

ALL I REALLY NEED TO KNOW ABOUT PRACTICING LAW I LEARNED FROM JUDGE HOLLOWAY

Only in hindsight do I fully appreciate how fortunate I was to start my legal career clerking for Judge Holloway. Every year, new law school graduates begin their careers in a variety of positions, and with a variety of employers. And even with those brand new diplomas, and the satisfaction (and relief) of passing the bar examination, there still is so much to learn about how to be a lawyer. The lessons aren't always easy, and they can sometimes be delivered in a manner that leaves a new lawyer cowering in fear or vowing revenge.

If they're fortunate, new lawyers learn good habits from other lawyers who teach them the right way to practice law. And if they're extremely fortunate, they learn not only how to be a good lawyer, but also how to be a better person.

Judge Holloway taught each of his clerks so much about practicing law, and about being a better person. So, just as Robert Fulghum maintains that *All I Really Need to Know I Learned in Kindergarten*, I believe that all I really need to know about practicing law I learned from Judge Holloway. Here are a few of the lessons I learned:

1. Do your best every day.

Every case was important to Judge Holloway—civil or criminal, large amounts or small. Judge Holloway made it clear that every case deserved the same attention to the issues, the same careful research, and the same thoughtful approach to the resolution of the appeal. We were expected to give our best effort on every case. And when we completed our research, Judge Holloway gave the case his own best effort in his deliberate, careful review of all issues in drafting his opinion. Both by his expectations of his clerks, and leading by his own example, he taught us that all of the cases entrusted to us deserve our best efforts.

2. Be professional.

Judge Holloway was professional in every sense of the word. In the courtroom, in chambers, and in daily interactions with others, he embodied the standard of professionalism set forth in the Standards of Professionalism approved by the Oklahoma Bar Association Board of Governors in 2006.* That document defines professionalism for lawyers and judges as follows:

Professionalism for lawyers and judges requires honesty, integrity, competence, civility and public service.

The Preamble to the Standards of Professionalism indicates:

The very nature of our adversary system of justice requires respect for the law, the public, the courts, administrative agencies, our clients and each other. While the Rules of Professional Conduct establish the minimum standards a lawyer must meet to avoid discipline, the following Standards of Professionalism represent the level of behavior we expect from each other and the public expects from us in our dealings with the public, the courts, our clients and each other.

Sections 5 and 6 deal with a judge's responsibilities to litigants and lawyers, and to other judges:

SECTION 5

JUDGES' RESPONSIBILITIES TO LITIGANTS AND LAWYERS

5.1 We will be courteous, respectful and civil to lawyers, parties and witnesses. We will maintain control of the proceedings, recognizing that we have both the obligation and the authority to ensure that all proceedings are conducted in a civil manner.

5.2 If we observe a lawyer being uncivil to another lawyer or others, we will tactfully call it to the attention of the offending lawyer on our own initiative.

* A complete copy of the Standards of Professionalism can be found at <http://www.okbar.org/members/EthicsCounsel/StandardsProfessionalism.aspx>.

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5.3 We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses.

5.4 We will be punctual in convening all hearings, meetings and conferences; if delayed, we will notify counsel, if possible.

5.5 In scheduling all hearings, meetings and conferences, we will be considerate of time schedules and prior commitments of lawyers, parties and witnesses.

5.6 We will make a reasonable effort to decide promptly all matters presented to us for decision.

5.7 We will give the issues in controversy deliberate, impartial and studied analysis and consideration.

5.8 While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

5.9 We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a party has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

5.10 We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom, or the causes which, that lawyer represents.

5.11 We will do our best to ensure that court personnel act civilly and respectfully toward lawyers, parties and witnesses.

5.12 We will avoid procedures that needlessly increase litigation expense.

SECTION 6

JUDGES' RESPONSIBILITIES TO EACH OTHER

6.1 In all opinions and other written and oral communications, we will refrain from disparaging personal remarks, criticisms, or sarcastic or demeaning comments about a judicial colleague.

6.2 We will endeavor to work with other judges in an effort to foster a spirit of cooperation in furtherance of our mutual goal of promoting and nurturing the administration of justice.

One example of Judge Holloway's professionalism was his insistence that we keep drafts "plain vanilla," devoid of unnecessary criticism and commentary at the expense of a litigant, lawyer, or another judge. Unless absolutely necessary, we did not use "[sic]." Judge Holloway explained his belief, based in part on comments from trial judges, that it is embarrassing to a trial judge or lawyer to see comments made during the course of a trial peppered with "[sic]" in an appellate decision. I think of this particular lesson every time I read a transcript of any oral argument I've ever made, and wonder if I will ever make an argument in which I finish every sentence or use correct grammar throughout the argument. As Judge Holloway explained, it is hard to imagine how easy it is to make simple mistakes in the course of a trial until you have experienced it for yourself.

4. Treat everyone with dignity and kindness.

Whether you encountered him in the courtroom, in his chambers, or on the street, Judge Holloway was the same person. He treated everyone with kindness and courtesy. And each person was treated with dignity. I remember walking into the Judge's outer office one day to ask Judge Holloway a question and found him conversing in Spanish with a man who was lost and had wandered in looking for someone who could help him. Judge Holloway was patient and kind as the two conversed. There was no sense of an important judge being interrupted to do someone a favor, just one human being treating another human being with kindness and dignity.

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Even in circumstances that provoke anger, Judge Holloway demonstrated the same polite, but firm, demeanor. On my first trip to Denver as a law clerk with Judge Holloway, and in the days when airplanes still had compartments for hanging bags (yes, I clerked a LONG time ago), my bag was gone when we reached the compartment as we exited the plane. We spotted a woman carrying the bag several yards in front of us when we got into the concourse. After displaying remarkable agility and speed in dodging other passengers to catch up to the woman, Judge Holloway politely and firmly discussed the situation with the woman until she finally relinquished my luggage. Even with a thief, he never raised his voice or spoke rudely.

When you begin your legal career by observing someone in a powerful position treating everyone with the same courtesy and kindness, it comes as a shock the first time you observe a lawyer treating junior lawyers, support staff, or court personnel other than judges, in a rude, heavy-handed manner. As lawyers and as people, we are all role models. Sometimes we are good role models and sometimes we are bad role models. As one of Judge Holloway's law clerks, I was fortunate to have had a good role model who taught us by example the right way to treat people in the course of our legal careers.

5. A sense of humor helps.

Judge Holloway had a wonderful sense of humor and enjoyed teasing his law clerks. He was also a wonderful storyteller, and having a constant stream of new law clerks to deal with kept him supplied with an endless source of stories. And because he was such a kind man, his humor was always tempered with kindness, so even when you were the butt of his jokes, you knew he was laughing with you. Surely I was not the only law clerk to stand up and bang the gavel at the wrong time at the beginning of a court session, before realizing my mistake from the horrified and stunned looks on the panel of three judges and sitting back down without a word. He reassured me later that at least I had not misstated the opening statement "God save the United States and this Honorable Court" as "God save us *from* . . . this Honorable Court" as at least one other clerk had (allegedly) done.

Judge Holloway's sense of humor put his clerks and office staff at ease and generated a sense of camaraderie among his staff. We learned the practice of law is not just work; it can be fun at the same time.

6. Do something you love.

Judge Holloway clearly loved his work. He chose to continue working on cases until his death at the age of 90. His work ethic was inspired not only by a sense of responsibility for his work, but by the fact that he truly enjoyed what he did.

A law degree affords a myriad of opportunities both within and outside of the legal profession. Hopefully each of us can find something to do that gives us a sense of personal and professional satisfaction, and allows us to look forward to each day.

7. Expect the best in others.

Judge Holloway treated each of his clerks as if they were intelligent lawyers fully capable of assisting him. And because he treated us as fully capable, we tried our best to live up to his expectations. Funny how that works in all aspects of life.

As I said at the beginning, for those of us fortunate to start our legal careers with a wonderful boss, we learned by example how to practice law in a manner that is both rewarding to us personally and to the profession as a whole. Clerking for Judge Holloway was such a privilege. The legal profession lost a giant. For those of us who knew him and worked with him, we lost a wonderful boss, and a man we are proud to call a friend. And for all of us who knew him, his lessons live on.

Nancy Thompson

Clerk for the Honorable William J. Holloway, Jr., 1979–1981