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Minnesota Catholic



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The Lawyer as Prudent Warrior



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A warrior is often considered to be a guardian of sorts who specializes in combat and is part of a separate warrior class. Prudence, according to Aquinas, is “wisdom concerning human affairs” and “right reason with respect to action.” So as applied to lawyers, a prudent warrior could be said to be a respected member of the legal community who knows how to fight effectively under the rules of our justice system--someone who has attained master in the planning, strategy, and tactics of litigation.

Planning and Strategy: Jesus Is the Best Lawyer

Jesus encapsulates the planning and strategy elements in two snippets of his preaching.

First, Jesus starts by emphasizing the importance of planning:

Consider, if one of you has a mind to build a tower, does he not first sit down and count the cost that must be paid, if he is to have enough to finish it? Is he to lay the foundation, and then find himself unable to complete the work, so that all who see it will fall to mocking him and saying, Here is a man who began to build, and could not finish his building? (Luke 14:28-39)

Believe it or not, most of my initial calls with potential clients involve me talking them out of litigation, pointing them to litigation alternatives, or proposing ways to litigate as efficiently and cost-effectively as possible.

Next, Jesus shows us the qualities of a competent strategist:

Or if a king is setting out to join battle with another king, does he not first sit down and deliberate, whether with his army of ten thousand he can meet the onset of one who has twenty thousand? If he cannot, then, while the other is still at a distance, he dispatches envoys to ask for conditions of peace. (Luke 14:30-32)

Did you know that 98 percent of civil cases settle before the close of trial, and that most settle well before trial? Trial—like a battle—is expensive, uncertain, and often traumatic. A prudent warrior understands this, and helps the client understand it as well.

Litigation Tactics and Just War Theory

Once a lawyer and their client have entered the fray, the issue becomes how to litigate. Our Lord also told us to be “wise as serpents, innocent as doves.” The three elements of Just War theory help us apply Our Lord’s paradoxical command to litigation practice.

The first element (legitimate sovereign) is always covered because a good lawyer (at least in this country) practices within the rules of our established legal system.

The second element (just cause) is a little trickier. But fortunately, it seldom makes economic sense for most lawyers to accept cases that lack legal merit. That’s because most clients aren’t willing or able to begin or continue to litigate a case that only serves as a cost center. And in my experience, there is this inverse correla-

tion between the justness of a client’s cause and their willingness to pay: the more a client wants to pursue a dubious cause, the less willing the client is to shoulder the cost. So if the lawyer specifically explains in advance the cost of the client’s plan, the unjust client typically looks for a more pliable lawyer.

The third element (right intention) is simple to follow, but hard to practice. Lawyers must ask themselves: “In this moment, am I applying the best practices of my profession within the rules—as the rules were intended to be followed?” If the answer is yes, you probably are practicing law with the right intention. If the answer is no, you probably aren’t. No matter what, the sooner the lawyer rectifies their intention the better.

Takeaways


In short, lawyers who consistently fulfill their roles as counselor, advocate, and prudent warrior can be confident that they are striving to realize their highest ideals.


Now that I’ve covered the three qualities of a good lawyer, I’m turning to the three qualities of a good client. This will be the topic of my next article.

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