



The Lawyer's Oath and the Rule of Law

Wisconsin lawyers represent a remarkable and extraordinarily diverse population – in their paths to becoming lawyers, the hurdles they overcame, the range of clients they serve, the causes they passionately champion, and the many ways they contribute to their communities in which they live. I have been privileged to be a part of this professional community for nearly 50 years.

Despite their differences, all lawyers have at least two things in common – each has taken an oath that affirms both their privilege and their responsibilities and, by becoming

members of the bar, each has agreed to follow our Supreme Court's Rules of Professional Conduct for Attorneys.

The Attorney's Oath is a public promise to "support the constitution of the United States and the constitution of the state of Wisconsin [and] maintain the respect due to courts of justice and judicial officers." Its importance is underscored by its inclusion in our disciplinary rules where violation of the oath can subject a Wisconsin lawyer to professional discipline.

Similarly, the preamble to the rules of professional conduct emphasizes that each Wisconsin lawyer is "a public citizen having special responsibility for the quality of justice" who should "further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority."

The recent actions of our current administration have been described as an unprecedented attack on the rule of law with the apparent end of establishing unchecked power in the executive branch while weakening the legislative and judicial checks and balances that have been the core of American democracy since the birth of our nation. We have a president who stands convicted of more than 30 felonies, who has stated publicly he doesn't know if he is required to follow the Constitution, and who has claimed that his actions are not illegal if, in his view, they "save" the country.

A substantial majority of the federal courts that have considered his actions have taken a different view, with more than 100 courts finding his actions unlawful and exceeding his constitutional authority. Hundreds of additional lawsuits challenging the administration are pending, all of these only a few months into his term of office.

Leadership in Congress, even those who are lawyers, have done nothing. Do we as lawyers have any responsibilities in these times? What is required for us to "support the constitution" and what exactly are our "special responsibilit[ies] for the quality of justice"?

How each of us chooses to answer these questions will impact the future of our families and communities and the future of our system of government. Silence and inaction may be too great of a risk to take.

Ben Kempinen

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The opinions expressed in this comment are those of the author alone. **WL**

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