



WHY ETIQUETTE MATTERS - INSPIRATIONS FROM C C TAN AWARD RECIPIENTS

"Begin with the end in mind"

- Stephen R. Covey, *The 7 Habits of Highly Effective People*¹

Introduction

As a newly called lawyer, the furthest question from your mind now is probably: *"How do I want to be remembered within the legal profession?"* But beginning your legal career with the end in mind is important, as there is no better time than now to set your ethical compass in the correct direction. As Stephen Covey observes, *"start with a clear understanding of your destination ... so that you better understand where you are now and so that the steps you take are always in the right direction"*.²

As you begin your legal career, there is no better reference point than the exemplars set by the recipients of the C C Tan Award. Since 2003, the Law Society has presented an annual award to a member of the Bar who exemplifies the highest ideals of the legal profession - honesty, fair play, gentlemanliness and personal integrity. The award is named after the first President of the Law Society, Mr Tan Chye Cheng, or C C Tan as he was widely known, who embodied these ideals. Etiquette is reflected in many of these qualities.

Why does etiquette matter? Practically speaking, many rules of etiquette have been codified as ethical rules in the Legal Profession (Professional Conduct) Rules 2015 (**PCR 2015**), which carry not only disciplinary consequences, but also legal ramifications in some cases where, for example, one's legal and ethical duties to the client overlap.

More importantly, etiquette underlies the core of lawyering - it is not merely a list of do's and don'ts to observe. Etiquette is an integral component of a lawyer's DNA, without which professional victories are merely empty or even Pyrrhic ones. Stephen Covey's principles-based framework illustrates that private victories are as important as public ones.

Let's look at the inspirational observations, anecdotes and advice from the citations and acceptance speeches of some of the C C Tan Award recipients.³

1. What it Means to be a Good Lawyer

In your journey through legal practice, remember to keep your eye on the ball. As Mr Joseph Grimberg SC (2007), observed in his acceptance speech, *"[t]he qualities for which Mr C C Tan stood, and which he exemplified, are not difficult to achieve if one avoids the hazards. The three main hazards, in my opinion, are greed, acquisitiveness and disinclination to work. You see the results of these flaws everyday when you open your newspaper."*

In a similar vein, Ms Phyllis Tan Poh Lian (2010), the first female President of the Law Society who was inducted into the Singapore Women's Hall of Fame in 2018, advised young lawyers *"not to be distracted by the many temptations coming their way"*, but *"to stay focused"* and *"to do your work to the best of your ability to bring respect and distinction to the honourable profession you have chosen"*.



Integrity and courage are the hallmarks of a good lawyer. Another former female President of the Law Society, Mrs Arfat Selvam (2015), emphasised that *"integrity is the most important single element in being a good lawyer"*, for *"[o]ne can always look up the law in a book, but only oneself will know what is meant by honesty and integrity"*. On courage, Mr K S Rajah SC (2008), observed as follows:

"In C C Tan's time the true worth of a lawyer was judged by the qualities he exemplified. It was not determined by the millions a lawyer earned. Courage to stand up and say what was right and fair was valued."

Indeed, Mr C C Tan's reputation is *"the kind of legacy that cannot be acquired just by handling the biggest cases, earning big fees, or having the best offices"*, as pointed out by Mr Chandra Mohan K Nair (2016). Challenging as it may be to live up to Mr C C Tan's ideals in *"today's material world where everyone is focusing on the bottom line"*, Dr Gopalan Raman (2014), called on young lawyers to strive to pursue their professional ideals as well. For an example of a lawyer's courage in taking up unpopular causes, there is no better account than the acceptance speech by Mr Peter Low (2017).

2. Fair Play

Remember the secondary school student who asked the umpire to rule out a goal scored by his team in an inter-school hockey match because the opposing side was not ready following an injury stoppage? His team eventually lost the match, but he won "The Straits Times Athlete of the Year 2018" award for displaying fair play and sportsmanship.

Examples of fair play (and its opposite) can be seen in the legal profession too, as gathered from the anecdotes of some of the C C Tan Award recipients. For example, Mr Amolat Singh (2019), shared as follows:

"I have also been brought up to be fair and courteous to opposing counsel. I always give the opposite side my submissions well before the hearing although I have not always been returned the courtesy. Just recently, I was served the other side's lengthy submissions at 8am for a hearing fixed at 9am."

Similarly, the citation for Mr Michael Hwang SC (2012), noted:

"Another ex-colleague of his tells me that Michael is the only lawyer he's known in private practice who would insist that his bundle of authorities be provided (not exchanged) to the other side before the hearing date. Michael's view is that the authorities are all there, and in any event, it is the advocate's duty to provide all authorities (whether in one's favour or not) to the Judge."

The ethical duty to furnish adverse authorities to the Court is now found in Rule 9(3)(a) of the PCR 2015, but this was not even necessary in the old days as recounted by Mr Tang See Chim (2011):

"... We never pulled wool over the Judges' eye. Where there was an authority against our case, we would still quote it, but distinguished it, and tried to convince the Judge that it should not apply to our case. There was trust between Bench and Bar. A statement made from the Bar would be accepted by the Court. Judges would help the young lawyers along so long as justice was not compromised."



The Singapore courts have also consistently emphasised the importance of fair play. Do bear in mind the following non-exhaustive pointers from recent case law:

- Adhere to the spirit of the law, and not just the letter of the law – as officers of the court, you should not pursue victory at all costs, regardless of the means.⁴
- In family proceedings, do not conduct litigation in a manner that would prevent an open and fair hearing as it is contrary to the restorative principles of family justice.⁵
- Keep your counterpart, and especially the court, apprised of any issues with complying with the Court's directed timelines.⁶
- Obtain the leave of court if you: (a) cannot comply with the Court's direction to attend court personally to receive judgment;⁷ (b) wish to make further submissions after the Court has reserved judgment⁸ or beyond what the Court had directed;⁹ or (c) need an extension of time to file and serve written submissions.¹⁰
- Do not conceal your reliance on evidence or introduce new evidence at the eleventh hour, in order to deny the opposing party proper notice of it or an opportunity to respond to it substantively.¹¹

3. Do Not be an Automaton

On several occasions, the Singapore courts have cautioned against counsel acting as their clients' "mouthpieces". Recently, the Singapore Court of Appeal has emphasised that counsel are not "*mere automatons, executing every instruction of the client, especially where the client wants each and every point to be taken in order to inflict maximum 'damage' on the other party, and where the taking of such points is – in a word – pointless and would not only engender a wastage of the other party's, but also the court's, time and resources*".¹²

How should a lawyer exercise proper etiquette in representing his or her client's interests? Mr Michael Hwang SC (2012) had this to say:

"And on the other side of the coin, I also remember several clients (invariably in matrimonial cases) who discharged me on the grounds that I was not being aggressive enough to their spouse. Indeed, one client told me 'You are being far too gentlemanly'. And I treated that as a badge of honour. Somehow, I cannot bring myself to say everything that such clients want me to say on their behalf to their spouses, because I don't believe in being hurtful for its own sake if that does not advance my client's case or objectives any further."

The citation for Mr Leo Cheng Suan (2018) also recounted a similar anecdote:

"A member of this Council remarked that he had previously instructed Leo on a few occasions and said this, 'I had seen him stand firm against a client who wanted to draw the opponent's blood. Cheng Suan's refusal to do so earned my respect."

You should also guard against taking on the persona of your client, as it will likely lead to a loss of "objectivity and sense of perspective". This will often, in turn, result in breaches of etiquette, some of which may have serious consequences.¹³



4. Keep Communications Civil

In his acceptance speech, Mr Amolat Singh (2019), shared the following humorous anecdote:

*"Likewise, do not be misled by how some senior lawyers engaged in a feud may have written to each other. A senior lawyer wrote a letter to his equally senior opponent starting with: **"We are perturbed with your client's allegation, etc, etc."** To this, I was very surprised to read a simple one-liner reply: **"You may wish to remain perturbed!"***

Mr Singh's anecdote belies a serious point: exercising restraint in communications with other lawyers and third parties is critical to proper etiquette. As noted in a recent family case, "[a]ntagonistic correspondence does nothing to assist the parties, or the Court, and further fuels the fires of blame."¹⁴

Here are some practical pointers from recent case law to bear in mind:

- Before you intervene and issue correspondence to the other party in the name of your client in a contentious matter, you should "first pause and consider the tone in which [your] correspondence is crafted".¹⁵
- After the Court has reserved judgment, do not exchange long acrimonious letters with your counterpart and copy them to the Court. While "[l]awyers are entitled to write to each other", "their letters should not be copied to the court in breach of the peace in which the court is considering their final submissions without further material that might influence the court".¹⁶

- Do not make personal attacks on the opposing counsel. The High Court noted in a recent case that disparaging assertions made in closing and reply submissions that insinuated that the opposing counsel was "unprofessional and/or inept" were "wholly inappropriate and uncalled for".¹⁷
- Do not use intemperate language or make baseless attacks regarding an adjudicator's impartiality or competence. As noted in another recent High Court case, "the mere fact that a tribunal or a court rules against a litigant cannot be a basis for the litigant to allege that the tribunal or court is therefore biased or incompetent".¹⁸

Conclusion

Before you embark on your exciting journey ahead, let me leave you with the words of Mr George Lim SC (2013): "Not all of us who graduate and get called will turn out to be brilliant lawyers. However, all of us can try to practise law with a conscience." I hope that you have been inspired by the C C Tan Award recipients to aim to attain the finest and noblest virtues of the legal profession.

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References

1. Stephen R. Covey, *The 7 Habits of Highly Effective People: Restoring the Character Ethic* (New York: Free Press, 2004).
2. *Id.*, at p. 98.
3. The citations and acceptance speeches of some of the earlier C C Tan Award recipients were unfortunately not available on the Singapore Law Gazette website.
4. *Goh Seng Heng v Liberty Sky Investments Ltd and another* (2017) 2 SLR 1113 at (62).
5. *UJN v UJO* (2018) SGFC 47 at (59).
6. *UNO v UNP* (2018) SGFC 66 at (16(b)).
7. *Mumtaz Enterprise Pte Ltd v Kaki Bukit Developments Pte Ltd* (2017) 5 SLR 898 at (12).
8. *Lakshmi Anil Salgaocar v Hadley James Chilton and others* (2018) 5 SLR 725 at (109); *Wan Hoe Keet and another v LVM Law Chambers LLC* (2019) SGHC 103 at (12).
9. *Re Zetta Jet Pte Ltd and others* (2018) 4 SLR 801 at (40).
10. *Gulf Petrochem Pte Ltd v Petrotec Pte Ltd and others* (2018) SGHC 83 at (186); *UNO v UNP* (2018) SGFC 66 at (16(b)).
11. *UJN v UJO* (2018) SGFC 47 at (58); *Great Eastern General Insurance Ltd and another v Next of Kin of Md Sharif Hossain Rana Abdul Malek* (2020) SGHC 64 at (35).
12. *BOI v BOJ* (2018) 2 SLR 1156 at (3).
13. *BOI v BOJ* (2018) 2 SLR 1156 at (5).
14. *VJL v VGM* (2020) SGFC 59 at (64).
15. *VJL v VGM* (2020) SGFC 59 at (64).
16. *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd and others* (2020) SGHC 29 at (24).
17. *Eller, Urs v Cheong Kiat Wah* (2020) SGHC 106 at (145).
18. *Great Eastern General Insurance Ltd and another v Next of Kin of Md Sharif Hossain Rana Abdul Malek* (2020) SGHC 64 at (36).