

**Speech In Conjunction of the Admission of Advocates in the High Court of Sabah and Sarawak at Kuching High Court delivered by The Honourable Justice Yang Arif Tuan Leonard David Shim, High Court Judge on 27<sup>th</sup> May, 2025**

1. This morning, I have the pleasure of hearing 13 petitions for advocates' admission to the Sarawak Bar and have granted it in accordance with s.6 of the Advocates Ordinance of Sarawak. Let me take this opportunity to congratulate all of you and your parents and family on your admission to the Sarawak Bar. Take pride in the knowledge that your many years of hard work and perseverance as a law student has culminated in recognition by this Court. In granting your petitions, you have become full-fledged members of the Sarawak Bar and are entitled to practice as an advocate of the High Court of Sabah and Sarawak at Sarawak.
2. On a significant occasion such as this, our long standing tradition dictates that I should offer you some words of advice on practice as an advocate.
3. Concerning legal practice, I would touch mainly on 2 areas, namely, continuing legal education and professional conduct and etiquette. The importance of continuing education cannot be overstated. To borrow some words of wisdom by Benjamin Franklin, a founding father of the United States - *"An investment in knowledge pays the best interest"*. And a Nobel Prize winning theoretical physicist, Albert Einstein once said *"Wisdom is not a product of schooling but of the lifelong attempt to acquire it Intellectual growth should commence at birth and cease only at death"*.
4. Therefore, it is important that you continue to learn and keep abreast with the developments of the law in Malaysia and the commonwealth including amendments and passing of state and Federal laws and statutes. Proceedings in the Sarawak Courts are primarily conducted in English with some exceptions. Not only must you have a good command of English but you must strive to master the skill of making good legal arguments in English to enhance your advocacy skills. You would need to familiarize yourself with the rules of procedure and practice provided in the Rules of the Court 2012 and make use of the available legal research tools with the aid of computer and information technology.

5. Speaking on the paramount duty of counsel, RK Nathan J had this to say in **Alber Sdn Bhd v Emville Sdn Bhd (2001) 2 AMR 1465**:

*“It is the paramount duty of counsel to thoroughly research the law and assist the court to arrive at a just decision. It is not the duty of the court to do its own research in every case for otherwise there would be no need for advocates, because litigants need only to present their problems to the judge who can, based on his own research, make a reasoned decision. But that cannot be the law. It is incumbent and indeed it is the onerous duty of every counsel to present to the Court before whom he is appearing, his copious and extensive research in support of his case. Anything short is tantamount to abdicating one’s duty as an advocate to his client and as an officer of the court, to the court.”*

6. Apart from improving your legal knowledge and skills, you must observe and be guided by the rules governing professional conduct and etiquette prescribed in the Advocates (Practice and Etiquette) Rules 1988. This will go a long way towards your career development and advancement in your legal practice, standing and reputation in the legal fraternity in time to come.
7. At this juncture, it is appropriate to point out that under Rule 18 of the said Advocates (Practice and Etiquette) Rules 1988, the conduct of an advocate before the Court and in relation to other advocates shall be characterised by candour, courtesy and fairness. Rule 31 provides that *“Every advocate shall at all times uphold the dignity and high standing of his profession”* and Rule 33 states that *“An advocate shall treat adverse witnesses and parties with fairness and due consideration and he shall not minister to the malevolence or prejudices of a client in the conduct of a case”*.
8. As an advocate, you are an officer of the Court. It comes with heavy responsibility. The duty to protect the confidential information of the client and the requirements of solicitor – client privilege is embedded in the work of an advocate. It is crucial to conduct a proper case analysis and prepare your case well in advance. Once you have identified the cause of action and issues in dispute, you must know the facts and the applicable law very well in order to give legal advice, prepare pleadings, witness statements and present the evidence required to support your case and persuade the Judge to accept your submissions based on the evidence, fact and law. The way you present your case to the

Court is highly significant. You must possess a high degree of integrity and honesty in performing your duties as an advocate which is owed not only to your client but above all, to the Court. On the highest duty of counsel, it is fitting to quote the salutary reminder of the Chief Justice of Malaysia, Tun Tengku Maimun Tuan Mat CJ in **Nivesh Nair Mohan v Dato' Abdul Razak Musa, Pengerusi Lembaga Pencegahan Jenayah & Ors (2021) 8 CLJ 163** as follows:

*“[36] We pause for a moment here to note that our case law is replete with reminders to advocates- whether from the Bar or public service – of the onerous duties of those in the legal profession. The highest duty of counsel – a duty which supersedes his or her duty to his client- is his duty to the court, which remains paramount in the administration of justice. Counsel are expected to make out their best client’s case to the best of their abilities but they cannot adopt the mindset that they must “win at all costs” if that results in misleading the Court or approbating and reprobating before different panels of the court.”*

9. On the matter of honesty, honour and integrity of an advocate, it is appropriate to quote the immortal words of Lord Denning in the case of **Rondel v Worsley** as follows:

*“As an advocate he is a minister of justice equally with the judge. He has a monopoly of audience in the higher courts. No-one save he can address the judge, unless it be a litigant in person. This carries with it a corresponding responsibility..... It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do what he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously mis-state the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are against him. He must see that his client discloses, if ordered, the relevant documents, even those that are fatal to his case. He must disregard the most specific instructions of his client, if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honour.”*

10. In a lecture on the topic ‘Honest Advocates: Cultivating Integrity in Early Legal Career’ Dato Nordin Hassan, Federal Court Judge gave the following advice:

*“When lawyers act with professionalism, they earn the respect of the Courts, their peers, the trust of their clients, and the confidence of the public. Professionalism fosters an environment of fairness and mutual respect within the legal system, ensuring that every person, regardless of their background or status, has access to competent and ethical representation.*

*Together, integrity and professionalism define a lawyer’s character and guide them in their service to the law and their clients. They are the foundation upon which the trust that society places in the legal profession is built. Without integrity, a lawyer is merely a technician; without professionalism, a lawyer is just an individual with legal knowledge. But with both, a lawyer becomes a trusted advocate for justice, a role model for future generations, and a beacon of trust in a world that often seeks truth and fairness.”*

11. These are some of the essential reminders on the importance for advocates to maintain the highest standards of professionalism and integrity. It could well be the determining factor in the success or failure of an advocate and chart the course of his or her destiny in legal practice.
12. This advice applies with equal force to advocates who undertakes conveyancing and corporate practice. An up to date knowledge of the law and a high level of professionalism and ethical conduct is required when drafting legal agreements or documents that defines and safeguard the rights of your clients. Caution should be exercised to avoid being in a position of conflict and it is prudent to advise each party to a transaction to seek independent legal advice before the agreement is signed. In the event of a dispute, questions may arise as to whether your actions or advice are sufficiently independent and the validity of the documents prepared by you may one day be scrutinized and tested in Court.
13. On public service, you may begin by undertaking Yayasan Bantuan Guaman Kebangsaan cases to assist in providing legal representation to those who could not afford legal counsel and in the process, you would gain valuable experience and insights on the criminal justice system in Malaysia.

14. Your journey as an advocate has just begun. As you embark on the long and challenging journey ahead to advance your career and legal practice, the cardinal values of honesty, integrity and ethical conduct when discharging your professional duties are essential and must not be compromised or waver. With this in mind, i wish each of you every success in your career and chosen profession and hope to see some, if not all of you appearing before me in the near future.
15. I will now direct that upon payment of the prescribed fees, the Registrar do enter the names of the petitioners in the Roll of Advocates kept in this Court.

**Dated this 27<sup>th</sup> May, 2025**

**(LEONARD DAVID SHIM)**

**Judge**

**High Court Kuching**