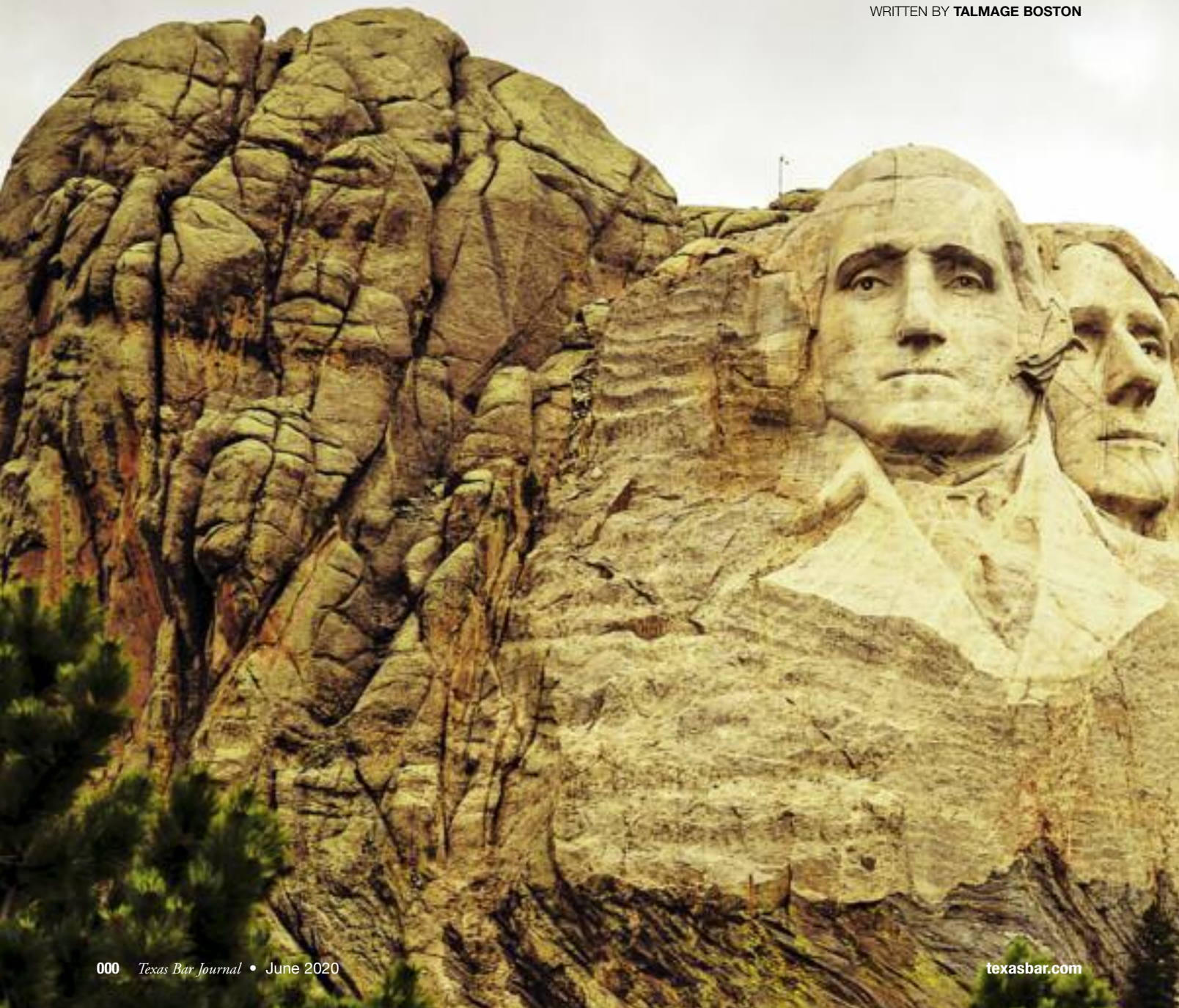
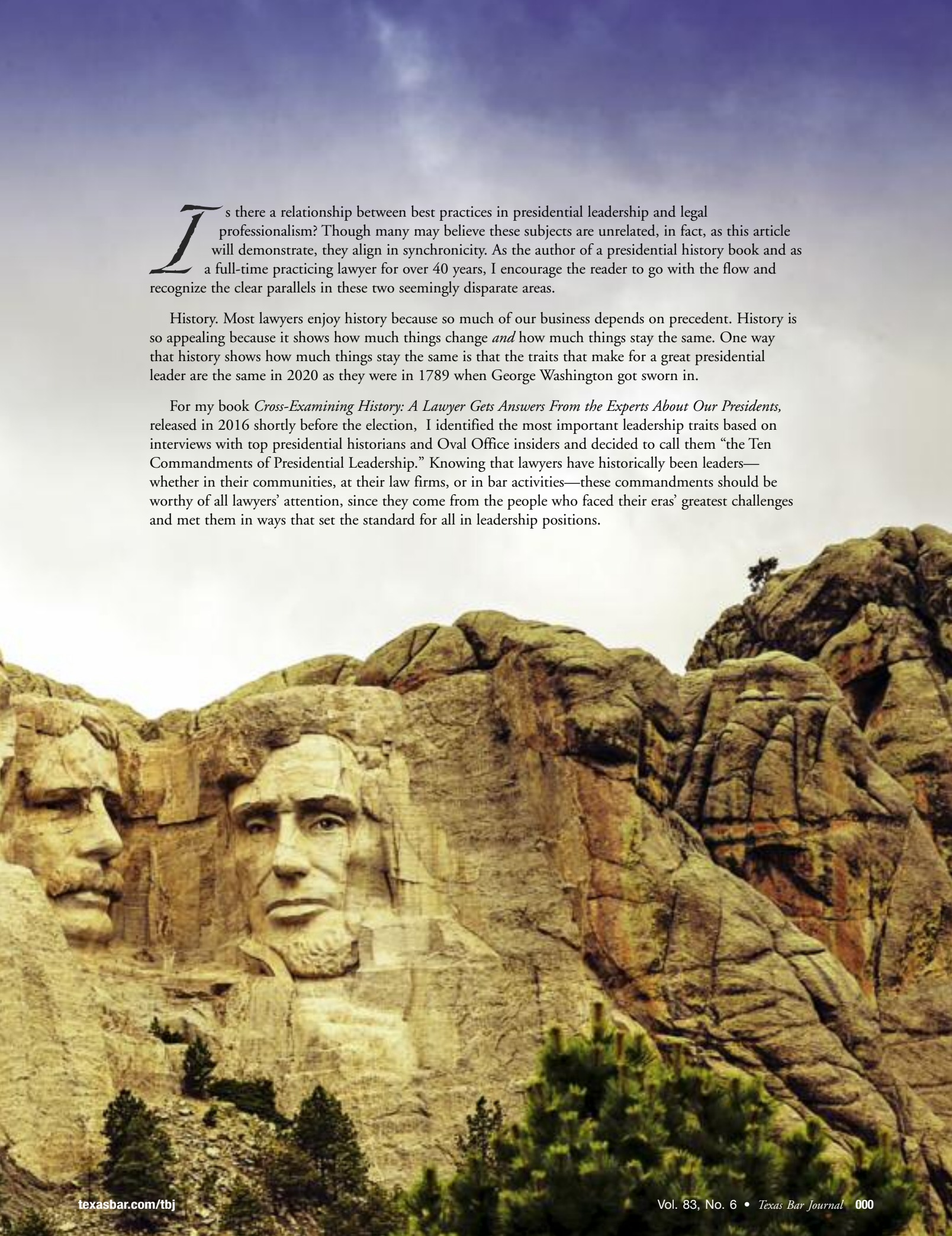


Presidential Leadership AND *Legal Professionalism*

The ties that bind—part one.

WRITTEN BY TALMAGE BOSTON





Is there a relationship between best practices in presidential leadership and legal professionalism? Though many may believe these subjects are unrelated, in fact, as this article will demonstrate, they align in synchronicity. As the author of a presidential history book and as a full-time practicing lawyer for over 40 years, I encourage the reader to go with the flow and recognize the clear parallels in these two seemingly disparate areas.

History. Most lawyers enjoy history because so much of our business depends on precedent. History is so appealing because it shows how much things change *and* how much things stay the same. One way that history shows how much things stay the same is that the traits that make for a great presidential leader are the same in 2020 as they were in 1789 when George Washington got sworn in.

For my book *Cross-Examining History: A Lawyer Gets Answers From the Experts About Our Presidents*, released in 2016 shortly before the election, I identified the most important leadership traits based on interviews with top presidential historians and Oval Office insiders and decided to call them “the Ten Commandments of Presidential Leadership.” Knowing that lawyers have historically been leaders—whether in their communities, at their law firms, or in bar activities—these commandments should be worthy of all lawyers’ attention, since they come from the people who faced their eras’ greatest challenges and met them in ways that set the standard for all in leadership positions.

When the stories of the presidents who epitomized these leadership commandments are matched with the Texas Disciplinary Rules of Professional Conduct and the Texas Lawyer's Creed, it helps explain why so many of our commanders in chief started their careers as lawyers and went about their business with the same traits that later served them well when they led the country.

Turning now to the Ten Commandments, the presidents who epitomized them, and how they apply to lawyers, let's start at the beginning with one through five (six through ten will be published in the July 2020 issue).



First Commandment of Presidential Leadership: A great leader shalt serve as his or her people's "conscience in chief."

Our great presidents have been more than the nation's commander in chief. They have also served as "conscience in chief." The president who set the standard for this commandment was George Washington.

In his youth, because he did not have a close relationship with his parents, Washington injected integrity into his mindset primarily by the way he learned cursive handwriting, as he repeatedly copied elegantly scripted words in a book that provided rules on successful living, which was authored by Jesuit priests and titled *Rules of Civility and Decent Behavior in Company and Conversation*. The idea behind the publication of these handwriting copybooks was that as a child disciplined his hand to write gracefully, he also could discipline his mind to gain clarity about how to live a virtuous life.

This certainly worked for Washington. He copied all 110 rules in the Jesuits' book hundreds of times and knew them backward and forward such that their rules became his code for living for the remainder of his life. As examples of the priests' teachings, two of my favorite rules in their copybook are:

- (i) Every action done in company ought to be with some sign of respect to all who are present and
- (ii) Labor to keep alive in your breast that little spark of celestial fire called conscience.

During Washington's presidential terms, he stayed grounded in the Jesuits' virtues that he learned from the copybooks by reading daily devotionals, attending church

regularly, and being totally committed to following the Constitution.

So how does the First Commandment's leadership trait about the need to serve as conscience in chief apply to lawyers? Paragraph nine of the Texas Disciplinary Rules' preamble answers the question: "Each lawyer's own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards prescribed by these rules." Thus, lawyers who aspire to satisfy the Disciplinary Rules' preamble must stay mindful of the copybook rule young Washington copied over and over: "Labor to keep alive in your breast that little spark of celestial fire called conscience."



Second Commandment of Presidential Leadership: A great leader shalt find ways to build consensus in order to make progress.

Building consensus is an essential part of the American success story. "E pluribus unum" has been on our money for years and means "out of many, one." Most groups in the social order have more than one faction. The great leader has the horsepower to bring factions together and build unity among them.

The president who set the standard for this commandment was Thomas Jefferson. He built consensus with those across the aisle at a fragile time in our nation's history when the Federalist Party (led by Alexander Hamilton and John Adams) was in constant conflict with the Republican Party (led by Jefferson and James Madison). The severity of the conflict between the two parties during these years was exemplified by the fact that the Federalist-controlled Congress during Adams' presidency passed the Sedition Act, which made it a crime punishable by incarceration for anyone to criticize President Adams or Federalist policies.

At that time, when our country was barely a decade old, Jefferson succeeded Adams and became president in 1801. His first objective: to get the new country to lessen its division and have its leaders start collaborating. Jefferson began his efforts to achieve this goal by emphasizing his commitment to national unity in his first inaugural address, when he told the crowd: "We are all Federalists. We are all Republicans"—thereby suggesting that *all* the nation's people, going forward, needed to stay mindful that they were *all* Americans. He then moved forward with that premise over the next eight years.

How does a leader build consensus? The great presidents

do it by building positive relationships with those within their own party *and also* with those across the aisle, because, after all, politics is about relationships. As president, Jefferson steadily enhanced his relationships with the rival party by hosting frequent dinner parties where his only invited guests were Federalist Party leaders. At those dinners, which took place month after month, year after year, over great food, fine wine, and scintillating conversation, Jefferson improved his relationships with his adversaries, causing the walls of political division to begin falling down.

How does the Second Commandment's leadership trait about the need to build consensus apply to lawyers? Paragraph two of the Texas Disciplinary Rules' preamble answers the question in the context of those situations where a lawyer represents two or more clients in a matter. "As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client." Certainly, being a reconciler of clients with divergent interests requires lawyers to build consensus.



Third Commandment of Presidential Leadership: A great leader shalt know his or her strengths and weaknesses—and find ways to use his or her strengths and supplement his or her weaknesses.

This commandment means that a great leader finds ways to partner with those who are strong in the areas where he or she is not. The president who excelled at this was James Madison. For his strengths, Madison knew he was very smart and could outwork anyone; but for his weaknesses, he knew he was very short (5'4"), very thin (only 100 pounds), had zero charisma, and also was not a creative thinker.

What did Madison do to compensate for being a scrawny little guy who got lost in every crowd? He shadowed great big impressive George Washington in early Virginia politics at the Constitutional Convention and during the early days of Washington's presidency because whenever Washington entered a room, everyone noticed. When Madison entered a room by himself, no one noticed. While Madison used Washington to grow his stature, Washington had no problem with that arrangement since it opened the door for Washington to have by his side Madison's unrivaled scholarship and brilliance at the Constitutional Convention in Philadelphia and then during the first part of Washington's presidency.

What did Madison do to compensate for lacking charisma?

He buddied up at a critical time during and after the Constitutional Convention with Alexander Hamilton, the most dynamic of the Founding Fathers. Following Washington's lead, Hamilton recognized the benefits of collaborating with Madison and knew he needed a highly intelligent, hardworking advocate to team up with to complete the writing of *The Federalist Papers*. By working together to author almost all the *Papers*, the two led the charge for getting the Constitution ratified by the states.

What did Madison do to make sure there would be full-blown creativity in play while he labored to create a new government before and after the Constitutional Convention? He decided to hitch his wagon to the star power of Thomas Jefferson, a creative genius, and the high-flying Jefferson was smart enough to know that some of his ideas were off the wall, and, thus, needed someone levelheaded like Madison to bring his thoughts into the realm of reality.

How does the Third Commandment's leadership trait about the need to align oneself with persons having talents missing from one's personal toolkit apply to lawyers? Paragraph two of the Texas Disciplinary Rules' preamble answers that question where it contrasts the duties between a lawyer who is a zealous "advocate" and an attorney who is a "negotiator." In the modern era of litigation, the attitude and conduct of zealous litigators have often caused roadblocks on the road to dispute resolution. In those circumstances, the self-aware, hyped-up trial lawyer should bring into the case at the appropriate time a "settlement" negotiating lawyer—typically a mediator—who can calm the tension and animosity of litigation that arises in hard fought cases and become a calming "agent of reality" capable of achieving resolution prior to trial.



Fourth Commandment of Presidential Leadership: A great leader shalt have the capacity to persevere over setbacks.

The president who epitomized this commandment was Franklin Roosevelt. Until age 39, Roosevelt led a vigorous life—enjoying golf and other outdoor recreation activities, dancing with gusto at society balls, and frenetically working crowded rooms to fulfill his high political ambitions. Then, from out of nowhere, polio hit him in 1921 and his legs stopped working for the rest of his life. Many biographers have profiled FDR's steadfast resolve and first-class temperament in response to being blindsided by this disability, and how through it all, he managed to keep a smile

on his face and maintain his self-confidence.

By dealing positively and tenaciously with the nightmare of enduring a permanent disability, Roosevelt became the man who could make the country believe “we have nothing to fear but fear itself” in the midst of the Great Depression. Furthermore, by defying polio, he proved the wisdom of mythologist Joseph Campbell, whose research led him to the conclusion that “where you stumble, there lies your treasure.” In response to losing his leg power, FDR developed character resources that were unknown to him pre-polio: traits like empathy and humility—i.e., emotional intelligence “treasures”—which empowered him to rise up, appeal to a broader political spectrum, and have more political success than he had ever had before.

How does the Fourth Commandment’s leadership trait about maintaining the steadfast resolve necessary to persevere over setbacks apply to lawyers? Comment six to Texas Disciplinary Rule 1.01 answers this question: “A lawyer should feel a moral or professional obligation to pursue a matter on behalf of a client . . . despite opposition, obstruction, or personal inconvenience.” In handling contested matters, a lawyer invariably will have to confront setbacks—whether it be a judge’s unfavorable ruling, a witness who underperforms, a client who runs short of funds, or an opposing counsel who lives to disrupt the flow of a case. To satisfy the Disciplinary Rules, lawyers must persevere and find ways to power through opposition and obstruction.

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Fifth Commandment of Presidential Leadership: A great leader shalt play hardball when necessary to achieve his or her goals.

A modern president who excelled at this commandment was Dwight Eisenhower. In 1956, as he completed his first term and just a week before the election that would gain him a second term, America’s longtime allies England, France, and Israel joined forces, invaded Egypt, and seized the Suez Canal in contravention of Ike’s direct request that they not do that. The three countries believed that President Eisenhower would do nothing about their forbidden invasion for fear of his losing the Jewish vote in the upcoming election. They were wrong. When Ike learned of their actions, he responded immediately by instructing his secretary of the treasury to make a run on the British pound, which he did. President Eisenhower then told Britain’s prime minister that if the Brits, French, and Israelis did not withdraw from the Suez, he would do what it took to drive the pound’s value down to zero. Britain had no choice. It had to get all troops removed from the Suez.

How does the Fifth Commandment’s leadership trait of playing hardball when necessary apply to lawyers? Paragraph three of the Texas Disciplinary Rules’ preamble answers the question: “In all professional functions, a lawyer should zealously pursue clients’ interests within the bounds of the law.” Zealous lawyering means playing hardball with fire in the belly within the bounds of the law to get the best possible result for the client.

After now seeing how closely the first five of the Ten Commandments of Presidential Leadership align with the Texas Disciplinary Rules of Professional Conduct and the Texas Lawyer’s Creed, is it any wonder why of the 45 men who have served as president of the United States, almost 60% have been lawyers? Yes, the traits that make a presidential leader great are also what make a lawyer become a consummate professional. Thus, it might be useful for the lawyer who aspires to elevate his ethics to start boning up on best practices in presidential history. **TBJ**



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