# DEVELOPING A BETTER ATTITUDE OF LAWYERS TO CLIENT, REGISTRY AND COURT

## A PAPER DELIVERED BY ROLAND OTARU, Esq, SAN, FCIArb ON 2ND APRIL, 2013 AT THE NBA ILORIN 2013 RETREAT AT ARMTI, ILORIN, KWARA STATE.

## COURTESIES

## INTRODUCTION

My heart is gladdened with joy for the invitation extended to me by the Nigerian Bar Association, Ilorin vide letter dated the 22nd day of February, 2013 which I received on the 25th day of February, 2013 to deliver this lecture titled: **"Developing a better attitude of Lawyers to Client, Registry and Court"** I feel and felt so honoured because even though I am no longer around at all times in your midst, the branch still regard me not only as a member of this branch but also as one of the elders of this vibrant branch of the Association.

I do appreciate this gesture and honour. On behalf of myself, chambers and family, I thank you all very warmly for this respect you bestowed on me to deliver this topic and to be a partaker of this legal retreat in the quest for continuing legal education in the legal profession.

There is no any iota of doubt that in different fora, seminar or conferences, especially amongst legal practitioners, and in fact all professional bodies all over the world, the issue of attitude of lawyers or professionals in their various fields of human endeavour forms the epicenter of every discuss in order to ensure probity, honesty and development of the right attitude in dealing with the members of the public.

Before going into the mith and marrow of this topic, I would first and foremost crave your indulgence to define only one word in the topic i.e.

**'Attitude'** This is because the other need no definition as we are all familiar with them.

According to the New International Websters Comprehensive Dictionary of English Language[1], "**Attitude"** means ***'position of the body, as suggesting some thought, feeling or action, state of mind, behaviour or conduct regarding some matter, as indicating opinion or purpose"*** (Underlining mine for emphasis)

Also according to the American Heritage Dictionary[2] **'Attitude'** is ***"a state of mind or feeling with regard to some matter"***

Keith Harrell[3] defined attitude in one word: **'life'** According to Keith Harrell he said[4] thus:

> ***"The attitude that you carry around makes an incredible difference in your life. It can be a powerful tool for positive action, or it can be a poison that cripples your ability to fulfill your potential. Your attitude dictates whether you are living life or life living you. Attitude determines whether you are on the way or in the way"***

The Author also propounded a 'Theory of positive attitude' and opined that: ***"Positive Attitude pays off, I have made it my life work to personally embrace a super-fantastic attitude and help others understand that attitude is everything"***

From the perspective of the definition of 'attitude' which also translate to conduct, it has made this topic less onerous as the word 'attitude' in this topic means 'conduct' of a lawyer to his client*(s)* the registry and the court.

---

[1] Deluxe Encyclopedic Edition, 2010 Edition, Page 94
[2] Attitude is Everything (Revised Edition) by KEITH HARRELL, Page 2
[3] Ibid
[4] ibid

Developing a better attitude of lawyers to those that made up this tripod i.e. the client, the registry and the court will ensure or usher in the administration of Justice in our country. I shall return to this later in this paper.

It is gratifying to note that as Lawyers or Legal Practitioners and judges, we are not at all new or strangers to the attitude or conduct of Lawyers. This is because the code of conduct of legal practitioners has been duly encapsulated in the Rules of Profession conduct in the legal profession made pursuant to the Legal Practitioners Act, Laws of the federation, 2004. It has been said by an author that your 'Attitude determines tour altitude'. This is a truism. The attitude of a lawyer to his client(s) and the court will to a large extent determines his attitude in the legal profession. If a lawyer or counsel has positive attitude in his dealings with his client(s), he will excel in his legal practice.

In addition, if he is courteous and prepares his cases very well, judges will like him for his industry and advocacy. A judge will not a like a counsel or lawyer that is slothful or indolent and unprepared in the handling of his professional duties to his clients.

In addition, a counsel who engages in unprofessional conduct cannot also excel in the legal profession.

The Rules of Professional Conduct in the legal profession sets out in extenso different Rules for the Conduct of Legal Practitioners.

However, before examining the various provisions of these Rules of professional Conduct in the legal profession it is imperative to know how these Rules emerged to sharpen the conduct of Legal Practitioners in Nigeria.

## HISTORY OF THE RULES OF PROFESSIONAL CONDUCT IN THE LEGAL PROFESSIONAL

The foundation for instilling discipline in the legal profession came about in 1876. It was the same year the Supreme Court ordnance of No. 4 of 1876 was enacted or promulgated. It provided inter alia, for disciplining of legal Practitioners in Nigeria. Under the ordinance, the Supreme Court was the institution which was charged with the responsibility for the discipline of Legal Practitioners.

In 1914, a new Supreme Court ordinance No. VI came into force which automatically repealed the 1876 ordinance which became otiose vide the 1914 ordinance. The Supreme Court continued to have and exercise disciplinary control, power and jurisdiction over legal practitioners.

Section 90(2) of the ordinance provided as follows;

> ***"90 The Chief Justice may make rules of court for carrying this ordinance into effect and in particular for all the following matters;***
>
> ***(2) For regulating the qualification, admission, enrolment and discipline for barristers, advocates and solicitors and of person acting temporarily in these capacities and for regulating their employment in causes and their fees and for regulating the taxation and recovery of their fees and disbursements***

On the 30th august, 1917, the Legal Practitioners ordinance No. 44 of that year came into force. Its preamble provides thus:

> ***"An ordinance to prohibit an unqualified person from drawing instrument affecting land"***

However there was no specific establishment of any institution or body for the discipline or control of legal practitioners in the 1917 ordinance which had only seven (7) sections.

In 1933, a new Legal Practitioners Ordinance was enacted or promulgated. The 1933 Ordinance replaced the 1917 Ordinances wherein the Legal Practitioners Committee was established. The Legal Practitioners Committee vested with powers of inquiry into allegations of misconduct. Section 2 of that ordinance provides as follows:

> ***"2. There shall be established for the purpose of this ordinance a committee to be called "the legal Practitioners Committee" Consisting of –***
>
> ***(a) The Attorney – General and the Solicitor General ex-officio and***
> ***(b) Three unofficial members being Legal Practitioners nominated by the Nigerian Bar Association"***

Under an by virtue of Section 7 of the 1933 ordinance, three (3) members of the Committee formed a quorum.

The committee was saddled with the duty and responsibility to conduct the hearing or inquiry into any allegation against a legal practitioner. After the completion of its inquiry or findings, the committee was to embody its findings in the form of a report to the Supreme Court Punishment of any legal practitioner under the 1933 Ordinance lay with the Supreme Court.

Section 22 – 29 of the Legal Practitioners Ordinance, 1933 set out *in extenso* the functions and duties of the Legal Practitioners Committee pursuant to the 1933 ordinance[5].

> ***"22(1)The Committee on the termination of the inquiry shall embody their findings in the form of a report to the Supreme Court and the report shall be signed by the Chairman and filed in the office of the Chief Registrar and shall be open to inspection by the party charged and any***

[5] Discipline of legal practitioners; judgment and Directions of legal practitioners of the legal practitioners disciplinary committee of the Body of benchers (2006) 11 NWLR (Pt. 991) page 420 – 430

***legal practitioner assisting him shall not be open to public inspection.***

***(2) If the committee are of the opinion that no prima facie case of misconduct has been made out they need not proceed further, but if they are of the contrary opinion it shall be their duty to bring the report before the Supreme Court together with the evidence taken and the documents put in evidence at the inquiry***

***23(1) The powers conferred in the following sections of this ordinance upon the Supreme Court shall be exercised by an three of the judges of such court.***

***(2) The decision of the majority of the three judges, in case they shall not agree in the opinion shall be taken to be the decision of the Supreme Court.***

***24. The Supreme Court may refer the report back to the committee with the directions for their finding on any specified point.***

***25. The Supreme Court may set the report down for consideration for a date fourteen days notice of which shall be given to the committee and to the legal practitioner concerned by the Chief Registrar who shall forward with the notice a copy of the report. The notice aforesaid shall be in the form set out in the second schedule.***

***26. The committee and legal practitioner may appear by counsel or a solicitor before the Supreme Court at the consideration of the report.***

***27. The Supreme Court after considering the evidence taken by the committee and the report and any evidence taken by a judge under the next section, and after taking any further evidence, if it thinks fit to do so, may admonish the legal practitioner or suspend him from practicing within the jurisdiction of the Supreme Court during any specified period, or may order the Chief Registrar to strike out the name off the Roll of the Court.***

***28. Any judge of the Supreme Court shall have power after considering the evidence taken by the committee and the report and after taking any further evidence if he thinks fit to do so, suspend the legal practitioner from practicing within the jurisdiction of the Supreme Court, temporarily, pending the consideration of the case and the confirmation or disallowance of such suspension by the supreme Court.***

***The provisions of Section 24, 25 and 26 shall mutatis mutandis, apply to any proceedings under this section.***

***29. Notwithstanding that no inquiry may have been made by the Legal Practitioners committee –***

***(a) the Supreme Court shall have powers for reasonable cause to admonish any legal practitioner or to suspend him from practicing within the jurisdiction and of the Supreme court during any specified period or may order the Chief Registrar to strike his name off the Roll of the court and***

***(b) any judge of the Supreme Court shall have power to suspend any legal practitioner in like manner, temporarily, pending a reference to and the***

***confirmation or disallowance of such suspension by the Supreme Court."***

After the 1933 ordinances, the Legal Practitioners Act, 1962 was promulgated. This Act established the Legal Practitioners Investigations Panels charged with the duty of conducting a preliminary investigation into the conduct of a lawyer. Its decision(s) is referred to another body set up by the same Act known as the Legal Practitioners Disciplinary Tribunal which could then try the erring legal practitioners. See section 6(1) – (4) of the said Act.

In 1965, the Legal practitioners Act, 1962 was amended by the Legal Practitioners (amendment) Act (Decree No. 3) of 1965, which transferred to the Solicitor – General of the Federation the function of the Chief Registrar of the Supreme Court relating to the Legal Practitioners Disciplinary Tribunal.

Series of amendments were made to the Legal Practitioners Act in 1965, 1968, 1969 and 1974 but more of those amendments radically altered or challenged institutions or bodies responsible for the discipline of legal practitioners. However, the 1971 Act established a Body known as the Appeal Committee of the Body of Benchers and charged it with the duty of hearing appeals from any direction given by the Legal Practitioners Disciplinary Committee in 1975, the legal practitioners act of 1962 and amendments made thereto up to 1975 were re-enacted as the Legal Practitioners Act (Decree No. 15) of 1975.

The Legal Practitioners Act (Decree No. 15) 1975 was reproduced together with amendments made between 1976 and 1988 as Cap. 207, Laws of the Federation of Nigeria, 1990. By the provision of section 10(1) thereof, it established the Legal Practitioners Disciplinary Committee which was charged with the duty of considering and determining any

allegation of misbehavior against any legal practitioner. The section provides thus:

> ***"10(1)There shall be a committee to be known as the Legal practitioners Disciplinary Committee (hereafter in this Act referred to as "the Disciplinary Committee") which shall be charged with the duty of considering and determining any case where it is alleged that a person whose name is on the roll has misbehaved in his capacity as a Legal Practitioner or should for any other reason be the subject of proceedings under this act.***
>
> ***(2) The Disciplinary Committee shall consist of –***
>
> ***(a) the Attorney-General of the Federation, who shall be chairman.***
>
> ***(b) the Attorney-General of the states in the Federation***
>
> ***(c) twelve legal practitioners of not less than ten years standing appointed by the Benchers on the nomination of the association.***
>
> ***(3) The provisions of the Second Schedule to this Act shall have effect in relation to the Disciplinary Committee"***

It is to be noted that the 1975 Act gave additional jurisdiction to the Supreme Court by virtue of section 13.

There were, however, further amendments to the 1975 Act like the Laws of The Federations 1990, 1992 and 1994.

Decree No. 21 of 1994 made substantial changes as regards to discipline of legal practitioners. It created a whole new section under which it set up a committee of the Body of Benchers known as the Legal Practitioners Disciplinary Committee which is akin to the Legal Practitioners

Disciplinary Committee under the 1975 Act, but with a different composition in its membership.

Section 11 of the 1994 Act provides as follows

***"(11) (1) There shall be a committee of the Body of Benchers to be known as the Legal Practitioners Disciplinary committee (in the act referred to as "the disciplinary committee") which shall be charged with the duty of considering and determining any case where it is alleged that a person who is a member of a legal profession has misbehaved in his capacity as such or should for any other reason be the subject of proceedings under the Act.***

***(2) The disciplinary committee shall consist of –***

***(a) A Chairman who shall not be either the chief Justice of Nigeria or a Justice of the Supreme Court;***

***(b) two justices of the Court of Appeal one of whom shall be the president of the court of Appeal;***

***(c) two chief judges***

***(d) two Attorneys-General who shall be either the Attorney-General of the Federation and the Attorney-General of a state or two state Attorneys-General; and***

***(e) four members of the association who are not connected with either the investigation of a complaint or the decision by the association to present a complaint against a legal practitioner for determination by the disciplinary committee"***

Be it noted that section 11 of the 1994 Decree also repealed section 12 of the 1975 Act thereby totally doing away with the Appeal Committee of the Body of Benchers.

In the present dispensation, the authority to discipline legal practitioners lie with the Legal Practitioners Disciplinary Committee of the Body of Benchers from where an appeal lies directly to the Supreme Court by the virtue of section 10(e) of the 1994 Decree, which substituted the word ''Appeal committee of the Body of Bachelors'' for the words ''Supreme Court''

It is also to be noted that the Legal Practitioners Act, Laws of the Federation, 1990 was further amended in 1999 which amendment only made the payment of practicing fee a condition precedent for the right of the audience of a legal practitioner in any Court in Nigeria.

I have gone through the labyrinth of stating the historical antecedent of the laws regulating the legal profession so that both the young and old members of the legal profession will be acquainted with the history of the discipline of legal practitioners.

I will also crave your indulgence to divide the topic into two (2) compartments or limbs, to wit:

(1) ATTITUDE OF LAWYERS TO CLIENTS
(2) ATTITUDE OF LAWYERS TO REGISTRAR AND COURT

**ATTITUDE OF LAWYERS TO CLIENT(S)**

I have stated earlier in this paper that your 'attitude' determines your 'altitude'

It is therefore humbly submitted, ladies and gentlemen, that the attitude of lawyers to their clients determines their altitude.

The provision of the Rules of Professional Conduct for Legal Practitioners, 2007 have stated unequivocally the attitude of lawyers to client(s).

Rules 14 – 25 have clearly stated how a lawyer should relate with his client(s).

I will refer to some of these Rules and support same with decided judicial authorities. Section 14(1) – (5) of the Rules of Professional Ethics provides as follows;

> ***"14(1) It is the duty of a lawyer to devote his attention, energy and expertise to the service of his client and subject to any rule of law, to act in a manner consistent with the best interest of the client"***
>
> ***(2) Without prejudiced to the generality of paragraph (1) of this rule, a lawyer shall***
>
> ***(a) Consult with his client in all questions of doubt which do not fall within his discretion.***
>
> ***(b) keep the client informed of progress and any important development in the cause or matter as may be reasonably necessary;***
>
> ***(c) warn his client against any particular risk which is likely to occur in the course of the matter;***
>
> ***(d) respond as promptly as reasonably possible to request for information by the client; and***
>
> ***(e) where he considers the client's claim or defence to be hopeless inform him accordingly."***

It is the duty of counsel of prosecute his client's case diligently and courageously.

IN CANDIDE – JOHNSON VS EDIGUN[6] the court held as follows;

"By virtue of Rule 3 of the Rules of Professional Conduct of the legal profession, a legal practitioner should not only courageously prosecute his client's case but should vigorously present all proper arguments against any ruling he deems erroneous and should see to it that a complete and accurate case record is made, and in this regards, he should not be deterred by any fear of Judicial displeasure or even punishment"

Rule 15 deals with a lawyer keeping strictly within the law in the handling of his case(s) in spite of the instruction of his client, and not to allow his client to breach the law.

Rule 16 provides that a lawyer should not handle a case which he knows he cannot handle competently.

Rule 17 talks of retainership and the need for disclosure to a client that he is retained by the other party who needs his professional services.

Rules 19 deals with privileged information between a client and his lawyers, Rule

20 deals with contemplated litigation.

Rule 21 provides that a lawyer should not abandon or withdraw from the case of his client except for good cause shown, while rule 21 disallows a lawyer from taking instructions from a client's house or office nor should a lawyer who accepts money on behalf of his client keeps it for his perusal use.

[6] (1990) 1 NWLR (PT. 129) page 659

Rule 24 deals with the acceptance of Brief and where circumstances permit can refuse some briefs Rule 25 provides that a lawyer should on no condition participate in a bargain with a witness either by contingent fee or otherwise as a condition for giving evidence but this does not preclude payment of reasonable expenses incurred for the purpose of giving the evidence.

**ENFORECEMENT OF THE RULES OF PROFESSIONAL ETHICS**

I will herein make references to few cases in the enforcement of these Rules of Professional Conduct.

**In RE: ABUAH (1962) 1 ALL NLR volume 1 (pt.2) page 279 at 285,** where a legal practitioner was convicted of forgery, false pretences and uttering, **ADEMOLA CJF** said as follows:[7]

> ***"legal practitioners are officers of the court. It is our bounding duty to see that officers of the court are men of integrity who should be trusted not only by the court but also by the public for whom they act. We are in this respect carrying out a sacred duty by acting as judges of their conduct. By enrolling them, we present then to the public as men the public can with confidence employ to carry out the duties and responsibilities appertaining to their all important office. We therefore owe it to the public to see that members of the public are not exposed to risk in their dealing with these men… And this is not only in respect of cases like the present where the misconduct has been connected with the profession of the legal practitioner but also in cases where conduct, though not so connected is such as to make it obvious to us that the legal practitioner is no longer a fit and proper person and not of sufficient respectability to be entrusted with duties***

[7] The Voice of Law and Social Change: Speeches and Thoughts of Wole Olanipekun, SAN pages 508 & 509 volume 1

> ***which the honourable profession demands from its members and with which it enjoins them"***

Earlier at page 283, His Lordship said:

> ***"where a legal practitioner is convicted of a criminal offence, prima facie, the conviction makes him unfit to continue as a practitioner"***

In the instant case, the Supreme Court ordered that the name of Mr. Alfred Chukwuemeka Abuah be struck off the roll of legal practitioners in Nigeria and that same should be communicated to the Benchers of the Honourable Society in England to which he belonged.

In **RE: A SOLICITOR EX-PARTE INCORPORATED LAW SOCIETY, 61 LT 842** it was held that where a solicitor has been convicted of a crime, it followed as a matter of cause that he must be struck off. In **RE: KING (1845) 15 LJ OB 2** where an attorney who was convicted upon an indictment for conspiracy to defraud had the judgment reversed on appeal on the ground of insufficiency of the indictment, he was nevertheless struck off the roll because the act of misconduct was obvious from the evidence. In **RE: WEARE(1983) 2 QB 439,** a solicitor was strujck off the roll the roll on the ground that he has been summarily convicted of allowing houses, of which he was the landlord to be used by tenants as brothels. In RE HILL LR 3 OBD 543 Cockburn CJ held that:

> ***"When an Attorney does that which involves dishonesty, it is for the interest of suitors that the court should interfere and prevent a man guilty of such misconduct from acting as an arttorney of the Court"***

In recent decision of the Court of Appeal concerning the relationship of a counsel and his client, the Court of Appeal did not mince words in dealing with the counsel in the case of **Moji Olamolu Vs. the State**[8]

In that case, the appellant – Moji Olamolu was arraigned at the High Court of Lagos state and tried along with one Bisi Sodiq on a six (6) count charge for the offences of conspiracy to steal, stealing, conspiracy to forge, forgery, conspiracy to utter and uttering. They were both arraigned on 26th November, 2000.

The applicant – a legal practitioner was briefed by one Mr. Mutiu Ogunbanjo to process death benefit from Kenyan Airlines as a result of the death of his wife Alhaja Sidikatu Ogunbanjo, who died in the Kenyan Airlines plane crash in the year 2000. The legal practitioner was a friend of the family for over 20 years. The total compensation paid was $100,000.00 (One Hundred thousand US Dollars). The compensation was paid in two installments. The first installment was $5000 USD paid by Kenyan Airlines to the legal practitioner about March, 2000. The second installment and balance of $95,000 USD was paid on 1st August, 2000.

Both cheques were issued in the name of and collected by the appellant. The money was converted into Naira by the Appellant. The naira equivalent according to the appellant was ₦11,000,000 (Eleven million Naira) only. The Appellant sub-contacted the brief to another solicitor, Miss Bisi Sodiq who was charged with the appellant at the trial court. The appellant promised to pay Miss Bisi Sodiq 20% of the total claims as her legal fees.

When the first installment of $5,000 was paid, the appellant pocketed $4,000.00 and gave Miss Bisi Sodiq $1,000.00 The appellant in November, 2000 gave the husband of the deceased the sum of

[8] (2013) 2 NWLR (pt. 1339) page 580

₦5,250,000 (Five Million, Two Hundred and fifty Thousand Naira) only and kept the sum of ₦5,750,000 (Five Million Seven Hundred and Fifty Thousand) out of which the appellant also gave miss Bisi Sodiq the sum of ₦1,250,000 (One Million, Two Hundred and Fifty Thousand naira). The legal practitioner told the husband of the deceased that the total amount paid as compensation was $65,000 (sixty – five thousand Dollars) and the solicitor to the Kenyan Airlines demanded for 20% out of the sum of $65,000 for himself. The husband of the deceased eventually traced the solicitor to Kenyan Airlines and found out that the total compensation collected was $100,000 paid in dollar cheques to the appellants. The solicitors to Kenyan Airlines who testified as PW5 denied ever collecting any amount out of the total sum paid.

The legal practitioner made a no-case submission at the close of the case for the prosecution and same was overruled. The legal practitioner refused to give evidence but instead called a handwriting expert who testified as DW2.

At the conclusion of the trial, the learned trial judge gave judgement, discharged and acquitted Miss Bisi Sadiq on all the counts while the legal practitioner was discharged and acquitted on the counts of conspiracy to forge, forgery, conspiracy, to utter, uttering and conspiracy to steal, but was found guilty of stealing and sentenced to two years imprisonment without option of fine.

His appeal to the Court of Appeal was unanimously dismissed. **Okoro, JCA at pages 607 – 608** as this follows:

***"I wish to observe that the appellant herein did not behave well at all. Her case can be likened to the Biblical Ananias and Sapphira who, after selling their land kept back part of the price and lied to the Apostles that they sold the land for so much. Apostle Peter then asked Ananias "Why hath Satan filed thine heart to lie to the Holy Ghost, and***

***to keep back part of the price of the land? While it remained, was it not thine own? And after it was sold, was it not in thine power? Why hast thou conceived this thin in thine heart? Thou hast not lied unto men, but unto God." See Acts Chapter 5: 1- 11. This cost Ananias and his wife Sapphira their life as both dropped dead. It si unfortunate that the appellant allowed history to repeat itself here. For me, today is a sad day. Imagine a lawyer of many years allowing herself to be destroyed by greed. It is on record that the appellant was a family friend of the deceased for about 20 years and based on this level of familiarity she was entrusted with this assignment. It is unfortunate that after collecting the money she allowed the devil to enter into her heart. This is a big lesson for all to learn. The relationship of a counsel vis –a-vis his client is that of absolute trust. Nothing less. The appellant by her conduct has lost her dignity, prestige and if care is not taken, means of livelihood. Is it not true to conclude that greed destroys? I think I am right."***

**Ogunwumiju , J.C.A. at pages 608 – 609 also … thus;**

**"*I must add however that the appellant has desecrated the noble legal profession by her actions in the circumstances of this case. She had shown excessive greed where should have been compassionate. As a professional, she was entitled to her professional fees and no more after negotiating the compensation of $100,000 given to the complainant by the Kenyan Airlines for the loss of his wife. The appellant took the $5,000 meant to assuage the immediate financial suffering of the family and refused to disclose it. After collect the balance of $95,000 she took another $30,000 and insisted that only $65,000 was paid. She refused to disclose all the monies paid to her and deceived the complainant by criminally converting the money to her own use. That was stealing. As my learned brother correctly***

***observed, it would have been another matter entirely if she had disclosed that she took the money even though the amount was in excess of the statutory professional fees. She might have been able to avoid liability by claiming some extenuating circumstances which warranted her behavior. Then it could have been a civil dispute between the parties. All the feeble technical defences put up to avoid the charge and the findings of the trial Judge amounted to nothing. The facts are too glaringly and shamefully proved against her."***

See also **NBA Vs A.O. Koku, Esq** (Legal Practitioners Disciplinary Committee of the Body of Benchers (Holder) at Abuja[9] where ABDULLAHI IBRAHIM (chairman) held as follows:

> ***"In the matter on hand, evidence has established that the respondent, as an Executive/ Trustees of the estate of the deceased had got his hands deeply rooted in the appointment of his legal firm to act as solicitors to the said estate in spite of his appointment by the deceases as an Executive/Trustee per the terms of the will i.e. Exhibit P1. The two assignments in our view, are not compatible. Morality and law will not accept that kind of overbearing. We find the respondent's act to amount to unprofessional conduct"***

At page 450, the Disciplinary Committee held as follows;

> ***"By virtue of Rule 49 (a) and (b) of the Rules of Professional conduct in the Legal professional made by the General Council of Bar Pursuant to legal Practitioners Act, 1975, the lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client; and money of the client or collected for his***

[9] (2006) 11 NWLR 43, particularly at Page 453.

***client or other trust property coming to the possession of the lawyer should be reports and accounted for promptly, and should not under any circumstances be commingled with his own or be used by him"***

In summary, ladies and gentlemen of the Bar, a Lawyer's attitude to his Client(s) must:

(a)Demonstrate high professional and personal integrity[10]

(b) Be honest and straight forward in all his professional/personal dealings

(c)Be of good character and reputation,

(d) Be candid with clients and professional colleagues,

(e) Demonstrate high level of understanding of cultural and social diversity characteristic of the Nigerian society; and

(f) Show observance of the code of conduct and etiquette at the Bar

**ATTITUDE OF LAWYERS TO REGISTRY AND THE COURT**

Legal Practitioners and the judges are all ministers in the temple of Justice. In order not to desecrate or soil the temple of Justice, both the Bar and the Bench must co-operate with each other in the administration of justice and in the overall interest of the society.

In discussing a paper titled: **"ethics and standard of Practice of law in Nigeria in the last two decades, a paper delivered by Hon. Justice M.M.A akanbi on 23rd August, 1999 at linins[11]"**

Chief Wole Onanipekun, SAN puts trenchantly thus:

***"With his lordship permission, I want to say that the topic encompasses the tradition, merits, efficiency, competence, diligence, productivity, industry, honour and dignity of both the***

[10] R. OBI OKOYE: LAW IN PRACTICE IN NIGERIA (Professional Responsibilities and Lawyering skills) Page 586

[11] Wole olanipekun SAN. The Voice of Law and Social Change, pages 35 - 35

***learned minds at the Bar and on the Bench. In fact, the word 'Ethinc' is defined in Black's law Dictionary, 6th Edition as:***

***"of or relating to moral action, conduct, motive or character… professionally right or benefiting, conforming to professional right or conducts. As his Lordship has rightly stated, a virtue bar is the foundation for a solid bench. Since this is a truism, it is apt to consider the ethics of and standard of practice at both the bar and the bench"***

Be it noted that the Rules of Professional Ethics vide Rules 30 – 38 clearly adumbrated the attitude of a lawyer to the court.

Rule 30 provides thus:

"A lawyer is an officer of the court and accordingly, he shall not do any act or conduct himself in any manner that may obstruct, delay or adversely affect the administrative of justice"

Rule 31(1) ***"A lawyer shall always treat the court with respect, dignity and honour"***

Rule 35 state ***"A lawyer appearing before a Judicial tribunal shall accord due respect to it and shall treat the tribunal with courtesy and dignity"***

Rule 36 (d) ***"When in the court room, a Lawyer shall –***

***"addressed his objections, request, requests, argument and observation to the judge and shall not engage in the exchange of banter , personality, display, arguments and controversy with the opposition lawyer"***

I must say without mincing words that attitude of some lawyers to the Court is not palatable at all. Circumstances abound wherein Lawyers exchange banters with Judges and also Judges in some occasions insult or pour venom on some legal practitioners all in a bid to gain superiority or supremacy.

According to Socrates he enthused thus:

***"Four things belong to a Judge: to hear courteously, to answer wisely, to consider soberly and to decide impartially."***

On the need for the Nigerian law and the Nigerian Bar Association to groom Lawyers to show respect to High Court Judges even by the manner of referring to any of them as learned trial Judge, **Sanusi, JCA** in the case of **Health Care Products (Nig) Ltd Vs. Bazza**[12] held as follows:

***"I notice that from the first to the last page of the brief there was not a single page where the learned Counsel for the appellant used the word or adjective "learned" while referring to the ' learned trial judge' be it in the issues he formulated or the arguments he advanced. In the brief he referred to the learned trial judge as simply "trial judge".***

***This is not in consonance with the ethics and practice of our noble and honourable profession. If Justices of the Supreme Court and this our penultimate court will, while addressing or referring to counsel appearing before us address them as 'learned counsel', I do not see why a counsel cannot address or refer to someone occupying an exalted position of a High Court Judge as 'learned judge' or learned trial judge'. This to me is a clear indication that the discipline and respect in this noble profession is decreasing or vanishing. We have to jealously guard the respect our profession earned for time***

[12] (2003) FWLR (Pt. 162) 1937

***immemorial. The Nigerian Bar Association should look into this and possibly embark on the exercise on re-educating the younger ones and new entrants in the profession. The Nigerian law School should look into this. See Rule 36(d) of RPC and NIMB Vs. NarindeX Trusted Ltd (1998) 3 NWLR (Pt. 582) 404."***

The next case will show clearly the lack of respect for the Court or the bench.

On the duty of a legal practitioner to properly present his client's case and insist on so doing, see the interesting case of **Adeyemi Candide Johnson Vs. Mrs. Esther Edigin**[13]

See **Olamilekan's Book at page 505**

The facts of the case are very interesting as well as humorous. The appellant was counsel to one Obong Etuk Udeng, an accused person charged before the Respondent at the Kano Magistrate Court. On 22/12/87 the following drama ensued between the appellant and the respondent:

Court t Mr. Johnson:- I would like to remind you that when next you make submission in court, you make them with utmost respect and to the court.

Mr. Johnson: - The court is obliged to record everything I say.

Court:- I record only what is reasonable to me as the law required. I do not record nonsense. It is a bloody waste of time and please keep quiet when I am talking.

Mr. Johnson:- The court should listen to me first

Court:- Please do not argue with me and stop being rude

[13] (1990) 1 NWLR (Pt. 129) 659

Mr. Johnson:- We are not in a competition here

Court:- As a judge, I sit over your cases and you should give me that respect. When did you leave the law school?

Mr. Johnson:- I will refuse to answer that question in the rudest manner

Court:- Repeat the question over time and time again.

Mr. Johnson:- Refused to answer

It was after this drama that the Magistrate found the appellant guilty of contempt and ordered his detention in prison but after pleas by other counsel in court, the Magistrate changed her mind, revoked the order of detention and warned the appellant to behave in future. Against this order, appellant applied to the Federal high Court, Kano for quashing the proceedings of 22.12/87 but the said court dismissed the application. On appeal to the Court of Appeal, the court held that the appellant did not commit any con tempt but was fully, vigorously and courageously his client's case. At page 673, the court said:

> ***"from the foregoing, I am unable to hold that the extra judicial vituperative exchange between the appellant and the respondent in the peculiar circumstances of this case amounted to contempt of court . On the contrary, I think the invocation of the power of contempt in the instant case bordered on abuse of judicial authority. It is clearly improper and will expose administration of justice to ridicule if a magistrate or a presiding officer were invested with such extra ordinary powers to provoke unnecessary extra judicial verbal exchange with counsel··· and yet invoke against him the lethal and drastic power to punish for contempt."***

At page 675 – 676 the court said:

"By virtue of Rule 3 of the Rules of Professional Conduct in the Legal Profession, a legal practitioner should not only courageously prosecute his client's case, but should vigorously present all proper arguments against any ruling he deems erroneous and should see to it that a complete and accurate case record is made, and in this regard, he should not be deterred by any fear of judicial displeasure or even punishment"

However, it is also pertinent to point out that respect is reciprocal. Where the Bar shows respect to the Bench, it behoves on the Bench to also show respect for the Bar. Countless times wherein the Bench usually scold the Bar by disgracing the Counsel in the presence of his Client(s)

I will, therefore, refer to what **Oputa, JSC (as he then was)** in a paper titled: **Judicial Ethics, Law, Justice and Judiciary,** where he brilliantly in his usual candour enthused;

***"Judicial humility is the father of many other judicial virtues. A humble judge will treat counsel will treat Counsel with utmost respect…Any judge who is humble enough to treat counsel, parties and witnesses with respect will be amazed at the reciprocity of respect that would be extended to him. A humble judge will also be a patient listener. Some irritating interruptions from the Bench stem out of the fact that the Judge in his arrogance takes over the conduct the case, when humility would have dictated that the best role that richly becomes of a judicial office is that of an impartial and patient listener."***[14]

Lawyers must and should be display positive attitude towards the officers of the various registries many a time lawyers treat the court registrars or officers of the registry with disdain and do not follow up

[14] Wole Olanipekun SAN (supra) at Page 37

service of the court process this usual result to delay in the administration of jusctice.

According to **Wahab Egbewole, Esq**[15] said thus:

***"Since we have all agreed that the totality of the work of the judiciary is that of a collective, thus what affects one, affect all, this naturally means that where one segment or unit of the court delays in carrying out his or her function, than the totality of the work of the judiciary will be affected. One major area of the cause of delay in the administration of justice as it affects the registry is in the area of knowledge essentially in the area of having to take some steps in the filing of documents and compilation records. If the registry does not do it or does not know what to do or refuses to do it in good time or does it badly, it will have basic negative effect on the entire system."***

## CONCLUSION

The practice of law is hinged on honesty, probity, hardwork and the blessings of the Almighty God.

However, some believe on luck and destiny. I agree with **Keith Harrell** earlier referred to in this paper that '**Attitude'** is life.

Equating luck and destiny to success in life may not fly in the place of positive attitude in approaching issues or doing things.

This is because the numerals of Luck, Destiny, Attitude and Altitude will show that 'Attitude' is life in every area of human endeavour. This is explained below:

L U C K

12 + 21 +3 +11 = 47%

[15] Wahab Egbemole, Esq. The role of Court registrars in the Administration of Justice in Nigeria, Published in Ilorin Bar Journal, Vol 2, page 77

D E S T I N Y

4 + 5 +19 + 20 + 9 +14 + 25 = 96%

A T T I T U D E

1 + 20 + 20 + 9 + 20 + 21 + 4 + 5 = 100%

A L T I T U DE

1 +12 +20+9+20+21+4+5 = 92%

From the above analysis, "Attitude" is 100%

I, therefore, submit , Ladies and Gentlemen that Altitude of Lawyers to their clients and Court should be 100% in order to excel in our chosen profession.

According to JAGADISH SWARUP (Former Solicitor-General of India)[16] He opined as follows on the moral character of a good lawyer.

It is fair characterization of the lawyer's responsibility in our society that he stand "as a shield in defence of a right to ward off wrong". From a profession charged with such responsibilities there must be exacted those qualities of truth speaking, of a high sense of honour, of granite discretion, of the strictest observance of fiduciary responsibility that have, throughout the centuries been compendiously described as "moral character".

**Joseph Choate** placed the moral element as necessary to the composition of the sound practical lawyer. He said; ***"if you cannot be honest, and must still live by our wits, why, in heaven's name, choose some other calling any other rather than this, whose special province and duty it is to aid in dealing out exact and equal justice to all men. Turn peddler, turn anything you can lay your hand to, but don't try to turn a dishonest penny in the sacred temple of justice. I know there are sometimes dangerous examples of wicked lawyers who have grown rich by chicanery and plunder, and rare and exceptional cases***

[16] Making of a Good Lawyer: university Law Publishing co. Pages 33 – 34

***of men reaching high places at the bar, who had thrown their conscience overboard, and exhibited the loathsome and disgusting spectacle of great talents and opportunities given them for the highest good of their fellowmen, perverted into instruments of fraud and crime. But you may be sure the scorn and contempt of mankind pursue them, and better were it for any one of you that a millstone were hung about his neck and be case into see than to aspire to follow after such false lights."***

A lawyer should never resort to petty tricks to increase his business. He should not leave a celestial bed to prey on garbage, said Justice Story. Courts will not unravel the threads that are good from the threads that are bad, but will leave the whole fabric exactly as it is woven.

Nothing, however, that the advocate can say or do is important as what the court believes him to be. Intellectually honesty and obvious sincerity carry more conviction than was ever accomplished by mere utterance.

It is most certainly true that the strictest and most scrupulous honour and virtue can alone make you esteemed and valued by mankind.

Ladies and Gentlemen, I thank you for the attention.

**ROLAND OTARU, ESQ, SAN, FCIArb, FCAI.**
**2ND APRIL, 2013**