

Commentary

MICHAEL CAVENDISH

Chaining Bellerophon: On Ethics and Pride

THE TALE FROM Greek mythology about Bellerophon proceeds like this. Bellerophon was the greatest warrior of his age. He rode Pegasus, the winged flying horse. Bellerophon wielded a great spear and slayed an unbeatable, intractable monster: the Chimera. Returning home, the warrior quickly became bored, then—much to his regret—decided to ride Pegasus up to the peak of Mount Olympus to rub elbows with his equals—the gods. But the peak was too far for him, and his successes came to an end: Bellerophon died.

Lessons on pride did not end with the Greeks. William Shakespeare wrote a barn burner of a play on the subject titled *Coriolanus*. If you want to experience an example of hubris so intense that it blushes the hearer as foul language would, borrow the Arkangel recorded version of the play from a public library and listen to it for a week during your lunch breaks. The protagonist in the play, Caius Martius, called Coriolanus after single-handedly capturing the rival city of Corioles in Conan-like fashion, is a perfect facsimile of Bellerophon, except that his bridge too far, his version of the Greek hero's assault on Mount Olympus, was his postvictory toxic relationship with his fellow citizens—a group that would have adored him after his great conquest had he only put away his own greatness for a while.

Other case studies dealing with the problems caused by pride can be found in literature, history, and mythology. But a Greek tale drives a message like a nail. Of course there aren't really any flying horses, chimeras, or mountain-dwelling, privacy-loving deities. There weren't any in Athens or in Sparta back in 1000 B.C. either. Yet today, we have some things that the original hearers of the Bellerophon story would identify as closer to their proud, flawed storybook hero than anything they ever encountered at the temple or the forum.

Today we have trial lawyers: heroes, both authentic and self-styled, flying about on winged jets and wielding weapons of words and ink against unbeat-

able, intractable monsters of injustice. And, to retreat further into the figurative, we have lawyers in general, who, finding themselves in what is often the zero-sum universe of the criminal and the civil law—one side does usually fare better than the other—feel the flush of success and the subsequent Bellerophon impulse to move on to some feat that is even larger than the one that came before. Lawyers need Bellerophon, because the lesson to be learned from Bellerophon's story is the imperiling nature of hubris (a billowing pride) specifically and pride more generally.

Pride and lessons following even mild humiliation or embarrassment catalyzed by pride-based vignettes are an inescapable part of the human experience. The last such incident for me occurred when I traveled to a mixed meeting of potentates and peons (I was the peon) who were presiding over an audit of a large and rich state government agency during my home state's gubernatorial transition. Arriving early, I was greeted by a conclave of mayors, senators, sheriffs, and dignitaries, and I had to decide quickly whether to exist among them as an aristocrat's child—seen but not heard—or to attempt to “take my place at the table” and “punch above my weight,” as it were. I decided to try both a place and a punch, took the best available seat, and quickly learned that I was occupying the still warm throne of the agency's secretary, who was out taking a call. This was an embarrassing moment and, for me, a quick and effective mini-lesson.

Lawyers need more of these kinds of lessons—or they need to spend more time reflecting on the fate of Bellerophon—than others need. Lawyers are not allowed to feel the full range and frequency of human emotions on the job. We cannot be greedy in the way we set our fees or the manner in which we handle monies entrusted to us. We cannot be too emotional or empathetic in our analyses, lest we ignore rules of law that control our fact patterns. Consistent with these restraints, lawyers ought not be too proud, and they ought not create the trappings of pride when dealing with others, because in lawyering, the Bellerophon assault—that bridge too far that was targeted out of sheer ambition and proud momentum—can imperil the ethical rules that bind us.

Consider the prosecutor with the unblemished trial record; or the plaintiff's lawyer with the string of staggering jury awards; or the criminal defense attor-

ney written up in the newspapers for always conjuring up hooks that wind up acquitting her clients; or the government agency counsel who “wrote the book” on his agency’s subject matter; or the sky-dwelling commercial lawyer featured in the glossies, swooping into the most major cases like the pale horseman from Revelations, only suited in Canali; or the town’s toughest divorce lawyer. These are the archetypes—but only stereotypes, really—of lawyers susceptible to overweening pride. Pride follows humanity, which inescapably means that pride affects us all, vanishing from no one.

Excessive pride in lawyers has quarrelsome psychological effects. In the first instance, it creates a lust for what Bellerophon wanted—something better and better—the actual lay of the land be damned. This is a kind of mania, from which the psychological state described as manic derives. In the second, overweening pride changes the pride-bearer’s self-perception. If the self is better and worthier, is not the self better and worthier than others are, the Ego suggests? A kind of narcissism ensues, under the spell of which the pride-bearer perceives himself or herself to be naturally more correct than others are. Full-blown in the worst examples, this is a documented psychological condition known as narcissistic personality disorder. But in the milder cases of self-inflation that we are discussing here, this subtle shift in self-perception can lead the proud lawyer to sense that his or her, say, knowledge of the law, reading of a case, or analysis of certain facts is inherently more accurate and trustworthy than, say, the court’s are. And so often—and tragically—this is not the case, although the overly proud lawyer does not sense the cold reality of this fact.

These psychological effects of too much pride create candor-to-the-tribunal problems. A lawyer, fresh from a victory—a chimera having been defeated—with pumping arteries, perceives that he spies a path through a mountain of case authority certain to bring him into the amazed gratitude of the judge to whom he presents his argument and charges upward to where a more ordinary lawyer could never aspire. Only there was never any path—the cases simply built a wall of slippery rock not fit for climbing. And the lawyer’s problem upon falling is not merely failure—the lawyer has not been candid to the court about the nature of the mountain’s face—it has created a situation that is unethical and, depending on the intensity of the transgression, can result in additional consequences, ranging from the judge’s annoyance, to sanctions, to formal censure.

Another reason why lawyers need Bellerophon’s tale more than others do is that we carry innocent riders aback of our saddles—our clients. When Bellerophon went down, he died alone. When a lawyer goes too far—unless it is for a cause that is in the realm of grasping for a professional superlative, applying for a public office or membership in an

honorific society, or fighting with partners over money—the client who is along for the ride experiences the same punishment that the lawyer does. Thus, excessive pride in lawyers raises a second ethical danger—that of creating an unrealistic expectation of the outcome in the client’s mind.

After steering a single case related to scrap metal torts to conclusion, a lawyer might be tempted to say: “I’m the king—no, the emperor—of those torts.”

It is the lawyer’s pride speaking, but not with ethical accuracy. So too, an attorney’s engagements come to an end, but the office bills, as they say, do not. And most every lawyer, once having found a mallet and a peg—and a hole in which the peg fits—would want to repeat the process of fitting the peg in the hole for a fee. But if scrap metal torts dry up and the next wave of work in a conquering tin magnate’s hamlet is focused on the arbitration

of sump pump futures arbitration, and this lawyer grabs spear and steed and simply charges—and loses—think of the legitimate competence questions the client could raise. Win or lose, in the course of this charge, this lawyer could have unethically misled the client about the risks of the case as well as the probabilities.

Hubris fills up the overly proud lawyer, as hydrogen stuffs a blimp, and risks pushing that lawyer’s acts past the ethical boundaries of the profession. Self-inflation might cause a lawyer to fail to expedite litigation, demand a procedural concession that is unfair to an opposing party, express to a court a personal opinion about the justice of a cause, or write a preening and uncivil brief. Ask a judge or mediator over lunch how many times he or she has heard a lawyer respond to a legitimate challenge with “I think you know my firm’s reputation,” or “We at the [Biggles & Hohenzollern] firm do not take frivolous positions,” or even “I have been practicing for more than 20 years.” These reactions are the tiny seeds of what can grow into hubris. Even as small as they are initially, they elevate pride over substance, and when it comes to the substance of ethics, they might indicate overweening pride.

If only Bellerophon, or Caius Martius, or one of our hypothetical hubristic lawyers described above had paused after his or her grand accomplishment, perhaps asked a friend how his or her day was going, comforted a loved one, taken out the garbage or cleaned out a briefcase, or splashed some cool water

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on his or her face, that individual would have stayed happy and healthy and the toast of the town for a long, long period. The failures of these hubristic folks are our lessons—lessons that help us avoid the embarrassment, humiliation, and yes, potential penury of ethics that lurk for every lawyer.

A Bellerophon resides within the mind of every lawyer. This potential is what spurs us to win, to tackle challenges, to be unafraid of harrowing tasks, to slay our personal chimeras. But after success, that same Bellerophon-of-the-brain bubbles up with the scent of excessive pride and causes us to feel the impulse to scale Mount Olympus. It is at these times that this part of our selves should be chained, sentenced to wallowing in temporary boredom and a lack of action until our other personality traits and fragments—experience, humility, self-knowledge, logic, and empathy, to name a few—can arrive in Bellerophon’s wake and round off the immediate, sharp impulse to reach higher heights until the landscape is honestly examined. Chaining that Bellerophon within the minds of conquering lawyers protects them from affronts against their ethics at the

very moment when they feel the most invulnerable and least in need of caution or perspective. And so each time we suspect that we might be in danger of overweening pride, of costly hubris, we can reverse our minds’ eyes to gaze on the canvas of inner thought and inquire, “Is what I am tempted to do the defeat of a mere chimera or an attempt to scale the heights of Olympus?” TFL

Michael Cavendish is a commercial litigation partner with the Jacksonville, Fla., office of Gunster, Yoakley & Stewart, PA. He chairs the American Bar Association’s Ethics Subcommittee to the Trial Evidence Committee and sits on the Florida Bar’s Civil Procedure Rules Committee.

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