier wrote, I was told this by Rick's secretary who just stared at me in the face and

lectured me on the benefit of saying I was sorry. I took her advice and learned that it was good, not only for me personally, but also that it took good deal of anger away from other people.

This will not work with everyone. But I learned that I could not let that keep me from trying. An apology and doing right are not one time things.

**Do Not be Judgmental of Others** – Many of us have been this way our whole lives. But having been in trouble, I learned to change...at least as best I could. I try to take people as they are and not as I would have them be. I have not walked in their shoes, as they have not walked in mine. I learned that if I was to ask people to take me as I am, then I must do the same in return.

**Be Optimistic** – Look for the good in people. It is there. If bad things happen to people, then good things happen to all of us. Learn to appreciate simplicity. It is life that is good, not the things in it. What do you want people to say about you at the end of your life? Then, think backwards, and figure out how to make it come true.

The greatest saying I have heard these past years is that “you should never put a period where God just puts a comma”.

Learn to laugh. If you can laugh just a little, even at yourself, there is hope for you. People like laughter. It makes you fun and friendly.

In the blackest of times of my life, I learned to laugh. I would quite simply not have survived without it.

I sometimes think humor for lawyers should be a required course in law school. It certainly is necessary to being a great lawyer if you deal with clients. Humor and laughter with my attorneys helped to save my life. Their best work as lawyers often was surrounded with humor, for that is how they got me through some very difficult times.

**Unconditional Love and Friendship** – It is a good thing that most of us can receive unconditional love. When I was the most unlovable of all is when I needed it the most. I like to say that there are only two kinds of unconditional love...between a parent and a child, and a man or woman and a dog. But really, unconditional love and friendship are two of the most valuable things there are. Find them and hang on to them.

The practice of law is stressful. You spend your career taking care of other people and their difficulties. There can be a vacuum when it comes to finding people to take care of you. Do not spend your life and career without finding those people who can give you either unconditional love or unconditional friendship. Even if you are always on top, which is not likely, you will need and want these people. And if you should stumble, they are essential.

**Never, Never, Never Give Up** – There is little to say about this idea. It is self-evident. But it is sometimes hard to follow. We know that too often lawyers who get in trouble do in fact give up. Do not do this. There is always hope if you keep trying. There is only no hope and no future if you give up.

**Always Believe in Angels** –The ones who prayed and hoped and became or remained my friends. I meet them still...every day. You do as well. Everyone has them. They are the people, whom you may not even know, who help you when you are down.

Angels are out there. They were and are there for me. They are for you as well. Even though you may not always see them, they will lead you home.

**Finally, Happiness** – A long time ago, my father preached a sermon titled “The Joy of Serving”. It was about Andrew, his brother Peter, and their relationship with Jesus. It was the younger brother Peter who became the star and perhaps the first disciple. No one really knew Andrew. But Andrew never faltered because of this lack of attention; he stayed with Jesus and did whatever he was asked. If he was needed to seat people at a gathering, he did it. He didn’t have to be at the forefront. He was just happy to serve. He was there for the joy of it.

Waiting on people gave me more than I could ever have guessed. It gave me my life back. I felt a level of happiness and satisfaction that I had not known in a long while. Again, I remembered the question Dr. Spaulding asked me early in my sessions with her. “What do you remember in black and white and what do you remember in Technicolor?”

For me, the answer came after falling down and getting back up. It came after practicing law, hospitalization, imprisonment and waiting tables. It came when and where I least expected. It came when I finally learned “The Joy of Serving”.

When I was a newly appointed United States Attorney in the summer of 1980, I drove to Lumberton one day to watch Earl Britt be sworn in as a new United States District Judge for the Eastern District of North Carolina. At the end of his remarks, he quoted in its entirety the Rudyard Kipling poem “If”. Those lines just about say it all, and I cannot think of better advice for lawyers, paralegals or indeed for people anywhere as to how they should conduct their lives.

Here it is as read that day:

“If you can keep your head when all about you  
Are losing theirs and blaming it on you;  
If you can trust yourself when all men doubt you,  
But make allowances for their doubting too;  
If you can wait and not be tired of waiting,  
Or, being lied about, don’t deal in lies,  
Or, being hated, don’t give way to hating,  
And yet don’t look too good, not talk too wise;

“If you can dream – and not make dreams your master,  
If you can think – and not make thoughts your aim;  
If you can meet with triumph and disaster  
And treat those two imposters just the same;  
If you can bear to hear the truth you’ve spoken  
Twisted by knaves to make a trap for fools,  
Or watch the things you gave your life to broken,  
And stoop and build ’em up with worn-out tools;

“If you can make one heap of all your winnings  
And risk it all on one turn of pitch-and-toss,  
And lose, and start again at your beginnings  
And never breathe a word about your loss;  
If you can force your heart and nerve and sinew  
To serve your turn long after they are gone,  
And so hold on when there is nothing in you  
Except the Will which says to them: “Hold on!”

“If you can talk with crowds and keep your virtue,  
Or walk with kings – nor lose the common touch;  
If neither foe nor loving friends can hurt you;  
If all men count with you, but none too much;  
If you can fill the unforgiving minute  
With sixty seconds’ worth of distance run –  
Yours is the Earth and all that’s in it.  
And – which is more – you’ll be a Man, my son!”

## **How to Reach Me**

Telephone – (919) 326-9070

Cell – (919) 889-7316

Email – [jim@blackburnseminars.com](mailto:jim@blackburnseminars.com)

Website – [www.blackburnseminars.com](http://www.blackburnseminars.com)

2201 Tallon Hall Court, #103

Raleigh, North Carolina 27607

