

WHITE PAPER ON LAW SCHOOL ORIENTATION PROGRAMS

I. INTRODUCTION

In March 1999, the New York State Judicial Institute on Professionalism in the Law (the “Institute”) was officially brought into existence by an Administrative Order of the Chief Judge. The Institute serves as a permanent commission dedicated to nurturing professionalism among the members of the legal profession. It supports the organized bar, law schools and other institutions in undertaking effective programs for the promotion of professional behavior, and stands as a permanent forum in which the various constituencies of the profession can convene regularly to study and speak to issues pertaining to ethics and professionalism. It is loosely modeled on existing judicial commissions in New York State that address issues affecting minorities, women and children. Though formed under the umbrella of the Unified Court System, these entities have a proven record of independent and effective operation.

In furtherance of its charge, during the fall of 2001, the Institute’s Chair, Louis Craco, established a Working Group consisting of five Institute members to assist law schools in New York State in the establishment or expansion of professionalism orientation programs during law school. This specific charge flows from the Institute’s First Convocation held in the fall of 2000 on the “Face of the Profession.” Almost unanimous agreement was evident among Convocation participants from the bench, the bar and the academy that direct inculcation of professionalism values during law study is critical. The Working Group has preliminarily identified key components of professionalism, drawing a distinction between ethical behavior and professionalism, the latter being a much broader concept. The Working Group believes that a discussion of professionalism should emphasize certain dominant themes:

- that Law is an inherently public calling which, by providing diligent service to clients, promotes important public interests;
- that Law is a helping profession; and
- that lawyers, as custodians of the legal profession, have enhanced obligations of service to the community and in the promotion of justice through the rule of law.

The discussion should further emphasize that these dominant characteristics of the legal profession require lawyers to appreciate fully and develop certain important behaviors. These include:

- Lawyer independence;
- Ethical behavior;

- Self-renewal;
- Competence, excellence, responsibility;
- An understanding of the historical continuity and tradition of the profession;
- Appreciation for the breadth and diversity of the profession;
- Respect for client, adversary and the court; and
- Appreciation for the historical and societal context of the law.

The Working Group recognized at the outset of its efforts that crafting professionalism orientation program components would require a cooperative effort between the Institute and the academy. The Working Group appreciates the rich diversity of program and institutional tenor that exists among our State's law schools. Hence, the Working Group sought the direct assistance of law school representatives in the initial and subsequent shaping of its work. During March 2002, the Working Group met with representatives of several New York law schools to exchange ideas and initiate support of the Institute's goal to foster professionalism as a key orientation program component.¹ A few months later, the Working Group hosted another round table seeking the participation of the remaining law schools in New York.² Moreover, in June 2003, the Working Group met with members of various grievance committees and bar associations to discuss the issue of professionalism in law school and among young lawyers in the profession.³

As a result of this initial effort, the Working Group has come to appreciate that broader opportunities exist in fostering a dynamic relationship between the Institute and our law schools. In addition to discussion regarding professionalism orientation programs, it became evident at the round table discussions that the Institute can provide myriad resources to all New York law schools. Among the concepts under consideration are:

- Providing Institute-sponsored forums for continued dialogue between the Institute and the law schools;
- An Institute-sponsored orientation program on the subject of professionalism to be made available to law schools. The program would involve noted New York speakers and would provide a "package" dealing with issues of professionalism. The Working Group seeks the involvement of both the bar and the bench in this effort;
- Expansion and coordination of post-graduation mentoring programs;

1. See Appendix A for the minutes from the March 1, 2002, Institute for Professionalism in the Law, Law School Orientation Program Working Group, Round Table Discussion with Law School Representatives.

2. See Appendix B for the minutes from the June 28, 2002, Institute for Professionalism in the Law, Law School Orientation Program Working Group, Round Table Discussion with Law School Representatives.

3. See Appendix C for the minutes from the June 17, 2003, Institute for Professionalism in the Law, Law School Orientation Program Working Group, Round Table Discussion with members of grievance committees.

- Creation of a database of professionalism efforts in all U.S. law schools;
- Publication and encouragement of law school and bar association professionalism efforts; and
- An enhanced website serving as a clearinghouse of professionalism materials, including concrete hypotheticals and bibliographies.

The Working Group developed this White Paper, consisting of an explanation of the Group's efforts and activities thus far. Part II of this Report describes the accomplishments of the Working Group to date. Part III provides an explanation of the State of Georgia's "Law School Orientations on Professionalism." This program serves as a valuable resource for the Institute and the New York law schools to examine when creating a professionalism component for their orientation programs. Part IV gives an in-depth account of the New York law schools' orientation programs in place during the 2000-2001 school year, along with how each school addresses professionalism. Part V summarizes what the New York law school representatives expressed during the round table discussions. Although each of the New York law schools have different needs, overall law schools have a desire for the Working Group to act as a resource in aiding them in expanding or developing a professionalism orientation program. Part VI summarizes the responses from the law schools throughout the United States and the state court administration offices. Part VII sets forth the planned future endeavors of the Working Group. Lastly, Part VIII concludes with a reaffirmation of the objectives of the Working Group.

II. ACTIVITIES OF THE WORKING GROUP THUS FAR

The Working Group hosted two informal discussion groups consisting of law school administrators and faculty responsible for or interested in law school orientation planning. This effort was designed to foster dialogue between and among the law schools and the Institute concerning issues of professionalism. The Working Group invited six New York law schools to attend an initial round table discussion in March.⁴ This was followed by a second round table discussion involving another six law schools.⁵

4. The following law schools were invited to attend the March 1, 2002, meeting: Albany Law School, Touro College Jacob D. Fuchsberg Law Center (hereinafter "Touro Law Center"), University at Buffalo Law School (hereinafter "Buffalo Law School"), Cornell Law School, Columbia University School of Law and St. John's University School of Law.

5. The following law schools were invited to attend the June 28, 2002, meeting: Fordham University School of Law, New York Law School, New York University School of Law (hereinafter "NYU School of Law"), Pace University School of Law, Syracuse University College of Law and Yeshiva University Benjamin N. Cardozo School of Law (hereinafter "Cardozo School of Law").

In addition to meeting with law school representatives, the Working Group has begun to expand upon the Institute's website offerings to include a bibliography of writings on professionalism.⁶

The Working Group has authored a *Law Student Commitment to Professionalism* document.⁷ It is proposed to be offered to our law schools for use early in a law student's course of study. It is designed to emphasize necessary commitments to the goals of the profession. The Working Group proposes that the Institute approve immediate promulgation of the commitment document for use by New York law schools.

The Working Group has examined successful professionalism orientation programs beyond the State of New York. The Group has requested information from every law school in the country concerning their orientation program and incorporation of professionalism at the outset of law school, as well as throughout the curriculum.⁸ To date, the Working Group has received 69 responses. Additionally, the Group forwarded surveys to all law schools regarding professionalism programs for incoming law students.⁹ Likewise, a letter has been sent out to all state court administration offices throughout the country.¹⁰ This letter inquires whether or not the state has a mandated or suggested professionalism orientation program for its law schools.

In June 2003, the Working Group hosted a third round table discussion with members of various New York Judicial District grievance committee representatives and state and local bar associations. This effort was designed as a dialogue between and among the Institute and the practicing bar on issues posed by the Working Group's efforts.

III. GEORGIA'S LAW SCHOOL ORIENTATIONS ON PROFESSIONALISM

Notable among existing state programs is the Georgia model.¹¹ The project, "Law School Orientations on Professionalism," was created by the joint effort of the Committee on Professionalism of the State Bar of Georgia and the

6. See Appendix D.

7. See Appendix E.

8. The Working Group contacted all United States law schools by sending a letter explaining the efforts of the Institute and the Working Group, along with a survey similar to the one previously completed by New York law schools at the start of the Working Group's existence. See Appendix F.

9. See Appendix G.

10. See Appendix H.

11. The Committee on Professionalism of the State Bar of Georgia has made available a booklet to aid other institutions in establishing a program similar to the Law School Orientations on Professionalism. See COMMITTEE ON PROFESSIONALISM, STATE BAR OF GEORGIA, & CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM, GEORGIA, LAW SCHOOL ORIENTATIONS ON PROFESSIONALISM: A GUIDE FOR LAW SCHOOLS AND BAR ASSOCIATIONS (2000). For additional information, valuable materials are available on how Mercer University School of Law carries out the program on professionalism. See COMMITTEE ON PROFESSIONALISM, STATE BAR OF GEORGIA, & CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM, GEORGIA, LAW SCHOOL ORIENTATION PROGRAM: GROUP LEADERS HANDBOOK (2000); COMMITTEE ON PROFESSIONALISM, STATE BAR OF GEORGIA, & CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM, GEORGIA, MERCER UNIVERSITY SCHOOL OF LAW ORIENTATION ON PROFESSIONALISM: STUDENT MATERIALS (2000).

Chief Justice's Commission on Professionalism.¹² The goal was to familiarize law students with professionalism at the start of their legal career. The project has been a success and has continued to flourish since the creation of the original pilot orientation program.

The pilot program was started at four ABA-accredited law schools in Georgia beginning in the fall semester of 1993 for first year law students. Since then, the program has become a required component of every law school orientation program in the state of Georgia. The program includes an initial two-hour orientation on professionalism. A prominent speaker from the legal community begins the orientation.¹³ The address is followed by a 90-minute breakout session led by facilitators¹⁴ who meet with students in small groups¹⁵ to examine hypotheticals. The hypotheticals are designed to spark discussion on both professionalism and ethical issues occurring in both the academic and professional arena. The discussions from the breakout session are carried over into an informal reception, where the students, facilitators and faculty have the opportunity to converse about the issues raised throughout the orientation program.

In 1999, Emory University Law School found it important to expand the program to include all three years of the law school student's curriculum. This was the result of the positive feedback received over the course of six years since the implementation of the program. The professionalism program for the first year of law school is divided into three parts. Sessions are held during orientation in August, October and February. The August session follows the format of the pilot program, with hypotheticals focusing on professionalism issues that arise during the law school experience. For the second session, students meet in the same breakout groups as they did in August and continue to discuss problems occurring in the law school setting. During the third session, once again the students meet in the same breakout groups. However, this time, the hypotheticals include problems that transpire during the practice of law.¹⁶ In addition, Emory incorporated a new component into the Orientation on Professionalism, holding a ceremony during the August session during which a judge administered the Student Professionalism Oath, which the students subsequently signed.¹⁷

12. The idea for such a program came about in 1992 and early 1993 when the Chief Justice's Commission on Professionalism in Georgia held Town Hall Meetings throughout the state with the objective of inspiring members of the legal profession, including lawyers, judges and legal academicians, to reach a mutual vision of the profession.

13. For example, a Justice of the Supreme Court of Georgia or a State Bar leader gives a keynote address.

14. Facilitators are made up of practitioners and professors.

15. The small groups are usually composed of no more than eight to ten students.

16. For example, the hypotheticals include professionalism problems that arise as a law clerk, intern and lawyer.

17. Emory's policy is to keep the student oath on file with the registrar. The purpose for this is both to promote the values of the legal profession and for use in disciplinary proceedings for violations of the Honor Code.

During the second year at Emory, students meet for 90 minutes in the fall and the spring in groups of about 17 to 20. One practitioner or judge and one faculty member lead the sessions. The fall session focuses on the summer experience the students had, while the spring session concentrates on preparing the students for future summer work experience. As of now, there is no information available on the third year professionalism program held at Emory.

Other states, such as Louisiana, have followed Georgia's example by introducing a professionalism component during the law school orientation program. For instance, in the fall of 2000 as part of a new orientation program, Louisiana's four law schools started a professionalism and ethics program.¹⁸ The program, modeled after the Georgia project, begins with a keynote address by a Supreme Court Justice. Similar to the Georgia model, judges and practitioners lead classroom discussions based on hypotheticals. The hypotheticals focus on professional and ethical issues that arise during law school, in addition to problems that occur in the practice of law.

IV. NEW YORK LAW SCHOOLS

The Working Group sent a survey to the fifteen New York law schools in an effort to determine whether or not professionalism/ethics is incorporated into the school's orientation program.¹⁹ The responses to the survey are summarized below with other information obtained during the two round table discussions.

A. ALBANY LAW SCHOOL

Albany Law School did not complete the survey; however, the school submitted a short response describing its law school curriculum. Albany raises professionalism and ethics issues briefly during the Dean's welcome speech to the incoming first year class. However, Albany deals with these issues in greater depth during the academic year by the way of two sessions. One of the sessions uses hypotheticals to generate group discussions.

At the first round table discussion, Albany's representative, Mary Lynch, stated that in the past Albany's orientation program was one to two days long. The program included a speaker, a local practitioner, whose speech incorporated themes such as "your professional reputation begins today." However, orientation is currently focused on teaching the practical skills of being a lawyer, such as writing and reasoning, instead of emphasizing professional behavior. She further added that the substance of the orientation program varies according to the path the individual speakers choose to pursue.

18. See *Incoming Law School Students Get Lesson in Professionalism*, CT. COLUMN, Fall 2000, at 1.

19. See Appendix I for survey. The fifteen New York law schools are: Albany Law School, Brooklyn Law School, Buffalo Law School, Cardozo School of Law, Columbia University School of Law, Cornell Law School, CUNY School of Law at Queens College, Fordham University School of Law, Hofstra University School of Law, New York Law School, NYU School of Law, Pace University School of Law, St. John's University School of Law, Syracuse University College of Law and Touro Law Center. In addition, in March of 2003, correspondence was sent to the New York law schools asking if there has been any change in their orientation program.

B. BROOKLYN LAW SCHOOL

Brooklyn Law School does not have a professionalism orientation program. However, the law school is contemplating incorporating ethics and professionalism components into the orientation program. The possible format for the new program is the following: all students would be presented with a problem that raises professional/ethical dilemmas (this may be done by use of video); thereafter faculty or practitioners would lead small groups of students in discussion regarding the presented problem.

Although Brooklyn does not incorporate professionalism/ethics in its orientation program, professionalism/ethics is instilled throughout the students' law school experience via alternative methods. For example, Legal Process is a required first year class that raises issues of ethics and professionalism. Additionally, all students must successfully complete a course in Legal Profession. Legal Profession teaches the art of lawyering, including the Model Rules and New York Code of Professional Responsibility. The faculty is encouraged to raise issues of ethics and professionalism while teaching substantive courses. Likewise, clinics stress these issues.

C. BUFFALO LAW SCHOOL

Buffalo Law School has a four-day professionalism orientation program called "Introduction to Law," which is in addition to, and separate from, a standard full day orientation program. All students participate in the "Introduction to Law" program during their first week of law school. At the first round table discussion, Peter Pitegoff, representing Buffalo Law School, explained that the social responsibilities of lawyers is one of the themes stressed during orientation. For instance, although the content of the program evolves from year to year, professionalism components of this program have included a segment called "Lawyering, Organizing and the Adversarial Ethic," which focuses on the social responsibilities of lawyers. Another segment of the program, entitled "Attorney Role and Conflicts," also presents students with professional and ethical dilemmas that confront lawyers.

The orientation program includes substantive lectures by professors on the legal profession and its context, small group discussions with research and writing instructors on legal methods and legal institutions and meetings with librarians regarding the law library and technology. Orientation culminates with a Friday Court Morning when students visit and observe area courts and when judges speak with the incoming law students about the courts of Western New York, the practice of law and professionalism issues for both attorneys and law students. Additionally, there is a reception where judges and attorneys socialize with the law students, giving them an introduction to the community and to the law school.

Buffalo's first year orientation program includes speakers. For example, in the fall of 2000, State Supreme Court Justice Patrick Nemoyer spoke with students about the courts of Western New York and about the practice of law. Supreme Court Justice Christopher Burns (now of the Appellate Division, Fourth Department) joined Justice Nemoyer and discussed professionalism issues that confront both attorneys and law students. To reinforce the subject, videos are shown to the students and analyzed during orientation. The videos illustrate a lawyer's obligation to seek justice within the constraints of his or her professional role, as well as the limits of effective legal action.

Law student participation and interaction is welcomed during Buffalo's orientation program. The "Introduction to Law" program and the Court visitation program both encourage student discussion. For instance, students have the opportunity to participate in a question and answer session, to voice their concerns during each segment of the program and to evaluate the overall program at the conclusion of the orientation period.

Besides the orientation program, Buffalo attempts to instill a sense of professionalism in students throughout their law school experience. This is carried out by classes such as Legal Profession and Ethics, a three-credit course required for first year students, where practical matters such as conflicts of interest are explored. In addition, students are encouraged to take "bridge" courses taught by practicing attorneys and to participate in clinics and moot court. For example, during winter break Buffalo offers a series of one-credit courses taught by practitioners wherein ethics and professionalism play a big role.

To demonstrate its commitment to professionalism, Buffalo has an Academic Standing and Standards Committee that deals with issues of honesty.

D. CARDOZO SCHOOL OF LAW

Cardozo School of Law did not respond to the survey; however, the law school did have the opportunity to share its overall program with the Working Group during the second law school round table discussion, held June 28, 2002. Leslie Salzman represented Cardozo School of Law at this meeting. She reported that at Cardozo's orientation program, the Dean tries to touch on professionalism issues during his speech to the incoming class. The fall of 2002 was the first time a portion of orientation was dedicated to the concerns of professionalism by the Public Interest Bar and the Ethics Faculty. In addition, an effort was made for the first time to discuss the law as a public calling and the obligation and responsibility students have in upholding the school's commitment to public service.

Leslie Salzman commented that there is no formal policy or obligation to address issues of professionalism in class. Rather, it is left to the individual discretion of the professor whether or not to incorporate professionalism into substantive courses.

E. COLUMBIA UNIVERSITY SCHOOL OF LAW

Although Columbia School of Law does not specifically cover professionalism or ethics during the orientation program, the concepts are generally interwoven throughout the 2½-day orientation program. During the first round table discussion, Columbia's law school representative, Ellen Chapnick, stated that the majority of orientation is spent introducing the new students to Columbia and to law school life rather than focusing on professionalism issues. Additionally, she commented that professionalism comes mostly subliminally and later on in the law school experience.

However, Columbia instills professionalism throughout the law school experience. Every year, Ellen Chapnick hosts a lunch for students interested in public interest law. She stated that during this luncheon, she emphasizes the public calling aspect of the profession. Additionally, Columbia has a mandatory pro bono program, which is a very important component of the school's professional responsibility program. Columbia also requires third year law students to take an intensive one-week seminar, entitled "The Profession of Law," which is taught through simulation and other experimental techniques. The course aims at introducing students to professionalism and ethics and the values that underlie the primary conceptions of a lawyer's role. In addition, this course exposes students to the practice of law and enables students to think about their own professional and ethical behavior. The course is taught by practitioners in small groups for eight hours a day. Moreover, Columbia offers various elective courses that focus on professionalism issues, including one called "Professions and Professionals."

Columbia has an honor code and procedures for student discipline. A copy of the Professional Rules of Responsibility is distributed to the new students during orientation.

F. CORNELL LAW SCHOOL

Cornell Law School discusses professionalism generally throughout the overall orientation program, although the program does not specifically cover the topic. Each year, the Dean of the law school delivers an address to the incoming class entitled, "Entering a Professional Community." Additionally, students attend a three-hour brunch and workshop where students are able to interact with alumni, professors, administrators and other students. Practicing lawyers talk to the new students about the legal profession and professionalism. However, in response to a question on the survey, Cornell commented that they do not believe that the law school orientation program is the most appropriate time to address issues of professionalism with the students. Rather, Cornell feels a more suitable time to address the subject would be once the students have time to adjust to the routine of law school.

Professionalism is highlighted in the courses on professional responsibility. All students are required to take at least one course on professional responsibility in order to graduate. Moreover, Cornell also sponsors distinguished speakers who address the students on the subject of professionalism. Likewise, the school's Legal Ethics Program sponsors guest speakers.

The law school has standards for professional conduct within Cornell Law School itself, in addition to a Law School Code of Academic Integrity. Students are also held to the standards of the University's Campus Code of Conduct and the University's Code of Academic Integrity.

G. CUNY SCHOOL OF LAW AT QUEENS COLLEGE

CUNY School of Law at Queens College has a week-long orientation program that consists of several hours per day of formal classes. Professionalism and ethics are discussed as appropriate throughout the overall orientation program. On the fifth day of orientation, alumni who practice in the courts lead small groups of students in a court visit. This is followed by a panel discussion with attorneys and judges who work or practice in the court. Thereafter, students congregate in the U.S. District Court's ceremonial courtroom and discuss their experiences. This is followed by the Dean's closing remarks that focus on professionalism, along with a federal judge's address to the students welcoming them to the profession and challenging them to aspire to the highest goals of professionalism and public service. In the past, Judges Ronald Ellis, Sonia Sotomayor and Denny Chin have addressed students. The program concludes with a judge administering an Oath of Professional Responsibility to the incoming class.

H. FORDHAM UNIVERSITY SCHOOL OF LAW

At the 1998 orientation, the clinical faculty of Fordham University School of Law led a discussion on ethical issues presented in the movie, *The Rainmaker*.²⁰ Student leaders role-played possible law school situations that might cause students to compromise their personal integrity. However, three years ago, Fordham changed the components of its orientation program. Presently, Fordham's one-week orientation program, has a professionalism/ethics component that is a differentiated part of the overall orientation program. During the orientation program practicing attorneys act as facilitators of small group discussions. The program's main speaker was a practicing attorney.

During the second round table discussion, Abel Montez, representing Fordham University School of Law, stated that students participate throughout the orientation program. During the first part of the orientation program, students meet in small groups of 20 to 32, to discuss "real world" issues. Different

20. THE RAINMAKER (American Zoetrope *et al.* 1997).

topics are assigned to every group. Graduates of the law school who are currently practicing law lead the group discussions. For the second part of the program, the first year class reunites and reports on the issues raised in the smaller groups. Richard Zitrin supervises this larger discussion. In addition, students receive a copy of the book entitled *The Moral Compass of the American Lawyer*,²¹ in which one of the book's co-authors is Richard Zitrin.²² At the end of the program, students have the opportunity to evaluate the week's events.

Although Abel Montez noted that this program only occurs during orientation and that there is no follow-up to this program, Fordham reinforces professionalism throughout its students' law school experience. For instance, Fordham selects approximately twenty students to participate in the Stein Scholar Program in Legal Ethics. Abel Montez commented that students become facilitators of brown bag lunch sessions that meet to discuss the subject of ethics. Additionally, the Stein Program hosts round table discussions that are more involved than the brown bag sessions.

Similar to most other law schools, Fordham has an honor code referred to as Fordham University School of Law's Code of Academic Responsibility.

I. HOFSTRA UNIVERSITY SCHOOL OF LAW

Hofstra has a four-day orientation program. During that period, professionalism is treated as a differentiated part of the overall program. In the fall of 2000, Hofstra conducted a one-hour segment entitled, "Advice to First Years from a Panel of Law School Alumni." In addition, professors and practicing lawyers with a special perspective on professionalism matters have also addressed students. For example, M. Kathryn Meng, a member of the Appellate Division, Second Department's Committee on Character and Fitness gave a half-hour presentation.

Professionalism is also promoted through the Pro Bono Program and the Clinic Programs. Although the school does not have an honor court or honor code, Hofstra tries to instill professional behavior with its Code of Academic Conduct.

J. NEW YORK LAW SCHOOL

New York Law School has an orientation program called "Advance Week" that was expanded in 1999 from two days to one week, in part to devote more time to professionalism. In the fall of 2000, the week began with a speech from the Dean entitled, "The Prospect of a Happy, Productive, and Effective Life in the Law." In addition to the Dean's speech, faculty members also remark on professionalism issues. Students are required to read *Law School: A Primer in Law Student Professionalism*, which was specially developed for orientation week by a

21. RICHARD A. ZITRIN & CAROL M. LANGFORD, *THE MORAL COMPASS OF THE AMERICAN LAWYER: TRUTH, JUSTICE, POWER AND GREED* (Ballantine Books 1999).

22. Richard Zitrin showed an interview with the attorney featured in the book who faced difficult ethical choices in connection with representing a serial murderer and convicted rapist.

member of the law school faculty. Faculty teaching Advance Week seminars are encouraged to use this *Primer* as part of their discussions or to employ other materials that will accomplish the same goals.

Various speakers address the incoming class, including practicing attorneys. For example, two professors presented a session on “Professional Expectations and the Role – What Can One Achieve through a Career in Law.” In 1999, two professors presented jointly the lecture entitled “Professionalism.” Students also receive a copy of the *Primer*, along with the *Student Conduct: Expectations and Guidelines*, which reflect appropriate standards and conduct in a professional school. No honor code or honor court exists at New York Law School.

In the past, at the end of Advance Week, the students had the opportunity to evaluate the program. After the 2000 orientation, 89.8% of students filled out an evaluation survey. 87.5% of those who responded indicated that they were either satisfied or very satisfied with the Advance Week program.

In addition to the orientation program, professionalism is incorporated throughout the law school curriculum by means of different courses. For example, the first year required course, “Lawyering,” introduces students to what lawyers do in practice. Carol Buckler, representing New York Law School at the second round table discussion, noted that this course aims at discussing the ethical issues and dilemmas that surround the attorney-client relationship. The second year required course, “The Legal Profession,” raises professional issues that occur during one’s career. Upper class electives specifically addressing professionalism issues include “Lawyers and Public Life” and “The Practice of Law.” Carol Buckler also stated that New York Law School requires its students to complete a simulation-based course based on the book *A Civil Action*.²³

K. NEW YORK UNIVERSITY SCHOOL OF LAW

NYU Law School does not discuss professionalism issues as part of its orientation program. Rather, NYU feels that this important topic is best covered in a course, which addresses the obligations and responsibilities of a legal practitioner, such as its 1L Lawyering Program and its second and third year legal clinics. Although NYU believes in the importance of teaching professionalism, the school has neither an honor code nor an honor court.

During the second round table discussion, Aderson Francois from NYU discussed the required Lawyering Program for its incoming students. He stated that this program was instituted about six to eight years ago because the administration realized that ethics classes, professional responsibility classes and other first year classes were not sufficient in the teaching of professionalism. He explained that the program is held in classes of approximately 25 and students are expected to complete a minimum of six hours of classroom activity.

23. JONATHAN HARR, *A CIVIL ACTION* (Random House 1995).

Approximately fifteen to seventeen faculty members are involved in teaching this program. The program consists of traditional lawyering skills, such as legal research and writing components, interactive exercises identifying potential problems confronting clients and a professional responsibility component. Further, the program stresses that a lawyer must manage a relationship among clients, colleagues, adversaries and with the institution of law itself. The faculty videotapes the students performing the various exercises and critiques the tapes with the students.

Mr. Francois also mentioned that clinics are a follow-up to the Lawyering Program in the students' second and third years. He commented that the clinics are structured very similarly to the Lawyering Program.

L. PACE UNIVERSITY SCHOOL OF LAW

Vanessa Merton represented Pace at the round table discussion held on June 28, 2002. She stated that orientation consists of a complex, in-depth simulation covering many different topics on a lawyer's role and responsibility. Approximately 22 faculty members participate in the orientation program. She commented that the focus of the program is to emphasize career development by asking questions such as, "What does it mean to be a lawyer?" and "How do you become a quality decision maker and a quality lawyer?" Additionally, she stated that the Class of 2004 was the first class required to take the Professionalism course during the students' first year of law school. Pace University has an honor board to deal with complaints of unethical conduct.

John A. Humbach, a professor at Pace University School of Law, replied to an e-mail sent during March of 2003. Professor Humbach noted that Pace has instituted a week-long orientation program "whose academic component that is based on original materials whose purpose is to 'tell a story of what lawyers do' through an actual case, followed from inception through the appeals." *DeWeerth v. Baldinger*²⁴ is the case that is discussed during orientation and it concerns "a contest over a painting that was stolen in Germany during WWII and that later emerged in the New York art market, where it was purchased by a bona fide purchaser." Humbach stressed: "It was the intention that the materials and the overall orientation be literally 'suffused' with professionalism concerns and issues— while introducing the students to the role of the legal profession in society and, hopefully, exciting about the prospect of their becoming a part of our profession."

M. ST. JOHN'S UNIVERSITY SCHOOL OF LAW

During the first round table discussion, St. John's representative, Andrew Simons, stated that approximately five years ago St. John's began to concentrate on the profession's core values. St. John's has a one-day orientation program in

24. *DeWeerth v. Baldinger*, 38 F. 3d 1266 (2d Cir. 1994).

which representatives from grievance committees, alumni, faculty members and decanal staff remark on professionalism and jurisprudence. Several justices and attorneys have also addressed the students about professional issues, such as Grace D. Moran (General Counsel to the Grievance Committee for the Tenth Judicial District), Hon. Daniel R. Palmeri (Judge, County Court, Nassau County) and several partners from New York law firms. Excluding the 2000 orientation program, practicing lawyers have actively participated in discussions between the Alumni Associations, Academic Advisory Committee and the faculty concerning how the law school could better achieve its goal of instilling ethical and professional principles in its students.

During orientation, students are encouraged to interact. They have the opportunity to do so in question and answer sessions, in addition to class and panel sessions. Students are also invited to interact during social receptions.

Andrew Simons emphasized that orientation incorporates only a small part of the school's efforts to inculcate professionalism. For instance, during the first semester, students are required to take a three-credit course entitled, Introduction to Law and the Legal Profession. This course is front-loaded in the first semester and introduces students to the methods and ideas that comprise the fundamental components of the American legal system, including professionalism, jurisprudence and lawyering skills. In addition, the required Professional Responsibility course attempts to instill a sense of ethical professionalism in its students. Furthermore, Advocacy Skills courses constantly raise questions of ethics and professionalism. St. John's has an honor code and honor court, however the law school does not have a written pledge.

N. SYRACUSE UNIVERSITY COLLEGE OF LAW

Syracuse has a two-day orientation program. On the second day of orientation, there is a 45 minute speech devoted to professionalism. Past professionalism speakers have included United States Attorney Daniel J. French, Second Circuit Court of Appeals Judge Rosemary Pooler and New York State Supreme Court Justice Sandra Townes. In addition, practicing lawyers have addressed students on the topics of the practice of law and professionalism. During the second round table discussion the law school representative, Leslie Bender, explained that the Syracuse Orientation program always has a professionalism theme.

Unlike most other law schools, the orientation program is not interactive. At the conclusion of the program, Syracuse also does not ask for feedback from the students as to the success of the program.

At the orientation, the students receive a copy of the New York State Rules of Civility. Additionally, although students do not receive a copy of the honor code during orientation, Syracuse University College of Law has an honor code entitled Code of Student Conduct.

Besides orientation, Syracuse aims to promote professionalism through clinical programs, alumni mentoring programs and applied learning courses, which are conducted in conjunction with members of the outside professional community. Leslie Bender commented that although Syracuse does not mandate the teaching of professionalism in first year courses, some professors choose to address the student's responsibility to the community, public service and/or social justice.

O. TOURO LAW CENTER

Touro's five-day orientation program includes a professionalism component on the first day. To prepare for the day, the students are sent assignments in a workbook several weeks before orientation. The assignment for the first day is a series of readings on professionalism.

At the orientation, after welcoming remarks, students are divided into groups of twenty and participate in a 75 minute faculty-led session in which they view and discuss a video which raises issues about a lawyer's responsibility to the profession and the community.²⁵ The primary goal of this session is to introduce incoming students to the practice of law as a profession and to get them to think about the practice of law from the perspective of the lawyer's duty to the public. The discussion revolves around two videotape segments, one from "L.A. Law" and the other from a PBS program. Both segments present difficult ethical dilemmas that form the basis of the discussion. Faculty members or senior administrators, who are responsible for raising the issues in the video, lead the discussions. The orientation workbook also contains several readings directly addressing professionalism. At the program's end, students are asked to evaluate the orientation by filling out a detailed survey.

The topic of professionalism is emphasized from the first day of orientation and continues throughout the curriculum. Professional Responsibility is a required course that highlights professionalism issues. Additionally, these issues are raised in the justice course, the public interest perspective requirement and in clinic programs. Touro promotes the importance of public interest law in a variety of programs including summer public interest law fellowships, a loan forgiveness program and a mandatory pro bono requirement.

25. In the past, practicing lawyers have taught the professional segment of the orientation program. However, recently faculty members and senior administrators with significant recent practical experience have taught the professionalism component during orientation.

V. INSTITUTE FOR PROFESSIONALISM IN THE LAW: LAW SCHOOL ORIENTATION PROGRAM WORKING GROUP “ROUND TABLE” DISCUSSION WITH LAW SCHOOL REPRESENTATIVES

A. MARCH 1, 2002, ROUND TABLE DISCUSSION

On March 1, 2002, the Working Group held the first of two round table discussions in which six New York law schools participated.²⁶ John Gross, chair of the Working Group, opened the meeting with a brief history of the Institute. He stated that one of the main purposes of the Working Group was to generate ideas for integrating professionalism at the outset of law school.

John Gross noted that the Working Group has struggled to arrive at a working definition of professionalism. However, he stated that Lou Craco’s Chautauqua speech, a copy of which was provided to the round table participants prior to the meeting, provided significant insight in the effort to arrive at a definition. Mr. Craco posits that law is a public calling; he stresses that professionalism implies trustworthiness, competence and independence. The Working Group believes that the values noted in Lou Craco’s speech must be emphasized during orientation and throughout the law school experience.

During the round table discussion, John Gross identified a pilot orientation program as one of the goals of the Institute. After hearing the ideas of the Working Group, the law school representatives present made suggestions regarding what the Working Group could offer the law schools in this effort.

When discussing a professionalism program, all round table participants agreed that one consistent characterization of a successful program is that it must transcend the law school experience from start to finish. Rather than overloading students with professionalism issues at orientation, instilling professionalism should take place incrementally during the entire law school experience.

Also, materials prepared by the Georgia Institute on Professionalism were discussed at length. All the law school representatives agreed that these materials could serve as a resource for the New York law schools. However, the representatives felt that law schools might feel constrained if they were required to depend on pre-planned materials. The representatives consistently opposed a state mandated professionalism program.

The law school representatives shared their suggestions with the other participants. For example, Eileen Kaufman, speaking on behalf of Touro Law Center, stated that she liked CUNY Law School’s formal swearing-in ceremony. Likewise, Judge Stein was in favor of a ceremonial event. John Gross added that,

26. See Appendix A.

in addition to the ceremony, he liked the notion of reinforcing professionalism by having students sign a formal pledge. Peter Pitegoff, representing Buffalo Law School, commented that it is important to re-create real life situations when teaching students the concepts of professionalism. Andy Simons, from St. John's University School of Law, stated that another way of fostering the ideas of professionalism is through the use of videos. He felt that students grasp more from viewing videos.

The representatives concurred that the Institute could serve the law schools by offering written materials that provide roadmaps and ideas on how to promote professionalism. The discussion concluded with the law school representatives stating that, at a minimum, the Institute should act as a resource for law schools by maintaining collections of materials, endorsing prototyped programs, sharing rosters of dynamic speakers from the bench and bar, enhancing the Institute's website and sponsoring additional round table forums for the exchange of ideas and information between law schools.

B. JUNE 28, 2002, ROUND TABLE DISCUSSION

On June 28, 2002, the second round table discussion was held. Six New York law schools attended.²⁷ John Gross started the meeting by introducing the goals of the Institute. He indicated that one endeavor of the Working Group is to hold a symposium during 2004. The Working Group would extend invitations to all New York law schools and, in particular, the attendees at the round table discussion, faculty members, bar leaders in the area of professionalism, Georgia representatives and the judiciary.

After John Gross introduced the law school representatives, they each gave a brief description of the orientation program at their school. Thereafter, they informally discussed incorporating professionalism throughout law school and then offered suggestions as to what the Institute could provide to law schools.

Leslie Salzman, speaking on behalf of Cardozo School of Law, expressed the importance of incorporating hypotheticals into the curriculum such as those used in the Georgia model. In addition, she noted the benefit of the use of simulations demonstrating professionalism. Moreover, she commented on the significance of stressing a commitment to professionalism and honorable and appropriate conduct during law school. John Gross took this opportunity to share with the law school representatives the Working Group's draft proposal for a commitment document for incoming law students. Leslie Salzman was enthusiastic about the idea, but suggested that orientation may not be the appropriate time to distribute the document. Rather, perhaps the end of the first semester would be a more suitable time. Furthermore, Leslie Salzman stated that law

27. See Appendix B.

schools should conduct a presentation before students sign the commitment document to reinforce the significance of the pledge. Conversely, Carol Buckler from New York Law School and Peter Pitegoff from Buffalo Law School commented that they were not in favor of a student commitment document characterized as a pledge or oath.

The law school representatives each had the opportunity to state what the Institute could provide for them. For example, Leslie Bender from Syracuse commented that it would be helpful if the Institute could create a program that was specially tailored to the school's needs that Syracuse would not have the resources to do on its own. Additionally, she stated that a packet of hypothetical problems would be useful to distribute to faculty members. The other representatives agreed with the recommendation and stated that faculty members would be more likely to use hypotheticals if they were already available.

The representative from Pace, Vanessa Merton, suggested that there should be a list available to law students of those attorneys interested in being interviewed by the students. It was stressed that the attorneys volunteering need to be honest when discussing professionalism.

Aderson Francois from NYU Law School stated that the Institute needs to define professionalism. John Gross explained that the Working Group recognized the importance of having a working definition of legal professionalism and stressed the fact that the Institute has undertaken an examination of this task.

The representatives had different views on when it would be appropriate to discuss professionalism. For example, some felt it was a good idea to introduce professionalism during orientation, while others believed students are overwhelmed at that time and thus professionalism issues should not be raised until students are adjusted to law school life. On the other hand, some of the representatives felt that professionalism does not have to be treated as a separate topic, but rather it could be left to the individual professor's discretion to raise professionalism issues in class.

The overall consensus among the law school representatives was that the New York State Court System should not mandate a professionalism orientation program for incoming law students. In discussing the Georgia plan, many felt it was too prescriptive.

The attendees unanimously agreed that a serious problem currently exists in law schools. Students fail to exhibit academic professionalism. For instance, Abel Montez of Fordham University School of Law identified a need to educate incoming law students on how to act as a professional. Despite this consensus, it is interesting to note the number of law schools without an honor code.

Further, some representatives expressed a desire to utilize the Institute as a resource to help them enhance the teaching of professionalism at their law

schools. In addition, three law schools present at the discussion showed an interest in participating in the Institute's pilot program. The representatives from Cardozo, New York Law School and Pace were enthusiastic about the potential pilot orientation program.

VI. RESPONSES FROM LAW SCHOOLS IN THE UNITED STATES AND STATE COURT ADMINISTRATION OFFICES

In its effort to gather information regarding successful professionalism orientation programs, the Working Group contacted every law school in the country to request information regarding their orientation program and incorporation of professionalism at the outset of law school, as well as throughout the curriculum. Included in this letter was a survey concerning professionalism programs for incoming law students. To date, 69 law schools out of 169 responded. In addition, the Working Group sent a letter to all state court administration offices throughout the country.²⁸ To date, we have received 22 responses. This section will discuss the responses the Working Group received from both the state court administration offices and the law schools throughout the country.

A. ALABAMA

To date, the state of Alabama has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

1. University of Alabama School of Law

At the University of Alabama, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. First Year orientation is three days long. The program is opened with a twenty minute address by the State Bar President. On day two of orientation, an hour is devoted to plagiarism and honor court issues. Later on in the day, 90 minutes is set aside for a panel discussion with practicing members of the bar.

Professionalism is touched on during each of these segments. In addition, the professors who speak during orientation use the opportunity to introduce the idea of professionalism and mention how the subject will develop in their individual courses.

28. Fifty state court administration offices were sent a letter. This figure excludes New York and Georgia, and includes Puerto Rico and Washington, D.C.

No materials are distributed to the students during the orientation program. The law school does not show videos during First Year orientation. As for law student participation, students are asked questions during the sessions.

The University of Alabama has an honor code and also an honor court. The honor code is fourteen pages long and is divided into twenty chapters. The honor code contains a student pledge. The pledge reads: "On my honor I represent that I have neither given nor received unauthorized aid on this (paper), (memorandum), (brief), or (anything else covered by this Honor Code)."

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Alabama indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

B. ALASKA

The state of Alaska does not have a law school program.

C. ARIZONA

To date, the state of Arizona has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

1. University of Arizona College of Law

University of Arizona has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation takes place over a two-day period.

During the professionalism component of orientation, which is a session called "Ethics, Civility & Professionalism," the Chief Justice of the State Court greets the incoming class. At the University of Arizona's 2002 orientation Thomas A. Zaket, Justice, Arizona Supreme Court (Retired), gave a presentation on professionalism. Hypotheticals are also used during this period to address professionalism issues. Students have the opportunity to interact and participate in the discussion on ethics and professionalism. This all takes place in the large group consisting of the entire class.

The law school attached to the survey an eleven-page packet titled "Ethics & Professionalism Presentation." The packet contained five hypothetical situations a lawyer may find himself in and asked the law students what they would do if they were in that situation.²⁹ Next in the packet was a preamble titled "A Lawyer's Responsibilities." In addition, a copy of seven different ethical rules was in the packet.

29. See Appendix J for the hypotheticals contained in the "Ethics & Professionalism Presentation" packet.

Videos are shown during orientation; however, they do not pertain to the professionalism component of orientation. Rather, videos are viewed to give a brief history of the law school and to show its alumni in public service/public sector.

The law school does have an honor court and an honor code. However, the school does not have a written pledge or commitment to the honor code or to any standards of ethics or professionalism.

In responding to Question 11 on the Questionnaire, the University of Arizona commented: "Including a segment on professionalism in orientation sets the tone and is a good way to shape professionalism."

Professionalism is further promoted at the University of Arizona in that the law students are required to take a course in Professional Responsibility in order to graduate.

At the conclusion of the program, the students are asked to evaluate the program.

D. ARKANSAS

To date, the state of Arkansas has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

None of Arkansas' law schools responded to the Working Group's survey.

E. CALIFORNIA

To date, the state of California has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to the University of California at Berkley School of Law, Loyola Law School, the University of Southern California Law School, Stanford Law School and Thomas Jefferson School of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. University of California at Berkley School of Law

The University of California at Berkley School of Law ("Berkley") has a professionalism/ethics orientation program that is conducted separately from the general orientation program.

Practicing lawyers participate in the orientation program by giving presentations on ethics and leading group discussions. In the past, John Steele has made general comments on the role of ethics in the profession.

Materials are distributed to the students during the orientation program. However, the law school does not show videos during the program.

In response to Question 7 on the Questionnaire, Berkley noted that the students are required to attend the program. Students break out into groups of about 20 that are led by professors, practitioners and administrators.

Students have the opportunity to evaluate the orientation program.

Berkley has an honor code. However, the law school does not have a written pledge.

2. Loyola Law School

At Loyola Law School, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment.

Practicing lawyers participate in the orientation program by discussing substance abuse issues.

The law school deans speak at the orientation program on topics such as professionalism, civility and work ethic related to school efforts.

Loyola Law School has an honor code. However, the law school does not have a written pledge.

In response to Question 12 on the Questionnaire, Loyola Law School responded: "Through the culture of the law school itself, including the actions of the faculty and staff and interactions with and among the students themselves. Orientation is one additional means of 'conveying' the message."

3. San Francisco Law School

San Francisco Law School has a professionalism/ethics component that is a differentiated part of the overall orientation program.³⁰ The orientation program takes place in one day.

All of the professors at San Francisco Law School are practicing lawyers. The first-year professors are invited to attend orientation and many join the students for lunch. The professors are also available to answer questions about law school and the practice of law. At past orientations, the Associate Dean has spoken on time management.

Materials are distributed to the students during the orientation program. However, the law school does not show videos during the program.

As for law student participation, students are asked to introduce themselves and discuss their goals and plans regarding law school and their professional career. However, at the end of the program, students do not have the opportunity to evaluate the program.

30. On the Questionnaire it was noted: "The State Bar requires each student to take and pass a Professional Responsibility course. The student/graduate must pass a Professional Responsibility examination required by the State Bar of California before they can be sworn in to practice law."

San Francisco Law School has an honor code. The law school indicated on the Questionnaire that the school has a written pledge to the honor code. However, the written statement is one of confidentiality during the testing process.

In response to Question 11 on the Questionnaire, the school replied:

I believe it is important for the Dean, Associate Dean, and professors to address and stress the ethical aspect and professional responsibility aspects of the legal profession. Stress the legal profession is an honorable profession. Stress that graduates will most likely at some time in their career be asked to defend a client when something not too pleasant has occurred in their life. They may be asked to save a life.

Moreover, in response to Question 12 on the Questionnaire, the school stated that professors stress the importance of professional responsibility and ethical behavior in their courses. In addition, professionalism is touched upon during the orientation program.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, San Francisco Law School indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

4. University of Southern California Law School

The University of Southern California Law School ("USC") has a professionalism/ethics component that is a differentiated part of the overall orientation program.

Practicing lawyers participate in the orientation program by speaking on issues of substance abuse and professional responsibility.

Materials are distributed to students at the orientation program.

Videos are not shown at the orientation program.

Students do not have the opportunity to evaluate the orientation program.

USC does not have an honor code. However, the law school does have a written pledge.

5. Stanford Law School

Stanford Law School's orientation program is designed so that the professionalism/ethics component is a differentiated part of the overall program. The primary professionalism/ethics component at the law school's orientation is a workshop entitled "Truth or Consequences: Honesty, Ethics & Your Career." Students are assigned readings in advance on the ethical issues arising from the *Berkey Photo v. Kodak* litigation.³¹ Professor Deborah L. Rhode and Visiting

31. See DEBORAH L. RHODE & DAVID LUBAN, LEGAL ETHICS (3d ed. 2001).

Fellow Alan Morrison lead a class discussion on the issues. The students then break out into small groups, facilitated by their Legal Research and Writing Instructors, to discuss the issues the case raises, and then reconvene as a whole.

Professionalism and ethics also arise in a number of other components of the orientation program; for example, the Public Interest Faculty Mentor reception, Professor Buzz Thompson's Overview of the American Legal System as well as the first class in Legal Research and Writing. Furthermore, while directed primarily to University rules and regulation, the presentations on the Honor Code and the Sexual Harassment Policy also address issues of professionalism beyond the law school setting.

Practicing lawyers do not participate in the orientation program.

The law school does not show videos during First Year orientation.

The students have the opportunity to evaluate the program.

Stanford has an honor code that is administered through the University's Office of Judicial Affairs. Stanford Law School students are required to attend a presentation during orientation about the honor code. In addition, the honor code and the related Fundamental Standard are found in the Student Handbook given to every student at orientation. The Office of Student Affairs and the Law School Registrar's Office also remind students of the honor code and its obligations prior to the exam period each semester. Finally, students are required to "acknowledge and accept the Honor Code" and to sign their exam number on each exam they take.

In response to Question 12 on the Law School Questionnaire, Stanford replied:

Stanford Law School's orientation program is but the first piece of what we hope is a pervasive presentation of ethics and professionalism not only throughout the curriculum but also throughout the administration and daily functioning of the law school. By bringing the ethics and professionalism into the orientation in a variety of ways, but especially through an interactive workshop, we try to instill in our students the importance of both from the very start of their legal training.

Stanford Law School also requires that every J.D. student take at least one ethics course during their three years. A variety of options are available to students as the descriptions of the courses offered this year demonstrate.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Stanford Law School indicated that no changes have been made its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

6. Thomas Jefferson School of Law

Thomas Jefferson School of Law indicated that professionalism/ethics are not handled at all within the law school orientation program.

The law school holds a two-day orientation program for the purpose of introducing students to the academic program and to the law school.

Lawyers do not participate in the orientation program.

Materials are distributed to students during orientation. However, no videos are shown during orientation.

Students have the opportunity to evaluate the program.

The law school has an honor court and an honor code. The school does not have a written pledge.

In response to Question 11 on the Questionnaire, Thomas Jefferson replied: "The deans of the three law schools discussed doing this. All three of us thought that entering students are already bombarded by more than they can absorb at orientation, which is already two days long. We did not want to add yet another layer of activity to orientation."

In response to Question 12 on the Questionnaire, the law school stated: "(1) The county bar association controls a program on campus each year during the regular semester. (2) Like all law schools, we require a course in professional responsibility. (3) Faculty discuss professionalism in class, especially those relating to professional skills. (4) We used to offer a separate course in Professionalism and Civility."

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Thomas Jefferson School of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

F. COLORADO

Colorado does not have a state mandated or suggested professionalism orientation program for first year law students.

None of Colorado's law schools responded to the Working Group's survey.

G. CONNECTICUT

To date, the state of Connecticut has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Connecticut's law schools responded to the Working Group's survey.

H. DELAWARE

Delaware does not have a state mandated or suggested professionalism orientation program for first year law students.

To date, none of Delaware's law schools responded to the Working Group's survey.

I. FLORIDA

To date, the state of Florida has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to University of Florida Levin College, Florida Coastal School of Law and St. Thomas University School of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. University of Florida Levin College of Law

University of Florida Levin College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation program takes place over three days.

Practicing lawyers participate in orientation. In the past, someone from the bench and the bar spoke to the students regarding professionalism. Recent speakers on this topic have included Rich Chang, Oscar Sanchez, Mike Siegel and Kathryn Ressel.

Materials are distributed to students during orientation. Videos are not shown during orientation.

Students have the opportunity to evaluate the orientation program.

Levin College of Law has an honor court and an honor code. However, the law school does not have a written pledge.

In Question 11 on the Questionnaire, Levin College of Law noted that the school promotes professionalism at orientation by referring to the orientation program as "The Introduction to Law School and the Profession."

In response to Question 12 on the Questionnaire, Levin stated: "From the first day of orientation, students are required to attend seminars and presentations on professionalism and ethics. These seminars occur throughout the academic year."

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Levin College of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

2. Florida Coastal School of Law

Florida Coastal School of Law (“FCSL”) has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation, takes place over a six-day period.

On the third day of orientation the students attend a session called “Professionalism in Law School and in Practice.” The school described the program in the following way:

The Professionalism in Law School and in Practice focuses on these issues in two ways. The session begins with a presentation on the Honor Code from the Chief Justice of the Student Honor Court followed by a presentation from the Dean regarding professionalism. The Vice Dean then leads a discussion of the attached hypotheticals with specific reference to the FCSL Honor Code and the Florida Rules of Professional Conduct. Please note the hypotheticals were adapted for our use from materials shared with us by the State Board of Georgia Committee on Professionalism and the Chief Justice’s Commission on Professionalism.³²

Practicing attorneys have participated in previous orientation programs, but have primarily discussed legal writing. Others have spoken on various issues related to the bar examination. The speakers have included Kathryn Kessel, Executive Director of the Florida Board of Bar Examiners, who discussed various administrative and character issues with respect to the bar examination, as well as several attorneys who discussed the importance of writing in the law.

Videos are shown during orientation for the purpose of introducing the common law legal method to students in a non-legal setting.

The students are given the opportunity to participate in most sessions through general class discussion. It has been noted that in some sections, professors or the session leaders may ask students to discuss issues in small groups.

Students are not given the opportunity to evaluate the program.

FCSL does have an honor code and an honor court. However, they do not have a pledge.

In response to question 11 on the Questionnaire, FCSL commented: “We have found our current model to be a useful tool in generating discussion of rules of conduct both in law school and practice.”

In response to question 12 on the Questionnaire, FCSL replied:

Professors at FCSL discuss issues related to values and ethics throughout their courses as part of the infusion curriculum.

32. See Appendix K for the hypotheticals used during orientation.

The infusion curriculum requires professors to “infuse” their courses with topics such as: professionalism and ethics; skills; multiculturalism; and globalization. While the professionalism session during orientation is not directly linked to these efforts it is indicative of our commitment to teaching professional ethics throughout our student’s educational experiences.

3. Nova Southeastern University Shepard Broad Law Center

Nova Southeastern University (“NSU”) has a professionalism/ethics program that is a differentiated part of the overall orientation program.

Practicing lawyers participate in orientation. In the past, members of the Board of Bar Examiners addressed the incoming class.

No materials are distributed to students during orientation. Videos are not shown during orientation.

Students had the opportunity to evaluate the orientation program for the first time this year.

NSU has an honor court and an honor code. The law school also has the following written pledge, titled Student Professionalism Oath:

I _____ (state your name) do solemnly swear to uphold, protect and defend the constitution of the United States, the Florida constitution, the rules regulating the Florida Bar, the honor code of the Shepard Broad Law Center, and all other Nova Southeastern University rules and regulations, and I further agree to carry out to the best of my ability all responsibilities to my profession, so help me God.

In response to Question 12 on the Questionnaire, NSU stated that there is a mandatory two-semester class entitled “Legal Skills Values” for first year law students. Additionally, Professional Responsibility is a required course for graduation.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, NSU indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

4. St. Thomas University School of Law

St. Thomas University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation takes place over a two-day period.

Practicing lawyers participate during orientation by speaking to the incoming students. For example, in the past, a member of the state’s Professionalism

Committee addressed the incoming students on ethics and professionalism. In addition, alumni have spoken to the students on the subject of practicing law and opportunities.

Materials are distributed to students during the orientation program. However, no videos are shown during orientation.

Students have the opportunity to participate in orientation during break-out sessions held to demonstrate how law classes will function during the year.

Students have the chance to evaluate the program. St. Thomas stated that the overall rating is very satisfactory.

St. Thomas has an honor court and an honor code. The law school also has a written pledge.

In response to Question 12 on the Questionnaire, St. Thomas replied: "Students are required to take a professional responsibility course. Also ethics/professionalism issues are presented in most substantive law courses. We also have guest speakers from the State Bar at the student award ceremony (annually) who address these issues."

5. Stetson University College of Law

Stetson University College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a three-day period.

Practicing lawyers participate in orientation in numerous ways. For example, lawyers participate in such things as professional luncheons, panels and lectures.

Materials are not distributed to the students. However, videos are used during orientation. For example, Dennis de Vlammig, the Professionalism Luncheon Speaker uses movies such as *My Cousin Vinny* and *Cape Fear* to help prove his point.³³

Students only evaluate the academic portion of the orientation program.

Stetson has an honor court and an honor code. The law school does not have a written pledge.

In response to Question 7 on the Questionnaire, Stetson described the breakout sessions that occur during orientation:

Professionalism Small Group Breakout Session – Attorneys from private practices and government discuss with the new students on how professionalism works in everyday practice. Ambassadors Breakout Sessions – Students are permitted to ask senior students questions about law school and our professional concerns.

33. MY COUSIN VINNY (20th Century Fox 1992); CAPE FEAR (Universal Studios 1991).

Professional and Diversity Session – Includes skit presentations with the new students as the actors and Ambassadors are producers.

In response to Question 11 on the Questionnaire, the law school stated: “Using professionalism training in the beginning helps to inform students of what behavior is expected from them. It also sets the stage for the students learning professionalism as they progress through law school.”

In response to Question 12 on the Questionnaire, the school responded: “Professionalism is addressed by various speakers and professors throughout the years. The law school supports student involvement in the American Bar Association/Law Student and mentoring programs.”

The law school has an honor court and an honor code. However, Stetson does not have a written pledge.

J. HAWAII

To date, the state of Hawaii has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

Additionally, none of Hawaii’s law schools responded to the Working Group’s survey.

K. IDAHO

To date, the state of Idaho has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

However, according to the University of Idaho College of Law, the state bar is a partner with the law school in the professionalism/orientation program.

1. University of Idaho College of Law³⁴

The University of Idaho College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over the course of one day.

Practicing lawyers participate in the orientation program by serving as the discussion leaders of small groups. In the past, the Chief Judge of the Idaho Court of Appeals and the President of the Idaho State Bar were speakers at the orientation program and spoke on the topic of professionalism.

The law school does not use videos during orientation.

34. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Idaho College of Law indicated that changes have been made to their law school’s orientation and approach to professionalism since they responded to the Institute’s survey in August 2002.

The students participate during the orientation program by meeting in groups of five or six, along with a lawyer or judge, to discuss various scenarios regarding professionalism and ethics.³⁵

The students have the opportunity to evaluate the program. The students were asked to complete a questionnaire on the various activities during orientation and the professionalism portion of the orientation program received above average scores.

The law school has an honor code, an honor court, as well as a pledge.

The school tries to further instill a sense of professionalism in students throughout their law school experience by having outside speakers address professionalism and related topics and by offering clinical experiences and professional responsibility courses that emphasize professionalism.

L. ILLINOIS

The state of Illinois has neither a state mandated or suggested professionalism orientation program. However, Illinois' nine law schools, pursuant to their American Bar Association accreditation, do require that "all students in the J.D. program receive instruction in the history, goals, structure, duties, values and responsibilities of the legal profession and its members, including instruction in the Model Rules of Professional Conduct of the American Bar Association."

Furthermore, the Illinois Supreme Court has appointed a Special Supreme Court Committee on Professionalism that is working on the implementation of a plan that will supplement the required curriculum with further material to be delivered to law school students during their school's orientation program.

1. DePaul University College of Law

At DePaul University College of Law, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. Orientation takes place in one day.

No lawyers participate during orientation.

Materials are distributed to students during orientation. However, no videos are shown during orientation.

Students do not have the opportunity to participate because the orientation consists of only lectures. However, students may evaluate the orientation program.

The law school does have an honor court and an honor code. However, the school does not have a written pledge.

35. See Appendix L for a copy of the professionalism scenarios used during orientation.

2. Northern Illinois University College of Law

Northern Illinois University (“NIU”) College of Law has a professionalism/ethics orientation program that is a differentiated part of the overall orientation program. The law school described its orientation program as follows:

The NIU College of Law began its orientation program on Ethics and Professionalism in the fall of 1999. In the years since, the College of Law has developed and implemented a week-long academic orientation for its entire first year class. The Ethics and Professionalism orientation has become one of the anchors of this orientation.

The Ethics and Professionalism orientation features a key note speaker, followed by break-out sessions during which small groups of students are led in the discussion of “hypothetical” situations they might encounter during their law school careers. The key note speaker in 2003 was Illinois Supreme Court Justice Robert R. Thomas. The small-group discussions were led by faculty members and local members of the Illinois Bar. Upper-level students also assisted in facilitating the discussions.

During the small-group discussions, students are asked for their impressions of the hypothetical situations. They are asked what they would advise these hypothetical parties to do and, ultimately, what they would do in a similar situation. There are no right or wrong answers. The facilitators connect the hypothetical situations to “real world” situations in law school and in practice. The ABA Model Rules of Professional Conduct, the law school’s rule governing academic conduct, and the other handouts are used as the foundation for many of the discussions.

The program’s goal is to have the students begin thinking about Ethics and Professionalism before they may be confronted with these types of situations. Additionally, by anchoring the discussions with the Model Rules of Professional Conduct, the program acquaints students with the existence of and the importance of professional conduct standards. Through this orientation, NIU College of Law impresses upon its students that they are entering a profession which will require them to act at all times with the highest level of integrity.

Students have the opportunity to evaluate the orientation program.

The law school does not have an honor court or an honor code. In addition, the law school does not have a written pledge.

3. Southern Illinois University School of Law

Southern Illinois University School of Law has a professional/ethics orientation program that is conducted separately from the general orientation program. Students are required to attend a series of about 20 workshops on professionalism. The purpose of these workshops is to “let the first-year students know that there are ethical constraints on attorney’s behavior and also to help the students understand how important it is to be a competent practitioner.”

The following description was given regarding the program:

In the fall semester, we focus on two matters: ethical behavior and professional competence. The goals of the fall semester are to introduce students to some basic ethical constraints on law students and lawyers and to assist the students in developing study and exam preparation skills. We begin with a presentation on the obligation to tell the truth in law school applications and the adverse consequences that can arise if a student misrepresents or omits relevant information on the law school application. We give students an opportunity to correct information on their applications before it comes time to apply for the Illinois Bar Examination when correcting that information can be very troublesome. In addition, we present the basics of our Law School Ethics Procedure and an introduction to problems of plagiarism, which is then elaborated upon in the students’ first Lawyering Skills class.

Next, we spend an hour with the students going over the basic ethical obligations of lawyers—competence, loyalty, and confidentiality. Following this, we have a panel discussion of lawyers, judges, and (this year) a client, about what “professional behavior” means. In other words, we address aspects of professionalism other than just conforming to ethical requirements. The session focuses on civility and courtesy (concepts seemingly alien to many of our younger students) to lawyers and others. A week or two later, the entire first-year law school class meets jointly with the first-year Medical School class for “Professional Responsibility Day.” This involves a speech on professionalism and then several small breakout groups facilitated by members of both the Law School and Medical School faculties. The students discuss three hypothetical problems, two involving doctors and one involving a lawyer. Each of the hypotheticals is designed to illustrate professional concepts common to lawyers and physicians—such as the client’s right of self-determination, the concept of confidentiality of information, etc.

This fall, we will, for the first time, have a “capstone” experience in the first semester. We plan to have a two-hour discussion (in small groups) of professionalism for law students. Each small group will review a number of different oaths and pledges (the Hippocratic Oath, several state bar association professionalism pledges, etc.) and then draft a Law Student Professionalism Pledge. The various drafts will be voted on by the entire class and the pledge receiving the most votes will become the pledge for that class. A week later, a judge will administer the pledge to the entire first-year class in a formal ceremony at the law school.

In addition to stressing ethical behavior, we also provide a series of presentations on how to study and prepare for law school examinations.

During the spring semester, we continue the ethics/professionalism focus with a workshop on ethics in advocacy and a workshop on civility in advocacy. To continue with the theme of competence, we offer a workshop reviewing examinations from the preceding semester and a two-hour workshop on persuasive oral advocacy (offered at about the time the students do their first oral appellate argument in our moot court program). During the spring semester, we also begin to introduce students to issues of legal employment. We offer a workshop summarizing the types of job opportunities available for law students, a workshop on “business etiquette,” and workshops on writing cover letters and resumes and interviewing.

Practicing lawyers, judges and clients participate in orientation through a panel discussion on “Professional Behavior.”

Materials are distributed to students during orientation. No videos are shown during the program.

In response to Question 7 on the Questionnaire, SIU replied that after each presentation there are question and answer sessions. Additionally, in 2002, the first-year students will draft a professionalism pledge for the entire class to take.

Students have the opportunity to evaluate the program.

SIU has an honor code and an honor court.³⁶ The school also has a pledge that the students draft on their own (see above description).

36. A section titled “Violations of the Code of Professional Responsibility” is found in the Southern Illinois University School of Law Honor Code. Part 1 of the section states: If within the Clinical Program of the School of Law, any externship for which academic credit is awarded, or in any position as a law clerk for a law firm or legal organization, the student is guilty of conduct which, if committed by an attorney, would violate the Code of Professional Responsibility as adopted by the Illinois Supreme Court, such student violates this code.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, SIU indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

4. The John Marshall Law School

In response to whether The John Marshall Law School has a mandated or suggested professionalism orientation program, The John Marshall Law School checked off "other" in response to Question 3 on the Questionnaire, but offered no explanation. Orientation takes place over a three-day period.

Practicing lawyers participate in the orientation program. For example, panels of lawyers and judges speak about professionalism, including the function of the ARDC and the Lawyer's Assistance Program. The president of the Alumni Association also addresses the incoming class.

Materials are distributed to students during orientation. Videos are not shown during orientation.

During orientation, students have the chance to participate during a mock classroom setting for a demonstration of "Introduction to Case Analysis and Briefing." Students break into small groups to have lunch with their student advisors. In addition, students interact in a social setting through the receptions before and after orientation.

Students have the opportunity to evaluate the orientation program.

The law school has an honor court and an honor code. At the moment, there is no written pledge to the commitment of professionalism, but the school is considering adopting one.

In response to Question 12 on the Questionnaire, John Marshall noted that ethics is taught as a class and pervasively throughout the curriculum. In addition, conferences are held on the topic of ethics.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, The John Marshall Law School indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

5. University of Illinois College of Law

At the University of Illinois College of Law, professionalism/ethics are discussed as appropriate throughout the overall orientation program and do receive differentiated treatment. Orientation takes place over three days. One hour is devoted to a presentation given by practicing attorneys entitled, "Professionalism, Your Legal Education, and the Practice of Law." One half-hour is devoted to a presentation given by a professor from the law school entitled, "Professional Responsibility: General Ethics and Honor Code."

During the 2003 law school orientation, practicing lawyers participated as lecturers and facilitators.

Materials are distributed to students during orientation. Videos are not shown during orientation.

During orientation, students have a chance to participate in break out sessions that are held on the last day of orientation.

Students have the opportunity to evaluate the orientation program.

The University of Illinois College of Law has an honor court and an honor code. In addition, the law school has a written pledge.³⁷ The written pledge is entitled “Oath to Professionalism.”

In response to Question 12 on the Questionnaire, the University of Illinois College of Law noted: “Bar programs, speakers and communications are conducted with our students on a regular basis to follow up on the initial professionalism program at orientation.”

M. INDIANA

To date, the state of Indiana has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

However, according to Indiana University School of Law Bloomington and Indiana University School of Law Indianapolis, the state has neither a state mandated or suggested professionalism orientation program.

1. Indiana University School of Law Bloomington

The law school has a professionalism/ethics orientation program that is conducted separately from the general orientation program. For the past three years, the school has had a year-long professionalism program for first year students. The program is not part of the law school’s general orientation. Over the years, the format of the professionalism program has changed from an intensive week of sessions to the current format, which is a year long.

The program begins with a lecture by the state Chief Justice or a faculty member who teaches Professional Responsibility. The lecture is an introduction to the concept of professionalism.

After the lecture the following sessions take place:

- (1) The structure of ethical governance of the profession, which has often involved the Executive Director of the Indiana Supreme Court Disciplinary Committee;
- (2) What does professionalism mean in the law school context, including what students can do in law school that will get them in trouble with the

37. See Appendix M for the University of Illinois College of Law’s “Oath of Professionalism.”

character and fitness portion of the bar, resources for impaired attorneys and law students, and the ongoing responsibility of civility;

(3) Professionalism and identity, which involves race and gender in the profession, and for which we often use outside attorneys;

(4) Managing stress; and

(5) Professional responsibilities of subordinate attorneys, to prepare students for their summer clerkships and internships. During sessions three and five breakout sessions take place where the students have the chance to interact and participate.

Materials are distributed to the students during the program. Videos are not shown during the orientation.

Students have an opportunity to evaluate the program.

The law school has an honor code, but does not have a pledge.

2. Indiana University School of Law Indianapolis

Professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment at the Indiana University School of Law Indianapolis. The orientation takes place over a three day period.

Practicing lawyers do not participate in the program.

Materials are not distributed to the students. Videos are not shown during orientation.

Students are not asked to evaluate the orientation program. However, sometimes at the end of the student's first year of law school, a survey is distributed that asks, "What if anything, do you remember about orientation?"

The law school does not have an honor code or an honor court. Nor does the school have a pledge.

In response to Question 12, Indiana replied: "We provide many opportunities for our students to do public service and pro bono work and to work with practicing attorneys. Our clinical programs have a strong emphasis on ethics and professional responsibility. However, none of these are linked to our orientation program."

N. IOWA

To date, the state of Iowa has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to the University of Iowa College of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. Drake University Law School³⁸

At Drake University Law School, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. Orientation takes place over a three-day period.

Lawyers participate in the orientation program.

Drake University Law School has an honor court and an honor code. The law school does not have a written pledge.

In response to Question 12 on the Questionnaire, the law school replied that it does not really endeavor to instill a sense of professionalism in students throughout their law school experience. However, the school noted that it has a Partners Program for first years and a state bar mentoring program.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Drake University Law School indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

2. University of Iowa College of Law

The University of Iowa College of Law indicated on the Questionnaire that the school has a professionalism/ethics component that is a differentiated part of the overall orientation program and that professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. During the orientation, a seven-day event, a session called "The Legal Profession: Law School Conduct Codes and State Bar Fitness Inquiries" is held. No further information was provided regarding the session.

Practicing lawyers participate in the orientation program by introducing character and fitness screening issues for bar admission. The speakers have included a state Supreme Court Justice and the State Bar President.

Materials are distributed to students during the orientation. No videos are shown during orientation.

Students are occasionally asked to evaluate the program, but evaluations are not consistently handed out.

The law school neither has an honor code, an honor court nor a pledge. However, they have a misconduct code.

In response to Question 12 on the Questionnaire, the University of Iowa replied: "We have a voluntary Pro Bono society wherein students are inducted when they log hours doing public service." The school noted that this program is publicized at orientation.

38. Drake University Law School did not answer many of the questions on the Questionnaire.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Iowa indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

O. Kansas

To date, the state of Kansas has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to Washburn University School of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. Washburn University School of Law

Washburn University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The law school included the following description of its orientation program: "Our orientation program is a week long program focusing intensively on academic issues. Students participate in extended classes, exercises and small group work in one subject area, e.g., Torts, Property or Criminal Law, logging at least 8 hours of lecture in that first week. Other components of our orientation include a basic writing skills test, a compulsory community service event, the professionalism lectures described above and social events."

P. KENTUCKY

The state of Kentucky has a mandated professionalism orientation program. The program is conducted by the Kentucky Bar Association. This program is modeled after the program established by the Supreme Court of Georgia and the State Bar of Georgia. The program is approximately three hours in length and is conducted during the law school orientation program for the first year law students.

Kentucky provided the schedule of the professionalism program from Chase College of Law at Northern Kentucky University. The program is broken down in the following way: remarks by Kentucky Supreme Court Justice, Donald C. Wintersheimer, followed by breakout sessions where small group discussions (10 to 12 students) of hypotheticals take place facilitated by group leaders (Kentucky lawyers and judges). Then the entire first year class reconvenes and discusses what took place during the breakout sessions, and the program is concluded by the Kentucky Bar Association President's closing remarks of professionalism.

The group leaders of the breakout sessions are provided with five hypothetical problems to be discussed with the students, as well as a copy of the relevant Kentucky Rules of Professional Conduct and the Code of Professional Courtesy.

1. University of Louisville Louis D. Brandeis School of Law³⁹

Brandeis School of law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The Kentucky Bar Association Professionalism Committee works with the law school and sponsors during a 3 1/2 hour session addressing issues of professionalism during orientation. For example, during the orientation for the 2003-2004 law school year, the students were addressed by the dean of the law school, then the students met in small groups and discussed various hypotheticals, the students reconvened and closing remarks were given by Judge Sara W. Combs of the Kentucky Court of Appeals.

Practicing lawyers and judges participate in the orientation program by serving as discussion facilitators and by conducting classroom discussions based on hypotheticals. Speakers have included the President of the Kentucky Bar Association, Judge Sara W. Combs of the Kentucky Court of Appeals, and Grant Helman, Chair of the Character and Fitness Committee, Kentucky Office of Bar Admissions.

Materials are distributed to the law students during the orientation. No videos are shown during the program.

Students have an opportunity to evaluate the orientation.

The law school has an honor code and honor court. The Honor Council is a student board that is responsible for administering the honor code. The school also has a Honor Code Certification that the students sign.⁴⁰

In response to Question 12 on the Questionnaire, the law school replied: "Students must complete thirty hours of public service in order to graduate. Students must take the required course in Professional Responsibility. Students attend Senior Day to discuss ethics (this is in the last year as a 'follow up' to what is done at first year orientation)." In addition, in response to the follow up letter the Institute sent, Brandeis School sent an article written by Dean Laura F. Rothstein, entitled "The Brandeis Commitment to Professional Ethics."⁴¹

Q. LOUISIANA

The state of Louisiana has a suggested professionalism orientation program. For law schools in the state that support the program, it occurs during orientation for the first year law students and is organized by the Professionalism Committee. The program is broken down in the following format: brief remarks by keynote speakers and then small group discussions of no more than

39. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Louisville Louis D. Brandeis School of Law indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

40. See Appendix N for the Honor Code Certification and Honor Code.

41. See Appendix O for the article.

thirty students. Professionalism and ethical issues take place with group leaders aiding the discussions (Louisiana lawyers and judges). Also, in these small groups, hypothetical situations are discussed.

Students are sent the hypothetical problems before orientation to allow for consideration of the problems prior to orientation.

1. Loyola University New Orleans School of Law

Loyola University New Orleans School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation consists of 2½ days of informational sessions.

Practicing attorneys participate in orientation either as speakers or leaders in breakout sessions. Each year at the orientation the following people speak: State Bar Committee on Professionalism and Quality of Life, a Louisiana Supreme Court Justice or federal judge and the State Bar President or President Elect.

Materials are distributed to the students during the orientation program. No videos are shown over the course of the orientation.

Breakout sessions take place during the program and they are usually led by two or three lawyers or judges. The breakout sessions have about 25 to 30 students in each group and appropriate hypotheticals are discussed during this time.

Students have the opportunity to evaluate the orientation program, and the law school noted that the evaluations are generally positive.

The law school has an honor code and an honor court. However, the school does not have a pledge.

2. Tulane University School of Law

Tulane University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

Lawyers participate in orientation as group discussion leaders. Speakers in the past have included a state Supreme Court Justice, the President of the Bar Association and the Chair of the Professionalism and Quality of Life Committee.

Materials are not distributed to students during the orientation.

Videos are not shown during the orientation.

The students have the opportunity to participate in orientation when they break into small groups to discuss hypotheticals. The discussion groups are led by a practicing lawyer or judge.

Students do not have the opportunity to evaluate the program. However, the school noted that informal feedback has been positive.

The law school has an honor court and an honor code. The school does not have a written pledge.

In response to Question 12 on the Questionnaire, Tulane replied: “Our Legal Profession course, which is a required course, covers both ethics and professionalism. Specific lectures on professionalism are conducted in Trial Advocacy and clinical seminars.”

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Tulane indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

3. Southern University Law Center

Southern University Law Center has a professionalism/ethics orientation program that is conducted separately from the general orientation program.

Practicing lawyers have participated in the orientation program as mentors and moderators of discussions on various ethical dilemmas.

Materials are distributed to the students during the orientation program.

Videos are not shown during the orientation.

In response to Question 7 on the Questionnaire, Southern University Law Center responded: “We allow breakout sessions for over forty-five minutes, and we have a formal session in which the Supreme Court participates and brings the message on professionalism.”

Students have the opportunity to evaluate the orientation program.

Southern University Law Center has an honor code. However, the law school does not have a written pledge.

In response to Question 12 on the Questionnaire, the law school noted: “The Chancellor has routinely directed the faculty to include professionalism on the syllabus and in the curriculum.”

R. MAINE

To date, the state of Maine has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

Additionally, none of Maine’s law schools responded to the Working Group’s survey.

S. MARYLAND

Maryland does not have a state mandated or suggested professionalism orientation program for first year law students.

Recently, the Maryland Judiciary created a “Professionalism Task Force”, chaired by Court of Appeals Judge Lynne A. Battaglia.⁴²

1. University of Baltimore School of Law

Professionalism/ethics are discussed as appropriate throughout the overall orientation program, but do not receive differentiated treatment at the University of Baltimore School of Law. The orientation lasts for four days.

Practicing lawyers do not participate in the orientation program.

Materials are distributed to the students during orientation. Videos are not shown during orientation.

The students do not have the opportunity to evaluate the program.

University of Baltimore School of Law has an honor court and an honor code. The law school does not have a written pledge devoted to any standards of ethics or professionalism.

In response to Question 12 on the Questionnaire, the school noted that it instills a sense of professionalism in students throughout the law school experience by requiring the students to take a Professional Responsibility course. Additionally, professionalism is discussed in a significant way during a lecture entitled “Surviving the First Year of Law School and Beyond.”

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, University of Baltimore School of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

2. University of Maryland School of Law⁴³

The University of Maryland School of Law has a professional/ethics component that is a differentiated part of the overall orientation program. This part is called, “The Honor Code: Professional Conduct.” The following is what the students receive prior to the orientation program:

At Orientation, each small section will meet with Dean O’Neill to discuss the nature and scope of the Honor Code as well as the conduct governed by the Student Disciplinary and Appeals Procedure (SDAP). The purpose of the Honor Code class session in Orientation is to welcome students to the “profession” of law and to guide them in their understanding of the need for self-monitoring of honorable conduct.

42. See Appendix P.

43. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Maryland School of Law indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

In preparation for the session, you should familiarize yourself with the matters governed by the Honor Code and the SDAP as described in the handout enclosed in this packet as well as the text of the Honor Code itself. You should also review the Maryland Code of Professional Conduct that governs the conduct of attorneys admitted to the Bar of the State of Maryland. Lastly, you should review the “case scenarios” attached with these materials that will form the basis for some of the class discussion with Dean O’Neill.⁴⁴

Practicing lawyers participate at orientation as part of a panel for a question and answer session.

Materials are distributed to the students during orientation. No videos are shown during orientation.

Students do not have the opportunity to evaluate the program.

The law school has an honor code and an honor court. However, the school does not have a pledge.

In response to Question 12 on the Law School Questionnaire, Maryland School of Law replied: “We emphasize that professional reputation starts at law school. We publish results of Honor Board hearings. The link is that it begins at orientation. Legal professors discuss the honor code. Some professors require a written pledge on exams.” In response to the Institute’s follow up letter dated March 10, 2004, the law school responded to Question 12 with the following: “We stress professionalism in our small group meetings with first semester students, in e-mails to the student body which report disciplinary results, and in our Legal Profession classes.”

T. MASSACHUSETTS

To date, the state of Massachusetts has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

However, the Western New England College School of Law responded that Massachusetts has neither a mandated or suggested professionalism orientation program.

3. Western New England College School of Law

Professionalism/ethics are discussed as appropriate throughout the overall orientation program and receive differentiated treatment.

44. See Appendix Q for the case scenarios used during orientation.

The theme of Western New England College School of Law's orientation program is entitled "Professionalism: From the Classroom to the Courtroom."

Past guest speakers have included practicing lawyers, judges and bar association members. For instance, both a United States Federal District Court Judge and the President of the Massachusetts Bar Association have spoken on professionalism in the law.

Materials are distributed to the students at orientation programs. However, videos are not shown during orientation.

Students divide into small group breakout sessions with faculty facilitators. Topics include diversity, professionalism, characteristics of a good lawyer, classroom professionalism, law student as a lawyer in training, and a comparison of the Rules of Professional Responsibility with the Honor Code.

Western New England College School of Law has an honor code.

In response to Question 12 of the law school questionnaire, Western New England College School of Law stated: "Professionalism issues are integrated throughout the curriculum and the orientation stresses that this is the start of their professional career."

U. MICHIGAN

Michigan does not have a state mandated or suggested professionalism orientation program for first year law students.

1. Detroit College of Law at Michigan State University⁴⁵

Detroit College of Law at Michigan State University has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a three-day period.

Practicing lawyers do not participate in orientation.

Materials are distributed to the students during orientation. Videos are not shown during orientation.

Students have the opportunity to evaluate the program.

Detroit College of Law at Michigan State University has an honor court and an honor code. The law school also has a written pledge.

In response to Question 11 on the Questionnaire DCL stated:

Prior to beginning my discussion regarding the State Bar's Character and Fitness process, I inform students that their reputation as a lawyer has already begun. Then I explain what is meant by this statement by reviewing the application. I also point out

45. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, DCL indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

how they present themselves in law school will also have an impact on their future as lawyers, given that the people who are sitting in class will also be the individuals who will be approached when a character reference is needed. It is amazing how many students approach me as they are about to graduate to share the impact that this statement has made on them.

In response to the Institute's follow up letter dated March 10, 2004, the law school responded to Question 11 with the following:

It might be helpful to allocate time during orientation when a representative from the state bar character and fitness section can speak during the orientation. Also, given that the Supreme Court has jurisdiction over the bar, it might be helpful to have a Justice administer an oath to new law students at orientation.

In response to Question 12, the law school stated:

The Career Services Offices provides students with an opportunity from the start of their law school experience to present themselves in a manner that will make them highly competitive in the legal market. Students gain the necessary skills in how to research employers, how to maximize interview opportunities, how to dress professionally and on proper dining etiquette. Career Services also provides students with a realistic view of the market and ways they can promote themselves to make an impact. This is done through one-on-one advising, a series of seminars and workshops, handout and website information.

In response to the Institute's follow up letter dated March 10, 2004, the law school responded to Question 12 with the following: "Courses such as Professional Responsibility and practical skills courses are used to instill a sense of professionalism in new law students. During orientation there is extensive discussion regarding character and fitness."

2. Thomas M. Cooley Law School

Thomas M. Cooley Law School has a professional/ethics component that is a differentiated part of the overall orientation program. The orientation lasts for two days. The law school noted that currently only the Honor Code receives separate coverage, while the Professionalism Plan requires broader coverage during orientation. The Professionalism Plan sets forth professionalism principles, which the law school has adopted.⁴⁶

Practicing lawyers participate in the orientation program. The State Bar of Michigan's Lawyer Assistance Program sends a representative to orientation to offer help with the drug and alcohol abuse portion of the program.

46. See Appendix R for more information on the Professionalism Plan.

Only the Honor Code is distributed to students during orientation. No videos are shown during orientation.

The law school has an honor code and an honor court, as well as a pledge.

3. Wayne State University Law School

Professionalism/ethics are discussed as appropriate throughout the overall orientation program, but do not receive differentiated treatment at Wayne State University Law School. The orientation takes place over a four-day period.

The law school described the orientation program as follows: "All first year law students participate the week before regular classes in a twelve hour orientation program taught by their legal research and writing instructors. Orientation has three goals: to introduce the legal system, to begin to teach students to read and understand cases, and to introduce legal analysis. Issues of professionalism are discussed as they come up."

Students receive materials during orientation. Besides receiving copies of the school's policies, students receive articles and cases to look over and discuss during orientation. The law school commented: "As professional or ethical issues arise either in the materials or as student questions, we discuss them."

No videos are shown during orientation.

Students are not asked to evaluate the program. However, the school noted, "informally, students report enthusiastic support for Orientation. They believe it gives them a way to approach their regular classes, and it creates an esprit de corps among the members of the legal writing classes that persists throughout law school."

At the moment, the law school does not have an honor code, but it is considering adopting one in the future. The school has no pledge.

In response to Question 12 on the Law School Questionnaire, Wayne State University replied: "The Orientation program, like the rest of the Law School program, incorporates professionalism where relevant."

V. MINNESOTA

Minnesota does not have a state mandated or suggested professionalism orientation program for first year law students.

1. Hamline University School of Law

Hamline University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The law school wrote: "At Hamline University School of Law, we have always taken professionalism and ethics very seriously and included it in our orientation programs as well as incorporating it into our entire curriculum. Being a school

whose roots are in public interest law, we believe that we set an example in this area by providing humane, yet rigorous legal education.” Hamline also noted: “While we have always talked from day one with our students regarding professionalism and ethics, it is also a specific part of our orientation program and is delivered by our Associate Dean for Academic Affairs. Covered in this portion of the orientation program is the professionalism and ethics of the profession itself and discussion of our school’s own Code of Conduct.” The overall orientation is a day long, while the portion devoted to professionalism is approximately fifteen minutes.

Practicing lawyers participate in the orientation in two ways. A practicing lawyer gives the keynote address at the orientation and lawyers attend a luncheon at the orientation where they address the professionalism and ethics of the law as well as the public calling and privilege of practicing. Speakers in the past have included the Honorable Gary Paqliacitti, Chief Judge, 6th District, the Honorable Jenny Walker Jasper, 10th Judicial District, and Gwen Lerner of the Children’s Law Center.

Materials are distributed to the students. However, videos are not shown during the orientation.

As for student participation during orientation, the students have the opportunity to ask questions throughout the program. However, according to the law school, “the most active discussion emits from the portion on professionalism and academic honesty.”

Students have the opportunity to evaluate the orientation program.

The law school has an honor code and an honor court, as well as a pledge.

In response to Question 12 on the Questionnaire, Hamline replied: “We stress professionalism and ethics throughout our curriculum. Orientation is the first step.”

2. William Mitchell College of Law

William Mitchell College of Law has a professionalism/ethics orientation program that is conducted separately from the general orientation program, as well as a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation for first year students is three days long. During orientation, professionalism and ethics are addressed in an hour and fifteen minute presentation entitled “Ethical & Professionalism Problems Faced by Lawyers.” At this time, materials containing four hypothetical problems that are discussed during the presentation are handed out to the students.⁴⁷

Practicing lawyers participate in orientation as keynote speakers, leaders of small discussion groups and panelists on the diverse roles lawyers assume in their practice.

47. See Appendix S for hypotheticals used during orientation.

Materials are distributed to the students during orientation. No videos are shown during the program.

Students have the opportunity to participate during the orientation program by means of small group sessions (12-14 students) on professionalism and ethics.

In the past, students have had the opportunity to evaluate the orientation program. The school noted, "It has been uniformly well received."

The law school has an honor code. However, the school does not have a pledge.

In response to Question 11 on the Law School Questionnaire, William Mitchell College of Law stated: "The orientation program is ideal for including the expectation that ethics/professionalism is a core value and important to their legal education. This notion is supported by our year long Perspectives on the Legal Profession program."

In response to Question 12 on the Questionnaire, the law school referred to the Perspectives on the Legal Profession Program ("PLP"). PLP begins during first year orientation and lasts through the first semester of the second year. The program consists of the following eight requirements: (1) Ethics and Professionalism; (2) A Lawyer's Role in Society; (3) Civil Procedure; (4) Judicial Proceeding; (5) Perspectives; (6) Justice in a Diverse Society; (7) Careers in Law; and (8) Stress Management and Healthy Lifestyle. The first three components are satisfied through Orientation and through the students' regularly scheduled classes. As to the remaining five components, students have a variety of programs from which to select throughout the year. The following description was given for the Ethics and Professionalism component of the program: "Lawyers are professionals obligated to uphold the highest ethical standards for the protection of clients, the legal system, and the profession. As a part of the Orientation program, you are required to attend a session on Ethics and Professionalism."

W. MISSISSIPPI

To date, the state of Mississippi has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Mississippi's law schools responded to the Working Group's survey.

X. MISSOURI

To date, the state of Missouri has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to University of Missouri Columbia School of Law, University of Missouri Kansas City School of Law and Washington University School of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. University of Missouri Columbia School of Law

University of Missouri Columbia School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a three-day period.

Lawyers participate in orientation by discussing professionalism with students during a breakout session and also join in the larger general discussion. Judge Lawrence Crahan hosts The Joe E. Covington Professionalism Luncheon/Seminar.⁴⁸ During this luncheon, the lawyers and students discuss the case or reading material that was provided to stimulate discussion. The students are then asked to list their top three answers to the question: “What is professionalism?”

Students have the opportunity to evaluate the program. The school stated, “Students like the program. It is an opportunity to engage in discussion with their peers and a well seasoned practitioner.”

No videos are shown during orientation.

University of Missouri Columbia School of Law has an honor court and an honor code. The law school does not have a written pledge.

In response to Question 12 on the Questionnaire, the school stated that although they do not have a formal program at this time, they are working to develop a 2L and 3L component.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, University of Missouri Columbia School of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

2. University of Missouri Kansas City School of Law

University of Missouri Kansas City School of Law (“UMKC”) indicated on the survey that the school has a professionalism/ethics orientation that is conducted separately from the general orientation program and a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation at the school is two days long.

In describing the school’s approach to professionalism during orientation, the Dean wrote:

48. See Appendix T for the reading material for the Joe E. Covington Professionalism Luncheon/Seminar.

In the past our presentation during orientation has been in the form of a skit presented by returning students addressing a number of issues involving professional behavior in the law school setting. This year the same issues will be addressed by a panel discussion led by our Director of Admissions. The focus will be on maintaining a cordial, yet professional, attitude towards classmates, faculty and staff both in and beyond the classroom, with a particular emphasis on the need to avoid giving or taking offense when 'hot' topics are discussed.

Also, each year at orientation drug and alcohol abuse by students are addressed by a professor. The law school feels this is important because drug and alcohol abuse have a "direct impact on attorney ethics and professionalism."

The Dean noted:

Although there is a movement afoot in Missouri among leading members of the Bar to require, or at least strongly recommend, that the four Missouri Law Schools have a substantial ethics/professionalism component in their orientation programs, that has not yet come to pass. Our orientation program essentially is designed and intended to provide only a basic introduction to the school, including faculty, staff and fellow students, as well as instruction in the 'how to' of studying law, with a deeper understanding of substantive law, including ethics and professionalism issues, to follow in due course.

Practicing attorneys and judges participate in orientation by meeting with students for lunch in groups of fifteen where the new students can discuss with the attorneys and judges any issues that interest or concern the students.

Materials are distributed to the students during orientation. No videos are shown during orientation.

The students have the opportunity to evaluate the program, but not until after their first semester.

UMKC has an honor code and a written pledge. The pledge reads:

I, _____, hereby affirm that I have received, read and understand the terms of the UMKC 'School of Law Honor Code' and "Plagiarism Policy," and further understand that I am required to adhere to both policies. I am also aware that both documents are available for review on the internet as part of school's website.

In addition, the law school has a required convocation of all first year law students where the UMKC School of Law Honor Code is explained.

3. Washington University in St. Louis School of Law

Washington University in St. Louis School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

During orientation, lawyers serve various roles. However, with respect to the topic of professionalism, lawyers serve as facilitators in the school's professionalism discussion group.

At the 2001 orientation program, the Honorable E. Richard Weber, U.S. District Court Judge for the Eastern District of Missouri and Chair of the Missouri Bar Professionalism Committee, spoke. In 2002, Stephen N. Limbaugh, Jr., Chief Justice of the Supreme Court of Missouri, presented.

Materials are distributed to the students at the orientation program. However, no videos are shown.

The Class of 2004 Orientation on Professionalism incorporated a problem-based group discussion concerning issues of professionalism. The format of the group discussion is as follows: Students are divided into twelve discussion groups of approximately twenty students. Each group is teamed with a member of the law school faculty and one or two upper-level students as "co-facilitators." The group is further divided into four separate sub-groups and a different problem is assigned to each sub-group.⁴⁹ At the end of approximately twenty minutes the group is reunited for "de-briefing" and further discussion. According to the law school, one purpose of this exercise "is to stimulate thought and discussion about professionalism and what it means to be a "professional."

The Class of 2005 Orientation on Professionalism was organized very similarly to the 2004 orientation program. Facilitators of the Class of 2005 orientation also posed four hypotheticals to each sub-group.⁵⁰ However, the facilitators of the Class of 2005 orientation program included not only members of the law school faculty and upper-class law students, but also lawyers and judges.

The law school states that the aim of orientation "is to create a general awareness among incoming law students of the personally and professionally challenging nature of some of the issues that arise both in law school and in the practice of law."

At the conclusion of orientation, students are able to evaluate the program.

The law school has a printed honor code. However, it is currently in the process of being revised. Additionally, during orientation, first year law students create a class "Statement of Professional Commitment."⁵¹ Once the statement

49. Students are given the four problems before the first day of orientation. They are asked to read the problems and give some thought to what issues arise in each situation and consider what sorts of decisions they would make.

50. See Appendix U.

51. Prior to orientation, students are given materials to deliberate on these topics. Such materials include a statement of the "Fundamental Values of the Legal Profession" excerpted from an ABA report known as the MacCrate Report, some "Notes on Lawyers" by American Lincoln, an article from the April 1998 issue of the ABA Law Student Division's publication *Student Lawyer* entitled "Why Professionalism and Civility Are Not Just For Lawyers," Oaths of Admission to the bars of two states and two sample oaths from the medical profession.

is complete, all law students are given a copy so that they may refer to it throughout their professional lives.

In response to Question 11, which asks law schools for their comments with utilizing law school orientation programs to promote professionalism in new students, Washington University in St. Louis replied: "A problem for law schools is to have it register with the students that they have embarked on their professional career on their FIRST day of law school, not their last."

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Washington University indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

Y. MONTANA

To date, the state of Montana has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Montana's law schools responded to the Working Group's survey.

Z. NEBRASKA

To date, the state of Nebraska has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to Creighton University School of Law and the University of Nebraska College of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. Creighton University School of Law

At Creighton University School of Law, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. Rather, the speakers just touch upon ethics and tie it into their remarks as they deem necessary. The orientation program takes place over two days.

Practicing lawyers participate in the orientation program as speakers. These speakers are professors as well as practicing attorneys and they speak to the incoming class on the "how to's on the Socratic method, preparing/studying for law school and briefing cases."

Materials are distributed to the students during the orientation program. No videos are shown during the program.

In response to Question 7 on the Questionnaire, Creighton replied that the students are broken into small groups of about ten. Each group has two second year law students as mentors that meet with them throughout the orientation and first year. This gives first year law students the opportunity to participate in discussions about law school and all aspects of such things as their studying habits and student life.

Students do not have the opportunity to evaluate the orientation program.

The law school does not have an honor code or an honor court. Nor does the school have a pledge.

In response to Question 12 on the Questionnaire, the law school replied: "While there is not a section in orientation devoted to ethics we require that all students take our ethics class before they graduate. The faculty continually integrates ethics into their class discussions, as the speakers do as well in their remarks at orientation."

2. University of Nebraska College of Law

The University of Nebraska College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The law school noted that it follows the model developed by the Georgia Bar Association and the law school uses the Georgia materials.

Practicing lawyers participate in the orientation program as group leaders during the professionalism session. In addition, judges and alumni speak to the students.

In response to Question 7 on the Questionnaire, the law school stated that students participate during breakout sessions on professionalism where about eight to ten students and two lawyers meet and discuss ethical and professionalism hypotheticals.

During orientation materials are distributed to the students. However, videos are not shown during orientation.

Students have the opportunity to evaluate the orientation program.

The law school has an honor court and an honor code. However, the law school does not have a written pledge.

In response to Question 11 on the Questionnaire, the law school replied: "We just started our professionalism program in our orientation last year. The response was overwhelmingly positive – from the new students, faculty and lawyers and judges involved in the program."

In response to Question 12 on the Questionnaire, the University of Nebraska College of Law stated: "From our orientation on Professionalism, to modeling behavior, to specific talks by various faculty and administration, we attempt to instill professionalism in our students throughout their three years here."

AA. NEVADA

Nevada replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students with the following statement: "The William S. Boyd School of Law, University of Nevada, Las Vegas, requires students complete two first-year professionalism programs; (1) 'Introduction to Law' and (2) 'Lawyering Process Program.'"⁵²

However, none of Nevada's law schools responded to the Working Group's survey.

BB. NEW HAMPSHIRE

To date, the state of New Hampshire has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

1. Franklin Pierce Law Center⁵³

The Franklin Pierce Law Center has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation is a three day program.

During the fall 2002 orientation program, Professor Mitch Simon spoke on the issue of professionalism. Additionally, Justice James Duggan of the Supreme Court of New Hampshire addressed the Oath of Professionalism.

No videos are shown during the orientation.

The law school has a pledge.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Franklin Pierce Law Center indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

CC. NEW JERSEY

New Jersey has a mandated professionalism orientation program for law students. However, the program does not have to occur during the first year of law school.

The New Jersey Commission of Professionalism in the Law was established by the New Jersey Judiciary, the New Jersey State Bar Association and the deans of the three New Jersey law schools. All three of the law schools incorporate professionalism themes in their programs for new law students.

52. See Appendix V for a description of the two courses.

53. Franklin Pierce Law Center did not complete the entire Questionnaire.

The present professionalism elements in each law school's program are as follows:

Rutgers Law School – Newark: (1) Incorporates professionalism in course discussions; (2) devotes half of the first day of orientation to professionalism and ethics; included are speakers from the Character and Fitness Committee; topics covered include professional conduct toward colleagues, candor, and honesty; (3) at the close of the orientation, the New Jersey State Bar Association President addresses the students about professionalism and administers the “Lawyers Pledge,” an oath developed by the Commission on Professionalism.

Rutgers Law School – Camden: (1) Incorporates professionalism into course discussion; (2) during orientation holds small group discussions, conducted by lawyers; among other topics, the discussions address professionalism issues; (3) once a week during the first year, students attend “Professionalism Hour,” a lecture or presentation on various professionalism issues.

Seton Hall University Law School: (1) Incorporates professionalism into course discussions; (2) during orientation, speakers address professionalism, e.g. what it means to be a lawyer; (3) orientation for new students includes small group discussions involving lawyers and retired judges to address professionalism and other topics.

DD. NEW MEXICO

To date, the state of New Mexico has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of New Mexico's law schools responded to the Working Group's survey.

EE. NORTH CAROLINA

North Carolina has neither a mandated or suggested professionalism orientation program. Rather, all law schools in North Carolina have their own professionalism programs and are very supportive of the Chief Justice's Commission on Professionalism (“CJCP”).⁵⁴ In 2003, the CJCP gave each law school a grant to start or bolster already existing professionalism programs at their respective schools. One of the requirements for the grant was that the funds be spent on a professionalism program that can be used or adapted by other schools or organizations.

54. The Executive Director of the CJCP, Melvin F. Wright, Jr., provided the Institute with the following information on the North Carolina law schools' professionalism programs.

Two schools in North Carolina have programs that are sponsored by the CJCP. Campbell University School of Law and North Carolina Central School of Law have implemented the professionalism orientation program for first year law students, which include volunteer lawyer alumni serving as facilitators to discuss various professionalism and ethical vignettes in breakout discussion groups. In addition to instituting the orientation program, Campbell University has the Professionalism Lecture Series throughout the first year. This series includes well-respected speakers and authors coming to lecture and discuss professionalism issues with the students and a Winter Inter-session program involving a two-day simulation revolving around professionalism and ethical situations.

The University of North Carolina School of Law has its own orientation program for first-year law students, which is very similar to the one sponsored by the CJCP. Additionally, the University of North Carolina has an endowed dinner each year called the Witt Round Table Professionalism Dinner. Esteemed attorneys, judges and legal scholars are invited to come to the dinner to discuss professionalism issues with the students at their table.

Additionally, Wake Forest University School of Law and Duke University School of Law each have their own programs as well.

1. Duke University School of Law

Duke University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

Practicing lawyers take part in the orientation program. For example, last year, two alumni attorneys participated on an orientation panel. Additionally, two years ago, an alumni attorney discussed professionalism at an orientation reception.

Additionally, the speakers at the orientation programs speak on professionalism. In the fall of 2002, Frances Turner and Peter Kahn discussed law school and professionalism on a panel. Moreover, in the fall of 2001, Jim Maxwell spoke on professionalism and the community.

Materials are distributed to students during the orientation program.

A video entitled "The Duke Law Experience" is also shown during orientation. This video emphasizes student responsibility and encourages engagement in a wide variety of activities while in law school.

During orientation, students are divided into orientation groups of ten to twelve students. The groups are led by trained upper class law students. Approximately half of the orientation activities take place in these groups, which consist of teamwork exercises and an ethically ambiguous legal situation.

Additionally, for the past two years, Duke University has held a spring ethics exercise. This exercise is very similar to Campbell University's simulation presentation and involves legal community volunteers serving as facilitators.⁵⁵

Students do not have the opportunity to evaluate the program.

The law school has an honor court and an honor code. The school also has an Honor Pledge which must be signed and returned to the law school. A portion of the Honor Pledge states the following:

I verify that I have read the attached Law School rules concerning Student Professional Misconduct. Further, I pledge that I will comply with the rules. By signing this pledge, I acknowledge that as a student in a professional school, I am expected to conduct myself in a manner that exemplifies honesty, integrity, and good character.

2. Wake Forest University School of Law

Wake Forest University School of Law did not fill out the Law School Questionnaire. However, the school did send information on how it promotes professionalism at the school. The law school provided information describing its teaching of professionalism in 2000 by the following statement:

We begin professional values education even before our students arrive for orientation. In the summer before they enter, we provide them with a list of books to read concerning great lawyers. It is of the utmost importance that students have heroes and heroines in the law, professional role models. This year, we are requiring our incoming students to read *To Kill a Mockingbird* in preparation for small-group, faculty-led discussions about being a lawyer and what it means to enter the legal profession. These discussions will take place on the first morning of the orientation period. In preparation for these discussions, the faculty members leading the discussions will also read *In Search of Atticus Finch* by Michael Papantonio.

For the past several years we have had a mandatory first-year professionalism series throughout the fall and early spring focusing on different issues of concern to the profession, such as pro bono obligations, quality of life issues, civility, the lawyer as civic leader, and substance abuse. We hope to continue this first-year series, but we plan to make greater use of small group break-out sessions. We will need more role-model judges and lawyers to volunteer to come to the law school to join the students and faculty for these sessions.⁵⁶

55. This information was obtained from Melvin F. Wright, Jr., the Executive Director of the North Carolina CJCP.

56. See Appendix W for an article titled Professionalism is a Subject of the Greatest Importance. This article is found in the Dean's Column from July 2000.

Wake Forest also noted that students are required to take a Professional Responsibility course called “Legal Ethics.” In addition, professionalism issues are raised during upper-level classes as appropriate.

As of 2002, the law school has added some new methods to teach professionalism to its students. The first-year program now includes small sessions with a faculty member and a lawyer or judge where portions of the television show *The Practice* are viewed and then discussed. Students are also required to participate in a day of public service during orientation week. A new section has been added to the Professional Responsibility class, an upper class course, in order to make the class size smaller and allow for more interaction similar to what takes place during first-year orientation.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Wake Forest indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

FF. NORTH DAKOTA

To date, the state of North Dakota has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

Additionally, the University of North Dakota School of Law has not responded to the Working Group’s survey.

GG. OHIO

Ohio has no state-mandated professionalism orientation program for first year law students. However, Ohio did not indicate whether it has a suggested program.

According to University of Akron C. Blake McDowell Law Center and the University of Cincinnati College of Law, the state has neither a state-mandated or suggested professionalism orientation program. However, the University of Toledo College of Law noted that as of July 2003, the state of Ohio has a suggested professionalism orientation program. In July 2003, the Supreme Court of Ohio Commission on Professionalism was established to encourage Ohio law schools to initiate orientation on professionalism programs modeled after the Georgia model.

1. University of Akron C. Blake McDowell Law Center

The Law Center at the University of Akron has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation is a week long.

Practicing lawyers participate in the orientation. For instance, the Chief Justice of the Ohio Supreme Court has delivered the opening address and lawyers have spoken to the students regarding character and fitness, as well as grievance and discipline.

The *Moliterno* book is distributed to students during orientation. Moreover, the video *Alloway Garage*, which is a negotiation ethics video, is shown during orientation.

Students do not evaluate the program.

The school has an honor code and an honor court, in addition to a pledge. The pledge is an Honor Code pledge and students are required to sign the pledge on every exam.

In response to Question 11 on the Law School Questionnaire, Akron replied: "Remind them they are being welcomed now to the profession. Written exercise to get them to apply professionalism to how they approach law school. Can't be preachy . . ."

In response to Question 12 on the Questionnaire, the law school stated: "The messages and attributes you mention in your letter are those we convey as well. We bring in practitioners regularly to discuss the practice and its ethical dimensions. Faculty use ethics exercises (often developed with help from PR faculty) in many substantive courses. Akron Bar and Ohio State Bar speak to students annually about professional service."

2. University of Cincinnati College of Law⁵⁷

The University of Cincinnati College of Law is in the process of implementing a three year curriculum under the heading of "Lawyers and the Legal Profession." The Dean of the law school provided the Institute with the following narrative to describe the new program at the law school:

This program is not mandated by the state nor is it suggested. Rather, it is our belief that law schools must do better to educate students about the profession they are about to enter.

To that end, we are undertaking various dramatic changes including the following:

1. *Orientation.* We provide students with professionalism instruction during the first week of law school through panels that address professionalism, diversity, and the like.
2. *First Year.* During the first year, students will be required to take two courses, Lawyering I and then Lawyering II. Both courses are semester-long and are intended to make students

57. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Cincinnati College of Law indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

aware of the fact that, while they are in law school, they will be developing not only analytic skills, but lawyering skills. Students will be introduced to fact-finding as well as traditional legal research, writing, and analysis in these two courses. Additionally, at the end of the second semester, students will be required to take three hour-long classes that will be offered through our Center for Professional Development. The Center for Professional Development also oversees our placement operations and their programming will introduce students to the legal profession in terms of upcoming summer jobs. These programs will address expectations of employers as well as law firm economics and the like.

3. *Second Year.* Until this year, students were required to take a two hour Professional Responsibility course. This is the course mandated by the ABA Section on Legal Education and Admissions to the Bar in their Standards. Recently, we have expanded that program to require an additional two credits for the purpose of integrating skills, such as interviewing and counseling, into Professional responsibility and hopefully showing the linkage between skills and ethics.
4. *Third Year.* Program design in *Lawyers and the Legal Profession* for the third year are under development and will be finalized next fall. Currently, we have mandatory programs for leadership training and Bridge-the-Gap that are offered to third year students. The idea is to combine those efforts into what may be a mandatory non-credit graduation requirement. The idea behind both, as the names imply, is to let students become more aware of the fact that they will be called upon to exercise leadership roles in the communities in which they work because of their status as a lawyer. In addition, we would like to help students begin to think more formally about designing a model for their own continuing professional education and development after they leave their formal legal education. This latter goal will be achieved through Bridge-the-Gap programming. That programming may require students to participate in a series of professionalism activities during their three years of law school and it may also include a mentoring program as well.

In the past, lawyers have participated in the program by acting as facilitators, judges and lecturers.

Materials are distributed to students.

Videos are shown during the course of this program.

The law school has an honor code and an honor court. However, the school does not have a pledge.

3. Ohio Northern University Pettit College of Law

Ohio Northern University Pettit College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a two-day period.

Lawyers participate by addressing the students during orientation as speakers.

Materials are distributed to students during orientation. No videos are shown during orientation.

Students have minimal opportunity to participate during orientation. The first year students have the chance to talk to upper class peer advisors about the fears of law school when they break into small groups.

Students do not have the opportunity to evaluate the program.

The law school has an honor court and an honor code.⁵⁸ The school does not have a written pledge.

In response to Question 12 on the Questionnaire, the law school replied that the orientation program sets the tone in endeavoring to instill a sense of professionalism in students throughout their law school experience. The school also noted that the course on Ethics is the first subject that is addressed. Additionally, all courses stress professionalism.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Ohio Northern University Pettit College of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

4. University of Toledo College of Law

The University of Toledo College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

In the fall of 2003, lawyers have, for the first time, participated in the orientation program. Moreover, for the first time, materials were distributed to the students at the 2003 orientation. However, videos have never been used and were not viewed during the 2003 orientation program.

Students have the opportunity to participate during orientation in discussion sessions. Students evaluate the program.

58. See Appendix X for the Student Code of Professional Responsibility.

The University of Toledo College of Law has a law school honor code. However, the school does not have a written pledge.

In response to Question 12 on the Law School Questionnaire, the school commented that a sense of professionalism is instilled in their law students via the orientation program. Thereafter, professionalism is dealt with in the course on Professional Responsibility, in clinical programs and in other courses that the faculty deems appropriate.

Additionally, in the fall of 2003, the University of Toledo College of Law, in cooperation with the Supreme Court of Ohio Commission on Professionalism and the Toledo Bar Association, initiated a new orientation program on professionalism for incoming law students. The program is modeled after the professionalism orientation program at Emory University School of Law, sponsored by the Georgia Chief Justice's Commission on Professionalism and the Georgia State Bar Committee on Professionalism.

To begin the inaugural orientation program, Chief Thomas Moyer of the Supreme Court of Ohio spoke to incoming students, members of the bar and faculty on ethics and professionalism. Following the presentation, the "Orientation on Professionalism" program consists of a 90 minute breakout session in which facilitators lead new students in examining hypotheticals designed to stimulate discussion of professionalism and ethical issues that arise in the law school context and in the everyday practice of law. Thirty members of the Toledo Bar Association volunteered to act as facilitators for group discussions.⁵⁹ Students are divided into groups of ten, with two facilitators per group. During the breakout session, students are handed out various materials, such as the Ohio Supreme Court Commission on Professionalism Statement on Professionalism, A Lawyer's Creed, A Lawyer's Aspirational Ideals, A Judicial Creed and the College of Law Honor Code. After the breakout session, the College of Law hosts a picnic for students, members of the bar and faculty in an effort to facilitate informal follow-up group discussions.

HH. OKLAHOMA

To date, the state of Oklahoma has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to Oklahoma City University School of Law and the University of Oklahoma College of Law, the state has neither a state mandated or suggested professionalism orientation program, but a model is in the process of being developed on a pilot basis.

59. Members include practicing lawyers, judges and legal academicians.

1. Oklahoma City University School of Law

Oklahoma City University School of Law has a professionalism/ethics orientation program that is a differentiated part of the overall orientation program.

Lawyers participate in the orientation program in several ways. The school noted that lawyers “speak in plenary sessions and remark on goals and values of the profession and the invaluable nature of one’s professional reputation, which is formed beginning in law school.”

Materials are not distributed to students during orientation. Videos are shown during orientation. In the past, students viewed the video entitled *Professional Misconduct: Conversations with Victims*. A discussion follows the viewing of the video.

Students have the opportunity to participate during orientation in discussion sessions. Students evaluate the program.

Oklahoma City University has a law school honor code. However, the school does not have a written pledge.

In response to Question 12 on the Law School Questionnaire, the school replied: “We maintain a rigorous program that instills values of competence, diligence, and thoroughness of preparation. We enforce our honor code. We encourage students to participate in Jurors of Court. We maintain a professional environment with high expectations. We infuse professionalism issues through the pervasive method.”

2. University of Oklahoma College of Law

The University of Oklahoma College of Law has a professionalism/ethics orientation program that is a differentiated part of the overall orientation program. Orientation takes place over a two day period. On the second day of orientation, one hour is devoted to a session entitled “Rules and Standards to Live By.” During this session, a professor from the law school gives a presentation on the law school’s honor code, which is entitled “Code of Academic Responsibility.” In addition, a presentation is given by the Assistant General Counsel of the Oklahoma Bar Association regarding professional responsibility.

Lawyers participate in the orientation program by speaking to the students about professionalism issues and bar admission requirements.

Materials are distributed to students during the orientation program. However, videos are not shown during the orientation.

Students have the opportunity to participate during the orientation.

The University of Oklahoma College of Law has a law school honor code. In addition, the law school has a written pledge.

II. OREGON

To date, the state of Oregon has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

However, according to the University of Oregon School of Law and Willamette University College of Law, the state has neither a state mandated or suggested professionalism orientation program.

1. University of Oregon School of Law

The University of Oregon School of Law has a professionalism/ethics orientation program that is conducted separately from the general orientation program.

In response to Question 4 on the Questionnaire, the University of Oregon School of Law responded:

At the beginning of the second semester, members of the Joint Bench/Bar Commission on Professionalism travel to our school and do a 1-hour presentation on Professionalism and Ethics. It is a mandatory presentation for 1Ls. Anyone who cannot attend must view a videotape of the presentation and/or write a 3 to 4 page paper on professionalism as it relates to law school.

At the presentation this year, we had one Circuit Court Judge (Judge Dan Harrison) and a practicing attorney and employee of the Professional Liability Fund. The presenters took turns speaking on professionalism and ethics out in the real world and how those same values can be applied to law school.

Materials are distributed to the students during the orientation program. However, videos are not shown at the orientation.

Students were not given the opportunity to evaluate the program.

2. Willamette University College of Law

Willamette University College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.⁶⁰

Practicing lawyers participate in orientation, as well as judges. They serve as facilitators during the orientation program. In the past, Chief Justice Wallace Carson spoke about ethics in the profession.

Materials are distributed to the students during orientation. No videos are shown during orientation.

Students participate during orientation by breaking into small groups led by group facilitators in order to discuss hypothetical problems.

60. See Appendix Y for the materials used during the professionalism segment of orientation.

Students have the opportunity to evaluate the program. The school remarked that “Students say that they enjoy this part of orientation a lot.”

Willamette University College of Law has an honor code. The law school does not have a written pledge.

In response to Question 11 on the Law School Questionnaire, the school replied: “I think the opportunity we give our students to interact with lawyers and judges is something they enjoy a great deal. Many of them already know lawyers, but many do not.”

Willamette gave the following response to Question 12 on the Law School Questionnaire: “We tell our students that law school is a part of their legal career and they must begin to have a sense of professionalism from the first day on.”

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Willamette indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

JJ. PENNSYLVANIA

Pennsylvania does not have a state-mandated or suggested professionalism orientation program for first year law students.

1. Duquesne University School of Law

At Duquesne University School of Law, professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. The orientation program takes place over one day.

Both lawyers and judges actively participate in Duquesne University School of Law’s orientation program. Lawyers, such as Steven Zappala⁶¹ and Joy Flowers Conti,⁶² and judges, such as Judge Maureen Lally Green of the Pennsylvania Superior Court, spoke at previous orientation programs.

Materials are distributed to the students at the orientation programs. Additionally, the Duquesne Law School Career Services Office Handbook addresses professionalism. The Handbook includes of the following quote from a National Association for Law Placement publication: “Lawyers as a profession are held to the highest moral and ethical standards. Those standards take effect as soon as you enter law school and should influence your behavior both in the classroom and in daily life.” The Handbook further explains in pertinent part:

Professionalism encompasses a number of topics. More generally, it refers to regulating your behavior, to thinking beyond your own needs to the impact of your actions. Specifically, when we talk

61. Steven Zappala is an Allegheny County District Attorney.

62. At the time Joy Flowers Conti spoke at orientation, she was employed by the law firm of Buchanan Ingersoll. She is currently a federal judge.

about professionalism, we are talking about things such as the reputation you build. As a soon-to-be member of a profession, you need to be conscious of the fact that your behavior as a law student can impact your professional reputation and your career options. It is important to remember that you, your classmates, and other students here at the law school will soon be practicing attorneys. You need to begin now to establish a reputation for honesty and integrity. How do you do that?

- Avoid gossiping.
- Be respectful of others ideas.
- Do not use profanity or make derogatory remarks.
- Keep promises and commitments.
- Guard confidentiality. (Don't discuss work in public places, such as on the subway).
- Exhibit good time management skills.

Professionalism is also very relevant to your job search.

- Do not misrepresent or falsify credentials.
- Adhere to guidelines in accepting and declining offers. This relates to the need to respond to and communicate with others. In the job search this applies to recruiters. This same rule will apply to clients when you begin to practice.

No videos are shown during orientation.

Duquesne University School of Law has both an honor code and a Mission Statement that embodies a written commitment to the standards of ethical and moral concerns. Additionally, students acknowledge familiarity with the Disciplinary Code and agree to abide by it by signing an acknowledgement of receipt of the Academic Bulletin.⁶³

In response to Question 12, Duquesne University School of Law stated that professionalism is addressed at orientation, in academic courses and through the Career Services Offices. For instance, professors of first year writing courses strive to include professionalism issues in assignments. Also, issues surrounding the Rules of Professional Responsibility, such as candor towards the tribunal and what it means to be an advocate, are discussed at various times throughout the law students' academic career.

63. The Duquesne University School of Law Disciplinary Code is found in the Academic Bulletin.

2. University of Pennsylvania Law School⁶⁴

Professionalism/ethics are discussed as appropriate throughout the overall orientation program, but do not receive differentiated treatment at the University of Pennsylvania Law School.

The orientation program is a short program and focuses on what students should expect in the classroom, how students can get the most from their learning experience and administrative details about life and learning at the law school.

The students are required to take a course in Professional Responsibility, in which the issues the Institute raised are discussed. In addition, students are required to participate in the Pro Bono Program.

3. University of Pittsburgh School of Law

The University of Pittsburgh School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a two-day period.

Practicing lawyers participate during orientation. For example, lawyers discuss alumni and professionalism information.

Materials are not distributed to students during orientation. Videos are occasionally shown at orientation. The videos usually relate to tolerance.

Students have the opportunity to evaluate the program.

The law school does have an honor code and an honor court, as well as a pledge.

4. Widener University School of Law

Widener University School of Law discusses professionalism/ethics as appropriate throughout the overall orientation program, but it does not receive differentiated treatment.

In the past, lawyers have participated in the orientation programs. For example, a member of the board of trustees and board of overseers spoke on the issues of professionalism and the role of a lawyer. Additionally, the director of the alcohol awareness program for lawyers spoke on substance abuse issues.

At orientation, students receive a student handbook. Videos are not shown during Widener University School of Law's orientation.

At Widener, there is no dedicated student participation during the orientation program. Additionally, students do not have the opportunity to evaluate the orientation program.

Widener has both a Law School Honor Code of Conduct as well as an honor pledge. Students are required to acknowledge and sign their receipt of the student handbook, which states the following:

64. The University of Pennsylvania Law School did not fill out the Questionnaire.

I, _____, hereby acknowledge that I received a copy of the Widener University School of Law Student Handbook on _____. I agree to be bound by all of the provisions included in the Handbook. I further acknowledge that I am on constructive notice of its contents.

In response to Question 12 of the law school questionnaire, Widener responded that their law school endeavors to instill a sense of professionalism in students throughout their law school experience through a three-credit mandatory professional responsibility course. Additionally, the school remarked that professionalism is incorporated into the curriculum of Legal Methods, externships, the Civil Law clinic and Law Practice Management.

KK. PUERTO RICO

To date, Puerto Rico has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Puerto Rico's law schools responded to the Working Group's survey.

LL. RHODE ISLAND

Rhode Island replied to the letter requesting information regarding the state's professionalism orientation program; however, the information the state provided was not relevant to whether the state has a mandated or suggested professionalism orientation program.

According to Roger Williams University Papitto School of Law, the state has a suggested professionalism orientation program.

1. Roger Williams University Ralph R. Papitto School of Law⁶⁵

Roger Williams University Papitto School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program and professionalism/ethics are discussed as appropriate throughout the overall orientation program.

Practicing lawyers participate in orientation. For example, each year, the President of the State Bar Association and the Chief Justice of the State address the first year law students on issues of professionalism. In the past, Chief Justice Frank J. Williams, Rhode Island Bar President Michael St. Pierre, and Chief Justice Joseph Weisberger have spoken during orientation.

Materials are distributed to the students at orientation. However, videos are not shown during the orientation program.

65. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the Roger Williams University Ralph R. Papitto School of Law indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

There are many breakout sessions during orientation where summer reading discussion takes place.

Students have the opportunity to evaluate the orientation program.

The law school has an honor code and an honor court. However, the school does not have a pledge.

MM. SOUTH CAROLINA

South Carolina does not have a state-mandated or suggested professionalism orientation program for first year law students.

1. University of South Carolina School of Law

The University of South Carolina School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. At the time the law school received the Law School Questionnaire, it was making significant changes to its orientation on professionalism. The orientation program for professionalism takes place over the first year a student is at USC. The program is organized in the following manner:

- (1) Two presentations on orientation day (the day before classes begin): a discussion of a law professor who teaches Professional Responsibility about the seriousness of law study and law practice. He stresses the importance of one's reputation and of having a commitment to excellence. The second presentation is made by the NMR&S Center on Professionalism. It includes a skit put on by students that highlights issues of professionalism that might arise during law school, both in class and out of class.
- (2) This year, for the first time, we are encouraging our small group peer mentors to discuss professionalism issues when they meet with their peer groups.

The school went on to state that the main part of this program occurs after orientation. They stated that they believe that the orientation day programs are too brief and too early in the new law students' experience to have a lasting impact. As a result, for the 2002-2003 academic year, the University of South Carolina added the following to its professionalism orientation for first-year students:

- (1) Mondays at One will be a series of six programs each semester. These programs will feature judges and lawyers explaining the legal profession and what it means to be a professional.
- (2) A PRIMER IN PROFESSIONALISM AND PROBLEM-SOLVING GUIDE: A RESOURCE FOR LAW STUDENTS will be distributed to all students this year and to entering students in coming years. This pamphlet will contain information primarily about professionalism, including excerpts from several articles about professionalism.

(3) A student committee that was organized under the auspices of the center on professionalism has drafted PROPOSED STANDARDS OF PROFESSIONAL CONDUCT FOR LAW STUDENTS. These proposed standards will be discussed by the student body during one of the Mondays at One program in September.

(4) The center on professionalism will sponsor a writing contest on professionalism. The winner will receive a \$500 scholarship, and the winning article will be considered for publication by the South Carolina Law Review.

(5) The South Carolina Law Review is establishing a tradition of devoting its third book each year to professionalism. They did this for the past two years and they plan to do it again during the coming year.

(6) Since 1999, the center on professionalism has sponsored a jurist or scholar in residence each year to spend a few days to a week at the Law School interacting with students, faculty, and members of the local bar and judiciary.

(7) Starting last year, the center on professionalism presents the *Clinical Program Professionalism Award* to the student who best demonstrates professionalism through the representation of clients in the Law School's clinical program.

The law school noted that these new initiatives are in addition to the normal encouragement by professors both inside and outside of class to act professionally.

Students will have the opportunity to evaluate the Mondays at One Program.

The law school does have an honor code. The school does not currently have a pledge, but stated that it will now reconsider a pledge.

NN. SOUTH DAKOTA

South Dakota does not have a state-mandated or suggested professionalism orientation program for first year law students.

However, the reply letter noted that the University of South Dakota School of Law has a professional orientation program for first year law students.⁶⁶ The Chief Justice, David Gilbertson, delivers a lecture on professionalism during the program.

1. University of South Dakota School of Law

The University of South Dakota School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a five-day period. On the first

66. The Chief Justice of South Dakota included in the reply a law review article published by the dean of USD titled: Are We Gatekeepers? See Appendix Z.

day of orientation, students attend a class called “Lawyers’ Professional Responsibilities” where hypotheticals are distributed to the students.⁶⁷ In addition, on the fourth day of orientation, about an hour is dedicated to the topic of civility and ethics.

Lawyers participate during orientation. In the past, the Chief Justice of South Dakota and the President of the State Bar of South Dakota have spoken on professional ethics.

Materials are distributed to the students during orientation. Videos are not shown during orientation.

Students do not have the opportunity to evaluate the program.

The law school has an honor court and an honor code. However, the school does not have a written pledge.

OO. TENNESSEE

Tennessee does not have a state mandated or suggested professionalism orientation program for first year law students. In the reply letter from the Administrative Office of the Courts of Tennessee, the following statement was made:

In August 2002 members of the Tennessee Supreme Court met with the deans of the four law schools located in Tennessee. This was one of the topics discussed during that meeting. Each dean has indicated that his law school takes steps during orientation to introduce new students to the concept of professionalism. As a result of those discussions, the Court asked the members of the staff of the state Board of Law Examiners to consider visiting each law school during its opening sessions and participating in orientation programs that might be scheduled.

However, none of Tennessee’s law schools responded to the Working Group’s survey.

PP. TEXAS

Texas replied. Its Office of Court Administration did not have the information requested, but provided the working group with the appropriate contacts.

1. University of Texas at Austin School of Law

University of Texas at Austin School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

67. The class is part of a noncredit course the students are required to take during orientation. The objective of the course, called “Introduction to the Study and Practice of Law,” is to “introduce students to fundamental knowledge and skills that are important for success in law school and in the practice of law.”

In the past orientation programs, former state Senator Kent Caperton has spoken on the funding of higher education and the need to give back to the profession. Also, former Dallas Mayor, Ron Kirk, presented on the topic of public service.

During orientation, materials are distributed to the students at the orientation programs. However, videos are not shown during orientation.

Students actively participate in the orientation program. In the general presentations, questions are encouraged. Also, students divide into small groups of 20 to 30 and are given a chance to discuss issues with a third-year student who is designated a “teaching quizmaster.” However, at the conclusion of orientation, students do not evaluate the orientation program.

The University of Texas at Austin School of Law has an Honor Code that is administered by the University Office of the Dean of Students, Student Judicial Services, with a standardized disciplinary system. Additionally, the law school has a written pledge to the honor code because the law school believes that the pledge is an important symbol to reinforce expectations of law students entering a profession.

After the orientation program, the University of Texas at Austin endeavors to instill professionalism through courses. The law school responded that they have several leading ethics professors who teach courses in broad and specific areas of professional responsibility. The school commented that “this augments the students’ learning in ethics and professionalism in a serious way.”

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of Texas indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

2. Thurgood Marshall School of Law at Texas Southern University

Professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment at Thurgood Marshall School of Law. The orientation is a week long.

Practicing lawyers participate in the orientation program as motivational speakers.

During orientation, materials are distributed to the students. However, videos are not shown during orientation.

Students have the opportunity to evaluate the program.

The law school has an honor code that is currently under review. However, the law school does not have a written pledge.

In response to Question 12 on the Questionnaire, Thurgood Marshall School of Law replied: “We participate in Professionalism Day with the two other Houston law schools; breakouts and discussions are conducted. Orientation begins the process – introduces students to the concepts.”

QQ. UTAH

Utah does not have a state mandated or suggested professionalism orientation program for first year law students.

However, the state noted that last year, the Utah Supreme Court appointed members to serve on the Professionalism Committee. The Committee is designed to examine professionalism issues and to make recommendations to the Court regarding possible programs or approaches to foster professionalism in the legal profession. To accomplish this endeavor, two law school professors were appointed to the Professionalism Committee. The Committee is responsible for issuing a preliminary report in the spring of 2003, which may support instituting professionalism into the law schools through professionalism course work.

1. University of Utah S.J. Quinney College of Law⁶⁸

The University of Utah School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation takes place over a six-day period. For about an hour on the first day of orientation, a session is devoted to professionalism. In the past, Professor John Flynn and Judge Glenn Iwasaki spoke during what was called the Orientation Program Academic Ethics Discussion. The topic of the discussion is “The Ethics and Justice of Membership in the Law School Community.”

Lawyers participate throughout the orientation. In the past, lawyers have presented material such as the Utah State Bar Character and Fitness, Honor Code and Exam Procedures and by leading a session called “Lawyers Helping Lawyers.”

The S.J. Quinney College of Law has an honor code. In addition, the law school has a pledge which in the past has been administered by a judge on the first day of orientation during the Swearing-in-Ceremony. The S.J. Quinney College of Law Student’s Oath reads:

I do solemnly swear that I will support, obey and defend the Constitution of the United States and the Constitution of the State of Utah; that I will discharge the duties of law student and future attorney with honesty and fidelity; and that I will strictly observe the Code of Student Rights and Responsibilities of the S.J. Quinney College of Law at the University of Utah and the Utah Rules of Professional Conduct as they apply to my professional and educational activities as a law student.

No further information was provided.

68. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, S.J. Quinney College of Law indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute’s survey in August 2002.

RR. VERMONT

To date, the state of Vermont has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Vermont's law schools responded to the Working Group's survey.

SS. VIRGINIA

Virginia does not have a state mandated or suggested professionalism orientation program for first year law students. However, the Virginia State Bar makes available on a voluntary basis a program that is two hours long for first year law students. The program is modeled after the professionalism course for new lawyers.

1. University of Richmond School of Law

The University of Richmond School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation takes place over a four-day period.

Lawyers participate in the orientation program. For example, each year the President-Elect of the Virginia State Bar conducts a presentation on professionalism. Over the past three years, the following lawyers have spoken at orientation on the topic of professionalism: 2002 — Jean P. Dahnk, Esq., Glover & Dahnk, President-Elect of the Virginia State Bar, 2001 — Bernard DiMuro, Esq., DiMuro, Ginsberg & Mauk, P.C., President-Elect of the Virginia State Bar, and 2000 — Michael Glasser, Esq., Glasser & Glasser, P.C., Virginia State Bar.

Materials are distributed to students during the orientation program. Videos are not shown during orientation.

Students have the opportunity to evaluate the program.

The law school has an honor court and an honor code. The school also has a pledge. During orientation, the Honor Council holds a separate session to explain the honor code to the students. Each student is required to sign the honor pledge at that time. In addition, at the conclusion of the President-Elect of the Virginia State Bar Association's presentation, the students stand and recite the Professionalism Pledge. The pledge reads: "As a Law Student at the University of Richmond School of Law, I pledge to uphold the values of the legal profession to pursue justice to respect my classmates, faculty and staff and to demonstrate the highest standards of honesty and integrity."

In response to Question 11 on the Questionnaire, the University of Richmond replied:

Law school programs need to help students understand that their professional reputations begin the moment they enter law school and how they conduct themselves reflects not only on them but also the law school and the profession as a whole. From the beginning, I would also like to encourage students to think about their responsibilities to give back to society given their special knowledge and position within society.

The law school shared the following information in response to Question 12:

The Virginia State Bar's Section on the Education of Lawyers (membership includes lawyers, judges and academicians) and its Standing Committee on Professionalism have recently developed a professionalism course which is presented once a year at each of Virginia's law schools for first year law students. Faculty for the program include lawyers and judges. They are required to complete a training course before participating. A separate program is held at each law school. The opening session includes presentations on *Professionalism and Relationships with Clients and Relationships with the Court*. Students are then broken into small groups with faculty members who facilitate a discussion on various hypotheticals. The program is designed to stimulate student thinking about the definition of professionalism, character and fitness issues, a lawyer's responsibility to serve the bar and the community; and a lawyer's relationships with others. Following the first year, students take a required professional responsibility course and professors address professionalism issues in class. The clinical programs also focus on what professionalism means. This goes beyond simply understanding what is required of lawyers under the Rules of Professional Responsibility. Students are encouraged to examine potential conflicts between the rules and their own value systems. They are also urged to think about pro bono work as well as access to justice and quality of justice issues.

2. College of William and Mary, Marshall-Wythe School of Law

William and Mary has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over a five-day period.

The first day of orientation is dedicated to "Law as a Profession." The goals of this program are: (1) To introduce the students to the concept of law as a learned profession; (2) To introduce the students to the concept and over-

whelming importance of professional ethics; (3) To introduce the students to the duty of competence; and (4) To begin the process of law office identification and cohesion.

Practicing lawyers participate in the orientation by teaching sections of the legal skills program. Additionally, in previous orientation programs, judges have spoken about professional ideals.

Materials are distributed to students during orientation. The ABA Negotiating/Ethics video is also shown during orientation.

Students have the opportunity to evaluate the program.

The law school has an honor court and an honor code. However, the College of William and Mary does not have a written pledge.

In response to Question 12 on the Questionnaire, the school stated: "Our Legal Skills Program was the inaugural winner of the ABA Gambrell Professionalism Award. Our orientation program is the beginning of this two year required course."

II. WASHINGTON

Washington does not have a state mandated or suggested professionalism orientation program for first year law students.

1. Seattle University School of Law

Seattle University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation program is a three-hour program. However, in an effort to instill a sense of professionalism in its students, Seattle University School of Law's orientation program has follow-up sessions throughout the year.

Lawyers have participated in past orientation programs as both small group participants and as keynote speakers. Other speakers have included the Attorney General, Christine Gregoire, who spoke on entering a public service profession and the Superior Court Judge, Mary Yu.

After the keynote speaker, first year students are organized into groups of fifteen. Co-facilitators⁶⁹ are assigned to each group. The groups discuss what it means to be a lawyer and how to maintain one's values, idealism and integrity in the law school environment.

As stated by Seattle University School of Law, the main objectives of the orientation program are to "help students explore their own values and motivations for becoming a lawyer, to view lawyering as a service and to develop and maintain a healthy, satisfying and useful professional life as a law student that will enable them to lead satisfying and productive lives."

At the conclusion of orientation, students may evaluate the overall program.

69. Co-facilitators include alumni, faculty members, staff members and upper-class students.

UU. WASHINGTON D.C.

Washington D.C. does not have a state mandated or suggested professionalism orientation program for first year law students.⁷⁰

1. University of the District of Columbia School of Law

The University of the District of Columbia School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Orientation takes place over an eight-day period.

Lawyers participate in the orientation program. For example, Bar Counsel staff, judges and legal services attorneys have participated in the past.

The segment of the orientation program that addresses professionalism is called "Law and Justice: An Introduction to the Study of Law."⁷¹ Approximately two hours are devoted to this program during seven of the eight days of orientation.

Materials are distributed to the students at the orientation program. No videos are shown during orientation.

Students do not have the opportunity to evaluate the program.

The law school has an honor court, an honor code and a written pledge.

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the University of the District of Columbia School of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

2. Georgetown University Law Center⁷²

Georgetown University Law Center has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation takes place over a three-day period.

The orientation includes three components directly relevant to professionalism. First, a prominent lawyer gives a keynote address to the students. Second, the five entering sections each attend a 90 minute class on professional ethics. The class is led by a faculty member and often a member of the bar to help lead the discussion. Approximately ten to twenty students are in each class and the class is structured as a discussion. During this session, the students are usually presented with one or more ethical dilemmas and the faculty members lead a discussion. When appropriate during the discussion, the faculty leader will mention the relevant rules of professional responsibility. Third, the law school offers the students an opportunity to participate in a service project. The service projects are done in groups of ten to twenty students.

70. The reply letter stated: "The six law schools that are located in the District of Columbia do have mandatory or elective professionalism courses for their first year students."

71. See Appendix AA for more information on the Law and Justice program.

72. In response to the follow up letter the Institute sent to the law schools on March 10, 2004, Georgetown University Law Center indicated that changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

As mentioned above, practicing lawyers participate in orientation as keynote speakers. In the past, keynote speakers have included the Honorable Michael Powell, the Honorable Thomas Hogan and the Honorable Cheryl Long. In addition, several lawyers participate in the school's ethics programs.

Prior to orientation, the students are asked to read *Make No Law* by Anthony Lewis.⁷³ During orientation, materials such as The Model Rules of Professional Responsibility and the U.S. Constitution are distributed to students.

Videos are sometimes used by the faculty heading the class on ethics to present an ethical dilemma.

Students have the opportunity to evaluate the program.

In response to Question 12 on the Questionnaire, the law school replied:

In 2002, the faculty introduced a new series of seminars on Ethics and Professional Identity. The seminars meet over two semesters, beginning in the spring of students' second year and continuing in the fall of their third year. The reason for this timing is that the seminars span students' second year summer, which is for most students their first significant experience in the role of a lawyer. The seminars thus offer the opportunity for students to reflect both before and after this formative experience. The seminars meet a total of four times (twice each semester), for a little over 3 hours each meeting. Enrollment is limited to 12 and the courses meet in the evening at a faculty member's home and include dinner. The focus and readings of each of these seminars are determined by the faculty member. Students are expected to write a 5 to 10 page memo and the course is graded pass/fail. Professors offering courses in 2003 included:

Professor Richard Chused and Chaplain Michael Goldman, on secular and Jewish law and ethics. Materials on American and Jewish law are examined to study issues of ethics and morality in a famous case. The goal of the course is to deepen our understanding of how secular and religious legal obligations may coexist in American life.

Professors Robert Drinan and Michael Frisch, on professional responsibility and the role of lawyers in different contexts. Contexts examined include corporate governance, lawyers as lobbyists, and elections of state judges.

73. ANTHONY LEWIS, *MAKE NO LAW: THE SULLIVAN CASE AND THE FIRST AMENDMENT* (Random House 1991).

Professors Emma Jordan and Robin Lenhardt, on professional, ethical, and moral challenges that arise for women of color in the legal profession. The course investigates the extent to which prevailing identity and behavior norms limit or shape professional opportunities for this group of lawyers, personal and ethical dilemmas presented by gender and race-based discrimination in the workplace, and the balancing of the often competing goals of providing adequate client representation, preserving individual autonomy, and securing avenues for personal expression.

Professor Carrie Menkel-Meadow, on how good work (in professions, including both legal and non-legal comparisons) is defined, through readings of several books, including literature, social science, and journalistic approaches.

Professors Michael Seidman and Si Wasserstrom, on “Doing and Letting Happen in Law, Literature, and Life.” The focus of the course is on the moral and practical distinction between feasant and nonfeasant, through close study of works of literature, philosophical essays, and legal problems and cases.

VV. WEST VIRGINIA

To date, the state of West Virginia has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state’s professionalism orientation program for first year law students.

However, according to West Virginia University College of Law the state has neither a state mandated or suggested professionalism orientation program.

1. West Virginia University College of Law

West Virginia University College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

For the past seven years, Judge Joseph R. Goodwin has presented keynote remarks to begin the orientation. In his speech, he describes the “calling” of the legal profession. Additionally, during the 2002 orientation program, Professors Joyce McConnell spoke on the topic of “Ethical Expectations of a Law Student – The Lawyer as Ethical Advisor.”

At orientation, students receive a copy of a Supreme Court decision and a standard school handbook. No videos are shown during orientation.

Law students at West Virginia College of Law actively participate in the orientation program. For example, law students participate in a peer advising

role and first meet with the students on the first day of orientation and at various times during the ensuing two days. Also, selected second year students head a panel discussion on a variety of law school experiences. Additionally, these students make a presentation on the third day of orientation to both the entering law students and their families. Topics typically include law students who have children, law students who are married and students who have performed well academically.

Students have the opportunity to evaluate the program.

West Virginia College of Law has an honor court and an honor code. In addition, the law school has a Professional Responsibility Pledge.⁷⁴

In response to Question 11 on the Questionnaire, the law school responded: "Part of the goal of our orientation is to give the students a sense of the professionalism of the profession and the expectation of them as students enrolled in our College of Law."

In response to Question 12, the West Virginia College of Law noted: "Our faculty is concerned that during the course of law school our students gain an expectation of what is expected of them as members of the legal profession, and this concern permeates many aspects of the law school experience."

In response to the follow up letter the Institute sent to the law schools on March 10, 2004, the West Virginia College of Law indicated that no changes have been made to its orientation and approach to professionalism since the school responded to the Institute's survey in August 2002.

WW. WISCONSIN

To date, the state of Wisconsin has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Wisconsin's law schools responded to the Working Group's survey.

XX. WYOMING

To date, the state of Wyoming has not replied to the request by the New York State Judicial Institute on Professionalism in the Law for information regarding the state's professionalism orientation program for first year law students.

Additionally, none of Wyoming's law schools responded to the Working Group's survey.

74. See Appendix BB.

VII. FUTURE ENDEAVORS OF THE WORKING GROUP

- A. Pilot Professionalism Orientation Program
The Working Group will continue discussions with interested law schools to establish a pilot professionalism orientation program. Three law schools during the round table discussions expressed an interest in this effort.
- B. Expand the Institute's website offerings to law schools to include roadmaps, bibliographies and research regarding issues of professionalism focused on the law school experience.
- C. Host periodic informal discussion groups consisting of Institute members and various representatives of law school administration and faculty and the practicing bar designed to foster dialogue between and among the schools and the Institute concerning issues of professionalism.
- D. Examine establishment of an Institute/law school fixed program on the subject of professionalism to be made available to law schools. The program would involve noted speakers and it would provide a "package" dealing with issues of professionalism.
- E. Expand on and coordinate post-graduation mentoring programs.
- F. Publish and encourage law school and bar association professionalism efforts.

VIII. CONCLUSION

The objective of the Working Group is summarized in its Mission Statement. One way to accomplish this end is to encourage law students, at the start of their careers, to gain a better understanding of professionalism and to carry over that understanding into their classes on substantive law and ultimately into their daily practice. This challenge can be best achieved by the cooperative efforts of the Institute, the organized bar, the courts and the law schools with each group working independently, but also jointly in pursuit of that goal.

APPENDIX A

INSTITUTE FOR PROFESSIONALISM IN THE LAW LAW SCHOOL ORIENTATION PROGRAM WORKING GROUP ROUND TABLE DISCUSSION WITH LAW SCHOOL REPRESENTATIVES MINUTES

March 1, 2002 -New York City

ATTENDEES: John H. Gross
Eileen R. Kaufman
Peter R. Pitegoff
Hon. Leslie E. Stein
Catherine O'Hagan Wolfe
Antonio E. Galvao

GUESTS: Ellen P. Chapnick, Esq., *Assistant Dean, and Director, Center for Public Interest Law, Columbia Law School*
John R. DeRosa, Esq., *Assistant Dean for Student Services, Cornell Law School*
Mary A. Lynch, Esq., *Director, Clinical Legal Studies, Albany Law School*
Andrew J. Simons, Esq., *Associate Academic Dean, St. John's Law School*

John Gross opened the meeting. He thanked the guests for coming to the meeting and provided them with a brief history of the Institute on Professionalism. He noted that the Convocation on the Face of the Legal Profession was intended to begin forging a stronger relationship between the academy and the bar. One issue that was discussed repeatedly at the Convocation was that professionalism should be inculcated at the very beginning of the law school experience. This working group has been assigned to follow up on this notion and to come up with ideas for integrating professionalism from the very outset of the law school experience. To this end, the working group is interested in consulting, and possibly working with, representatives of six law schools — Albany, Touro, Buffalo, Cornell, Columbia and St. John's — in an effort to develop an orientation program that focuses on professionalism.

John Gross indicated that the working group has struggled with how to define professionalism. He found Lou Craco's Chautauqua speech very helpful

in this regard, as it contains some simple truths about the legal profession being a public calling, about trustworthiness, competence and independence, and about coloring all of these principles with an appreciation for the rich heritage of the law. These are the values that the Institute would like to see emphasized in law school and why it is exploring the medium of professionalism orientation. John Gross stated that the working group is aiming to have a program prototype ready for the Institute's review by this fall. He anticipates that the first professionalism orientation programs would likely kick off by Fall 2003. The idea is to shape the student's professional self-conception and to instill the core values of the legal profession in the minds of law students at the very first opportunity.

John Gross introduced the individuals present: Ellen Chapnick is the Dean of the Public Interest Law Center at Columbia Law School. In that capacity she has spent a lot of time addressing issues of professionalism and ethics. Mary Lynch is the Director of Clinical Programs at Albany Law School and the Chair of the Diversity Committee. John DeRosa is the Assistant Dean for Student Services at Cornell Law School and has been involved in orientation for new students. Andrew Simons is the Associate Academic Dean at St. John's Law School and has been involved with orientation both as a practitioner and now in his capacity as Dean.

Eileen Kaufman said that Touro has a one-week orientation program that starts before regular classes begin. She has observed that students tend to forget much of what they learn because there are so many other competing demands for their time and attention. The students are presented with a set of cases that present civility, diversity and tolerance issues. The New York State Bar Association's video on pro bono has been shown. They have also shown videos of L.A. Law episodes that present ethical dilemmas for the students to consider.

Peter Pitegoff said that Buffalo Law School also has a one-week program prior to regular classes, which is called "Introduction to Law." There are large group meetings, lectures, court tours and small group discussions and experiences. The format evolves from year to year. The students are asked why they chose law school. The demographics of the legal profession are discussed. The social responsibilities of lawyers are one of the themes stressed. He has noticed that much of the material is not digested for the reasons stated by Eileen Kaufman. Additionally, all students must complete a three-credit professional responsibility course during the first year. During the winter break between the Fall and Spring Semesters a series of one-credit courses taught by practitioners are available wherein ethics and professionalism play a big role.

Ellen Chapnick said that Columbia's experience has been that students tend to get so little out of orientation that they try to do it quickly in three days. A large part of the orientation is simply to welcome students to the school and to build a sense of community. She said that professionalism comes mostly sub-

liminally and later in the law school experience. Diversity is emphasized at orientation and it is something that law school is very proud of. She hosts a lunch each year for students interested in public interest law during which she emphasizes the public calling aspect of the legal profession. Columbia also has a mandatory pro bono program, which is a very important component of the school's professional responsibility curriculum. There is also a one-week required course for 3Ls, which is taught in small groups for eight hours per day. This class involves various practice simulations that present difficult ethical problems dealing with conflicts of interest and confidentiality. These classes are taught by practitioners. One recent session presented a bitterly contested divorce case that included tough custody issues and related ethical problems. The classes were divided into 12 student groups. Professionalism is integrated throughout the law school curriculum in programs like these and in clinics and externships.

John Gross asked whether law schools ordinarily direct their faculty to focus on professionalism. Eileen Kaufman said that it really does not take the form of a direction; in any event, everyone is aware of the need to focus on professionalism and ethics these days. John DeRosa said that a subtle but powerful way to send that message is to build a course or an endowment around a particular professor with a strong background in this area. Andy Simons noted that St. John's is a Catholic institution and that the Vincentian mission permeates the law school experience.

Andy Simons said that he was an Associate Dean and Professor at St. John's back in the 70s. He spent the next 20 years practicing law before returning to the school. He has noticed a great change in the profession during that time. Students are increasingly concerned about getting jobs and making money rather than becoming a member of a learned profession. Approximately five years ago, St. John's began to concentrate on the profession's core values during orientation. There is a one-day indoctrination that includes practitioners, judges and even counsel to, or members of, the Grievance Committees. Orientation is only a small part of the school's efforts to inculcate professionalism. There is a three-credit course, "Introduction to the Legal Profession," during the first semester that begins before the start of regular classes. This course focuses on, among other things, jurisprudence, professionalism and lawyer skills. There are upper level professional responsibility courses, and the faculty are encouraged to use the pervasive method of teaching ethics.

Mary Lynch stated that orientation should continue throughout all of law school. There are different points at which orientation has to continue. In the past, the Albany orientation was one or two days. George Carpinello, a local practitioner, would give a very inspirational speech that included themes such as "your professional reputation begins today." In the early 1990s with the decline in the economy, it became difficult for Albany to compete with the top tier law

schools. They began to get students with weaker writing and reasoning skills. Orientation changed and it became a one-week program that focused on the basic skills of being a lawyer. The emphasis on professionalism got lost somewhat. Presently, the nature of the orientation program depends to a large extent on who the presenters are. Diversity has been a recent theme and there has been more collaboration with practitioners. With the law school in transition and looking for a new Dean at the moment, the school is open to new ideas. She echoed the other speakers' observations that students often have a "deer in the headlights" look during orientation.

Ellen Chapnick said that she liked the Georgia model's notion of a re-orientation before second year. Students define reality differently at different times. They may look at the same issues through a different lens upon revisiting them. She was struck by the consistency of the orientation program set forth in the Georgia model. Eileen Kaufman stated that she likes CUNY Law School's formal swearing in ceremony. It is very symbolic and ceremonial and calculated to leave an impression even on students who may otherwise be overwhelmed. John Gross stated that he likes this idea also, as well as having students sign a formal pledge. He added that one of the great tragedies besetting the profession today is the lack of mentoring for novice lawyers. It was noted that the Soros Open Society Foundation has awarded a grant to CUNY Law to do a consortium project involving mentoring by faculty members and senior graduates of the law school.

Peter Pitegoff said that he is coming to the conclusion that orientation should be a continuum. In this way the Institute could be more useful to law schools in that it could serve as the resource for a statement of principles, tools, speakers, videos, etc. Judge Stein said that she is becoming convinced that instilling professionalism should be done in components over time. She likes the concept of a ceremonial event that makes a big impact early on followed by later presentations or programs throughout law school.

Catherine Wolfe said that this approach is not necessarily inconsistent with the Institute's approach. The Convocation on the Profession was designed to be longitudinal in structure, and the next Convocation will cover the first seven years of a lawyer's entry into the profession. Additionally, the Institute's involvement in this area is not supposed to be didactic but collaborative. The idea of being a resource and using the Institute's web site to house resources and tools that law schools can use is consistent with the vision of the Institute as a vehicle for bringing the academy and bar together. Andy Simons said that while some law schools like St. John's will not find a speakers' bureau useful, it would be interested in any written materials that provide roadmaps and ideas on how to promote professionalism. Judge Stein agreed that it would be useful to identify the best practices currently in use and make them available centrally through the institute's web site.

Catherine Wolfe stated that collegiality is a learned art. Mentoring can't be contrived; it has to grow out of some foundation such as a CLE event or a pro bono training program. Andy Simons stated that he would be interested in introducing a pro bono program to St. John's. Peter Pitegoff stated that it is important to have a context when teaching professionalism. You need real clients, real facts, real people. Putting students in real situations works the best in terms of communicating professionalism values. Mary Lynch added that academia too often thinks of clinical programs as "add ons." We need to connect the ideas about teaching within a context with the professional responsibility professors.

Andy Simons stated that it is important to make creative use of video, which is something the current generation is highly familiar with. Again, the Institute can serve as a clearinghouse.

John Gross stated that one of the next steps to be taken will be to inventory the tools and materials that could prove useful to law schools developing professionalism programs, and to start archiving them on the web site. He asked members to send any and all useful materials and ideas to Tony Galvao. He will brief Lou Craco on this meeting and discuss future directions with him. John Gross will also make a presentation at the next full meeting of the Institute.

The working group discussed the professionalism orientation materials prepared by the Georgia Institute on Professionalism. The members agreed that the materials were coherent and could serve as a potentially valuable model for New York law schools. However, some concern was expressed about approaching law schools, particularly the faculties, with ready-made models. Such an approach may not generate sufficient excitement or may alienate faculties who perceive prepared models as offensive to their notions of academic freedom.

The Institute should strive to work as actively as possible with law schools in designing programs and preparing materials. At a minimum, the Institute on Professionalism and the working group should serve as a resource for law schools by maintaining collections of materials, endorsed prototype programs, rosters of dynamic speakers from the bench and bar, and a web site.

APPENDIX B

INSTITUTE FOR PROFESSIONALISM IN THE LAW LAW SCHOOL ORIENTATION PROGRAM WORKING GROUP ROUND TABLE DISCUSSION WITH LAW SCHOOL REPRESENTATIVES MINUTES

June 28, 2002 -New York City

ATTENDEES: John H. Gross
Peter R. Pitegoff
Catherine M. Richardson
Hon. Leslie E. Stein
Catherine O'Hagan Wolfe

GUESTS: Leslie Bender, *Professor of Law, and Woman's Studies Associate Dean for Faculty Development, Syracuse University College of Law*
Carol Buckler, *Professor of Law, New York Law School*
Vanessa Merton, *Professor of Law, and Associate Dean for Clinical Education, Pace University School of Law*
Abel Montez, *Director, Student Affairs, Fordham Law School*
Leslie Salzman, *Clinical Professor of Law, Benjamin N. Cardozo School of Law*
Aderson Francois, *New York University School of Law*

John Gross opened the meeting. He thanked the guests for coming to the meeting and provided them with a brief history of the Institute on Professionalism. He spoke about the Convocation on the Face of the Legal Profession. He then explained that this Round Table is meant to establish a liaison between the Institute and New York law schools.

John Gross highlighted the efforts of the Working Group thus far and also discussed future endeavors. He indicated that the Working Group is interested in holding a symposium sometime this Winter or Spring. The Working Group would extend invitations to participants in the past two Round Table Discussions, faculty members, bar leaders in the area of professionalism, Georgia representatives and the judiciary (from the disciplinary committees, grievance committees, OCA and PJ). John Gross stated that there are three places to promote the message of the Working Group, at orientation, throughout the law school curriculum and through specific professionalism courses.

Peter Pitegoff spoke about the mandate of the Institute. He said that the Georgia plan is prescriptive. He prefers a program that is not mandated. Catherine Richardson discussed the interplay between the Institute and the law schools and the need to create something that is beneficial to law schools so that in the future they will participate. John Gross added that the Institute is looking to the law schools in this process. He mentioned that there is a lack of communication amongst the law schools and that the Institute could act as a bridge between the law schools. John Gross asked the individuals present to introduce themselves and then asked the law school representatives for an update as to what is happening at their institutions.

Carol Buckler said that New York Law School has a week long orientation program called "Advance Week". The Dean addresses the new students and every year the address includes professionalism issues. Carol Buckler noted that the theme of orientation is, "This is the first day of your life as a professional." She stated that there are approximately five hundred students in this year's incoming class. New York Law School has a first year lawyering course that discusses the ethical issues and dilemmas that surround the attorney-client relationship. The law school also has a simulation course based on the book *Civil Action*. This required civil practice course is composed of about thirty-two students per class and is growing. The students are broken up into smaller groups in order to do presentations. In addition, actors are brought in to play clients. Judge Stein asked whether lawyers and judges participated. Carol Buckler answered that a few teach as adjuncts and judges teach the Trial Advocacy course. She also mentioned that New York Law School has a program on substance abuse.

Leslie Bender stated that Syracuse's orientation is a few days in length. During orientation practicing attorneys, deans and faculty members speak to students, some of which speak on the topic of professionalism. There is always a professionalism theme. She then discussed that there are sessions dedicated to the student's responsibility under the honor code and raised the concerns of plagiarism and cheating. She explained that Syracuse does not mandate the teaching of professionalism in first year courses, however, some teachers address the student's responsibility to the community, public service and/or social justice. Leslie Bender mentioned that Syracuse used to have a bridge class on social justice issues and the law. Due to fact that the class was not properly incorporated into the curriculum, in addition to the amount time that was necessary to successfully implement the program, the class was canceled. Instead, a Lawyering for Social Justice Series is held during the year. She stated that the program is not well coordinated. Further, she mentioned that although there is an individual effort amongst teachers,

there is no systematic approach to the program. She asked: "How do you gauge success?"

Leslie Salzman reported that Cardozo has a short orientation program at which the Dean speaks and makes an effort to touch on professionalism. Last year was the first year a portion of orientation was dedicated to professionalism issues by the Public Interest Bar and the Ethics Faculty. It was the first attempt of talking about the legal profession as a public calling and the obligations and responsibilities students have to the profession. Leslie Salzman believes that the hypos used in the Georgia model are very important and should be incorporated into the curriculum. Likewise, she stated that simulations involving student conduct are important. Leslie Salzman realized while reading the Georgia material that she had never seen Cardozo's code of honor.

John Gross took this opportunity to share with the law school representatives the Working Group's proposal for a commitment document for incoming law students. Leslie Salzman commented on the importance of a commitment to professionalism and both honorable and appropriate conduct during law school, but suggested that the first day of law school orientation may not be the appropriate time to distribute the document. Rather, she stated the end of the first semester may be a more suitable time. She also suggested that law schools have a presentation before students sign the commitment document.

Returning to the contents of Cardozo's program Leslie Salzman noted that professionalism is incorporated into the substantive classes on a professor by professor basis. She added that Cardozo does not have a formal policy or obligation requiring such an effort. Leslie Salzman also stated that Cardozo has recently started participating in ABA competitions, on such topics as negotiations and mediation. Cardozo also hosts lunches whereby people (e.g. lawyers, judges, not-for-profit organizations, etc.) come and speak to students on different topics.

Abel Montez distributed a hand-out to participants at the Round Table Discussion on Fordham's Professionalism Ethics Program for incoming students. Fordham's orientation is a week long and Richard Zitrin's book, *The Moral Compass of the American Lawyer*, is used during orientation. During that week students are assigned to groups of twenty to thirty-two, lead by one practicing attorney, who is an alumni of Fordham, and a student leader. Different topics are assigned to every group. A student from each group is designated as group reporter. Fordham flies in a guest to head the large section discussion, previously it has been Richard Zitrin. The program has been in existence for three years. Before this program was started Fordham used to use the movie, *The Rainmaker*, to raise ethical issues. Abel Montez commented that students have responded better to the present program because of the interactive nature of the program. Attorneys receive CLE credits for participating in the program. This program

only occurs during orientation and Abel Montez reported that there is no follow-up to this program.

Abel Montez also mentioned the Stein Scholar Program in Legal Ethics whereby approximately twenty students are chosen to become facilitators at brown bag sessions that meet to discuss the subject of ethics. The Stein program also hosts round table discussions that are more involved than the brown bag sessions. The students spearhead the discussion groups as well as work on developing the curriculum for the entire year. Abel Montez noted that law schools need to re-educate its students. He commented that students see law school as an extension of their undergraduate career, rather than viewing it as “the legal profession.” He further noted that students do not understand the student handbook. He concluded that students do not realize both how and what you do in law school impacts whether you can sit for the bar examination.

Catherine Wolfe asked Abel Montez about the pre-law process and how it can be changed to ease the disconnect when a student enters law school. He responded that Fordham has reached out to the undergraduate institutions where the law school draws a majority of its population from and raised this concern to them.

New York University School of Law does not speak about professionalism a lot during orientation, but it has The Lawyering Program that focuses primarily on professionalism issues. He stated that he came to the Round Table to discuss this program. The program is a required class for all first year law students. The program is held in classes of about twenty-five and students are expected to go through a minimum of six hours of classroom activity. Approximately fifteen to seventeen faculty members are involved in teaching this course. The program involves much more than just ethics. The program includes exercises that consist of three components: traditional lawyering skills, which includes both legal research and writing components, interactive exercises presented in the context of problems a client would have and a professional responsibility component. The program stresses four types of relationships that a lawyer must manage: the client relationship, relationship with colleagues (have to depend on each other and cooperate with one another), relationship with adversaries (get a reputation very early) and a relationship with the institution of law itself. NYU videotapes the exercises and critiques the tapes with the students. A website is available to gather more information regarding the course. The program has a follow-up in the second and third year. NYU has three levels of clinics, which are mostly run by the founder of the program. The clinics tend to be structured similar to The Lawyering Program. The NYU representative noted that although it is hard to measure, the program seems to have been successful. The professors are pleased with the program and believe that it is worthwhile. He further stated that the program was instituted about six to eight years ago because the administration

realized that ethics classes, professional responsibility classes and other first year classes were not sufficient in teaching the subject of professionalism. The NYU representative stated that students complain that NYU does not focus enough on the corporate environment of the legal profession. This illustrates the tension between public interest and corporate aspects.

Vanessa Merton stated that this past year Pace had a different orientation program. She explained that there is a complex simulation which covers many different topics on lawyers roles and responsibility. The simulation is very in depth and consists of approximately one hundred and seventy-five pages. Further, she said about twenty-two faculty members participate in the orientation program.

The focus of the program is to emphasize career development, asking “What does it mean to be a lawyer and how do you become a quality decision maker and a quality lawyer?” Vanessa Merton commented that the administration at Pace attempt to teach the students to be self-teaching because law school is only a foundation and will not equip students as to how to act in their professional role. This year was the first year Pace required students to take the professional course during their first year. Vanessa Merton noted that a tension exists between the professors and the students because the professors demand more time from the students, while the students have to balance many roles such as being a student, having a family and working. She concluded that Pace has an honor board and that this past year Pace had three times as many complaints of unethical conduct as in the previous year. She explained that over the years the number of complaints has steadily increased and this past year it has leaped.

John Gross raises the question: “Is unethical conduct more prevalent in law schools?” All of the law school representatives said yes. Catherine Wolfe added that lawyers are uncomfortable talking about the personal morality part of the professionalism discussion.

Carol Buckler, representing New York Law School, commented that she did not like the idea of a student commitment document because she thinks that students may not agree with it.

John Gross further asked: “What can the Institute and this effort do for law schools?” Leslie Bender stated that it would be helpful if the Institute could provide experts for Syracuse to invite to speak on professionalism, because it is difficult for the school to get these experts on its own. Further, she stated that having a program already planned would be beneficial to Syracuse. She added that it would be a help to the law schools if the Institute created packets containing hypotheticals and other materials and distributed them to the professors to help them get a start. Vanessa Merton stated that Pace’s program includes students interviewing practitioners. She would be interested in the Institute creating a database containing practitioners who would be interested in partici-

pating in the program and who also could be honest when discussing these issues with students.

The NYU representative asked generally: “What exactly do you mean by being a professional?” He stated that a definition of professionalism is needed so students know what they have to do to be professional. He further commented that this is different from being ethical.

John Gross asked who was interested in implementing a pilot program. Pace, New York Law School and Cardozo all showed an interest.

John Gross stated the Working Group would e-mail a copy of the minutes from this meeting as well as the minutes from the last Round Table Discussion to the Round Table participants present at both meetings. He mentioned different sources to view on the subject: Deborah Rhodes, Richard Zitrin (“The Center for Professionalism”) and Roy T. Stuckey. Vanessa Merton suggested using an Iowa case (642 N.W.2d 296 (2002)) regarding plagiarism as a hypothetical. She summarized the contents of the case as follows: A lawyer plagiarized a large portion of a treatise in a brief without citing to the treatise. The court asked the lawyer to give a list of the sources used to write the brief. The lawyer included the treatise on the list and as a result the court suspended the lawyer with no possibility of reinstatement for six months.

Further, Vanessa Merton commented on the fact that there is no uniformity in law schools in reporting law students to the character committee.

APPENDIX C**NEW YORK STATE JUDICIAL INSTITUTE ON
PROFESSIONALISM IN THE LAW
LAW SCHOOL WORKING GROUP ROUNDTABLE****Meeting Notes: June 17, 2003**

- Attendees: John H. Gross
Peter R. Pitegoff
Hon. Leslie E. Stein
Catherine O'Hagan Wolfe
- Guests: James M. Altman, *NYSBA Committee on Attorney Professionalism*
Kenneth Balkan, *Nassau County Bar Association - Committee on Ethics*
Sherry K. Cohen, Esq., *Department Disciplinary Committee*
Barbara Davis, *Albany County Bar Association - Committee on Professional Standards*
Michael Gaynor, *Appellate Division, 3rd Department, Committee on Professional Standards*
Naomi Goldstein, *NYCLA -Committee on Professional Discipline*
Robert Guido, *Grievance Committee for the 10th Judicial District*
Barry Kamins, *New York State Bar Association - Committee on Professional Discipline*
Diana M. Kearse, *Grievance Committee for the 2nd and 11th Judicial Districts*
Ellen Lieberman, *NYSBA -Special Committee on Public Trust and Confidence in the Legal System*
Morton Moskin, Esq., *NYCLA -Professional Ethics Committee*
Sandra O'Loughlin, Esq., *NYSBA Committee of Professional Ethics, Character and Fitness 4th Department, 8th Department, Professor at University of Buffalo Law School*
Lauren Raysor, Esq., *Metropolitan Black Bar Association*
Matthew Renert, *Grievance Committee for the 9th Judicial District*
David Rubin, Esq., *Suffolk County Bar Association -Committee on Professionalism*

Deborah A. Scalise, *Woman's Bar Association of the State of New York - Committee on Professional Ethics, Discipline and Practice*

Mark Solomon, *NYSBA -Committee on Unlawful Practice of Law, NYSBA Ethics Committee*

Lewis Tesser, *NYCLA -Committee on Professional Discipline*

John Gross opened the meeting. He thanked everyone for attending the meeting and provided them with a brief explanation of the purpose of the Working Group and Judicial Institute on Professionalism in the Law. He explained that the Institute on Professionalism was created as an outgrowth of the Craco Commission's recommendations following its considerable considerations regarding issues of professionalism facing the law and lawyers. John Gross then noted that the Working Group was established to look at the issue of professionalism in the context of law schools. It has focused on law school orientation programs and how these schools have attempted to impart the ideals of professionalism to their students.

John Gross indicated that to date, in its related plenary activities, the Institute has hosted two major convocations that have provided an overarching context to the Working Group's efforts. The focus of the meetings has been to look at the global issues surrounding law school at the inception of studies — including an examination of who attends law schools — followed by a second convocation that examined the first seven years of practice. The certain maxim underlying the Working Group charge is that instilling the core values of professionalism must begin during law school.

John Gross then highlighted the efforts of the Working Group thus far. He noted that, to date, two roundtable discussions of academics has been conducted. He explained that one underlying theme of the round table discussion was student misconduct and how it relates to young lawyer misconduct. Furthermore, John Gross commented that the Working Group is in the process of collecting information from across the country regarding professionalism programs in law schools. He explained that this task is a work in progress and noted that the Institute hopes to release a report this fall. Moreover, John Gross commented on the Working Group's consideration of a one day symposium to take place later this year or early next year.

Additionally, John Gross commented that the discussion is to be informal and open. This initial notion, he noted, came out of the last roundtable which was largely comprised of assistant deans.

Misconduct of Newly Admitted Attorneys

John Gross raised the question: “Is there any evidence regarding newly admitted attorneys that shows an increase in misconduct that can be related back to law school misconduct?” He commented that a predominate concern is Plagiarism. Additionally, he commented that there has been an explosion of this type of behavior along with some increase in cheating. He added that he did not recall this plagiarism and cheating being a problem in the late 60’s and early 70’s.

Peter Pitegoff commented that it is necessary to talk about this concept as more than ethical behavior and it is hard to get your arms around the something more. He added that it is necessary to talk about the behavior of young attorneys and the lack of professionalism.

John Gross responded that the Institute on Profession formed another working group to define professional core values which focused on the law as a public calling. He commented that what is going on with young attorneys is critically important.

Morton Moskin added that a number of questions by young lawyers are being asked. He commented that young lawyers have asked him the following questions:

“What can you put on your business card and/or letterhead?” or “Can I also be a real estate broker?” He further stated that he believes that the answers to such fundamental questions can be taught in law school.

Morton Moskin then described an example of lawyer misconduct in his own firm. He stated that a summer associate was asked to do a research project and the memorandum of law that she wrote was copied out of a law review article. Further, he stated that she made no attempt at all to give credit to the article. In response to John Gross’ question of “How did you find out that she plagiarized?”, Morton Moskin replied that he knew this because he had read the article at some earlier point in time. He further explained that the law firm spoke to her about this incident and she was not hired after the summer. Instead of plagiarizing, he added, she could have said that the answer was in a law review article and copied the pertinent parts of the article for him to read.

John Gross then asked the following question: “What is your experience with young lawyers in this area?” Robert Guido responded that Long Island is largely comprised of small firms. He added that statistics were compiled and the statistics show that the largest number of complaints is in the 5-15 year practicing range. He noted that there were not a disproportionately high number of complaints against young lawyers. However, he stated that you can usually pick out a complaint against a young lawyer. Further, he commented that data seems to show that complaints against young lawyers deal with the law issues because they are on their own and they are dealing with an area that is foreign to them.

Robert Guido further added that young lawyers also have problems with their banking. In response to John Gross' question of whether young lawyers are having problems with their escrow accounts, Robert Guido stated yes, their escrow accounts. He explained that young lawyers are not maintaining the records as they should. Additionally, he commented that young lawyers are completely unaware of their failure to maintain the records. However, he noted, it is not an epidemic and there is no wholesale invasion of client funds because of attorney debt.

As an add on of Robert Guido's comment, Matt Renert admitted that coming out of law school he was not prepared to be an attorney. Matt Renert commented that he believes that young lawyers are also unprepared to be business people. For example, he stated, young lawyers do not know how to run a business or do such things as bookkeeping. Matt Renert added that when he was in law school there was no bookkeeping class offered. Also, he stated that he did not understand how important bookkeeping would be in the future. He further stated that misconduct also occurs amongst lawyers because of drugs, drinking and family problems. These outside pressures, he stated, may be causing them to buckle under and this affects minor things like returning phone calls. CLE programs focus on evaluating cases (for example, should the lawyer take or refer a case). Matt Renert further stated that the pressure is on the young solo attorneys to take every case and they do not want to turn business away because they are scared more business will not walk through the door. These attorneys, he commented, should read the warning signs; for example, the potential client met with other attorneys. However, Matt Renert concluded that young attorneys are not able to evaluate these things. He then commented that although there are no statistics to show the demographic, it seems to be mostly cases where the lawyers are out on their own.

The following question was posed: "What effect has the required CLE had?"

Morton Moskin responded that law students do not go into the profession for noble reasons anymore. What happens to lawyers is that something comes along that causes loss of judgment (i.e., family, matrimonial issues). It sneaks up on the person and if they are under stress at the time they are unable to deal with the stress itself. As a footnote, he commented, lawyers have to understand their own limitations. Many lawyers take a case and have a cap on fees and billable hours and once they reach that level their enthusiasm suffers. This does not happen just with young attorneys. This is serious because this attributes to malpractice.

Kenneth Balkan noted that he is the founder of a firm of up to seventy (70) employees and one thing that he has seen is that there is a lack of work ethic by younger employees. He further stated that it is not the same as when he was

going through the process. Additionally, partners let it go. Plagiarism is also not limited to the legal profession. For example, Kenneth Balkan stated, see the N.Y. Times incident. He then said that he thinks society is different. He became aware of cheating in different ways. He said that where he went to law school the school gave out past exams so the students could go over them. Study groups would form and then the groups would give out the wrong answers since they were graded on a curve in order to ensure that they would do better than anyone else.

John Gross then asked Kenneth Balkan, “Is the work ethic problem among young lawyers pervasive?” He responded that too many conflicting events interfere with that. He clarified this statement by saying that there is a pressure not to bill excessively and that conflicts with giving assignments to young associates. Furthermore, younger people are more concerned with family issues. For example, he noted, that a situation today, where a lawyer’s wife is giving birth and the lawyer stays home would not have happened thirty years ago. Moreover, he stated that there is also the concern of terrorism. Additionally, he concluded that people go into professions now for different reasons.

In response to the alleged increase in young lawyer misconduct, Ellen Lieberman stated that there has been a decrease in the number of complaints filed across the state. She suggested that the underlying reason for this trend may be because of the required CLE courses. Ellen Lieberman added that to identify students’ conduct at law school there is no way of knowing the misconduct except what you see in the papers. Moreover, she commented that there is no disproportionate number of complaints or discipline against new lawyers. She explained that it is more the kind of lawyer (solo practitioner) that cannot make ends meet who gets the complaints and discipline. They tend to take everything just to cover the rent.

John Gross then asked Ellen Lieberman as a follow-up of her last response, “Does size make a difference?” To this, she responded that large firms give more support. It is, however, more the kind of law that is practiced and how it is practiced. Many self-destructing employees figure out ways to ruin their lives.

Barry Kamins then stated that he teaches at Brooklyn and Fordham and it seems to him that there is a difference in what law students learn during law school and what happens after they leave. It appears to him that students just do the learning to pass. Barry Kamins feels that each semester every professor should throw in an ethical issue in whatever subject they are teaching to ensure that the students know the importance of ethical issues and dilemmas.

Going back to the solo practitioners’ dilemma, David Rubin noted that solo practitioners take every case no matter the area. He further commented that he does not know how to teach people that this is a profession and that they cannot take cases on everything if they do not know the area.

Michael Gaynor commented that each year a fair amount of work he does involves speaking at CLE courses and going over escrow accounts. It is covered for about a half hour or forty minutes and specifies areas such as the rules of the trade. During the presentation there are no questions from the attorneys even when questions are asked for, but at the break they will approach and use the, "I have a friend," hypothetical. He further stated that he makes them tell him the real issue and whom it involves. It is a broad spectrum of attorneys who approach him but the younger ones seem to ask the simple questions. Moreover, he commented that at the law school stage there has to be some sort of focus on how to maintain your books. A lot of them tend to use secretaries in order to keep their records. In the third department there are a few cases of intentional conversions. It tends to happen unintentionally and they do not realize it happened until after they get caught. He further said that it happens predominantly with solo practitioners or two and three attorney firms. After the violations, he noted, the Court of Appeals will force a lot of these firms to hire a CPA to help keep their records.

Mark Solomon commented that there is a difference between being a solo practitioner and working at a firm provided the other attorneys bring something different to the table. He stated that there is a problem as a solo practitioner not to know the answer to a question because they sit there and they think about the massive amount of debt they have and the problem that they do not know how to solve. Further, he said that they also lack the fundamental knowledge that they must operate ethically; it is just a very bad situation. Mark Solomon then explained that he teaches trial advocacy at Cornell and works ethical problems into the curriculum. He stated that ethics is only a component of professionalism, not everything. Mark Solomon added that young lawyers are sitting in an office with law books and a notion that the key to success is being adversarial. These lawyers, he explained, are a problem just waiting to happen. It is a competency issue and they end up taking a fee on a matter that they cannot address.

Naomi Goldstein spoke about the materials given. She expressed that she was impressed with the packet. She stated that she has perceived a decline in professionalism since she went to law school and was admitted to the bar in 1990. She believes that this decline is in part because lectures or courses on professionalism are useless. She thinks it is critical to understand what has changed the focus on professionalism. Because of her belief that our society is now overrun with attorneys, she asked, "I wonder if some issues can be addressed even before law school starts? For example, what about interviewing candidates before they are admitted to law school?"

Kenneth Balkan stated that he fields hotline calls. He added that he has fielded more than 135 calls and has gotten the sense that it is not a disproportionate number of young attorneys. He stated the following as problems: Most

attorneys do not have any other attorneys to bounce ideas and questions off of. They also do not have the Disciplinary Rules when it is suggested to look at it in order to solve the problem. Even when they know the rule, attorneys are faulted by their lack of judgment.

Kenneth Balkan then explained what occurs during one CLE class that is offered. He explained that the CLE class is conducted similar to a game. Three people are on stage and someone asks a question. One person gives the right answer while the other two people give plausibly wrong answers. The audience then votes on what they think is the right answer. During one presentation, Kenneth Balkan stated that he gave the wrong answer on an issue dealing with escrow accounts and was amazed at how many hands went up for his answer. Kenneth Balkan attributed this widespread error by stating, "Many lawyers felt that just because the client benefitted and no one was damaged it was okay to do what I said I did."

James Altman commented that people who call hotlines or lawyers in big firms have people they can go to in order to talk about these issues. However, many young lawyers do not have the same support matrix.

Catherine O'Hagan Wolfe explained that part of the reason the orientation groups' task is bigger is because of the increase in the number of young lawyers. The First Department has accepted more than 3,000 lawyers last year. The level of behavior of students has risen along with the pressures. She added that the Working Group has been looking for a nexus point. She gave the following suggestions: DDC and Committee of Character and Fitness might be explored. Additionally, interviewing candidates and classes before swearing in is also a possibility. However, she stated that the problem is that it is a maturity issue. For instance, she added, they cannot even find the Disciplinary Rules and the lack of maturity is pervasive.

Sandra O'Loughlin agreed with Catherine O'Hagan Wolfe's comment about the lack of maturity among applicants. She stated that there are an increasing number of problem cases. For example, she explained that there are an increasing number of applicants with repeated felonies, drunken assaults, convictions and DWI's. Further, she added, applicants get very upset when they find out it is going to be a problem in order for them to become admitted to the bar. She then spoke about an example where the applicant who had a DWI conviction and his license was revoked at the time, was at a hearing to be admitted and then during a break borrowed a car and got stopped for a DWI. Although she admitted that this is an example of an extreme case, she explained that the applicant still did not think that he had a problem. The applicant turned around and said that he did not attend and graduate law school for nothing and would sue every member of the board. She stated that although this is the extreme minority, still the question must be asked: "Why would a person like that think it

would be an easy process to become a lawyer?” Sandra O’Loughlin further commented that most of the applicants are very young.

John Gross posed the following question: “Should there be a screening function?”

Sandra O’Loughlin commented that we are stuck with a culture where the norm does not expect a lot out of our children. They need guidance on how to handle affairs.

Ellen Lieberman spoke of the disconnect between what students are learning in law school and what happens in the real world. She commented that real actions have real consequences and students do not realize that.

Deborah A. Scalise commented that media, television and film show extreme situations. When she went to law school, she watched Perry Mason and he acted ethically. However, she noted that media today seems to suggest that unethical behavior is routine and commonplace. To strengthen her argument, Deborah A. Scalise recalled that in the beginning of the movie, “A Civil Action,” John Travolta handed out his business card at the scene of an accident. She added that Pace University Law School has a course that meets each week to discuss excerpts from the show, “The Practice.” Further, Deborah A. Scalise stated that people now expect the brash attitude and ways of the lawyers on television. She explained that even the judges on T.V., such as Judge Judy, are brash. She concluded by stating that there is a certain expectation from clients to be aggressive and new lawyers think that this is the way to act.

Lauren Raysor commented that when she was in law school, ethics was a multiple-choice exam that was pass/fail. She suggested that law schools pay more attention to professionalism and real world law. To answer the question, “Are things getting better?”, Lauren Raysor responded that CLE has positive outcomes. Additionally, she noted, in private practice one is able to cover a greater area of law while working at the Attorney General’s office rather than being stuck into one area of the law. She commented, “To be a lawyer you need to learn a lot. There is a lack of support for private practitioners. Lawyers should be able to get a packet that explains things like IOLTA’s.” Furthermore, she stated that attorneys need to know how to set up their books.

Suggestion: Mentoring Program for Young Lawyers

John Gross then moved on to the area of establishing a mentoring program for young lawyers. Because many of the members of the round table expressed the belief that young solo practitioners pose a predominate problem, he followed up this discussion by asking, “What about giving CLE credit for mentoring young solo practitioners?”

David Rubin followed up on this question by replying, “This used to be the case when you worked as a clerk for the first six months after you got out of

law school but that does not happen as frequently anymore.” John Gross replied that the reason this does not occur anymore is because of debt.

Expanding on this discussion, Mark Solomon stated that he believes that the problem stems from the solo practitioner and the small firms. He added that it ought to be possible to say to every practicing lawyer that there is an obligation to everyone. That we call upon you to the extent that you have experience and the ability to make your information available to young lawyers.

John Gross further added that The Suffolk County Bar Association has reestablished a mentoring program. They had a list of attorneys who were available to mentor. However, John Gross commented that the problem is that young people do not take advantage of these services.

Matt Renert revisited the screening process. He said that it also works the other way to figure out what the students want. Students attend law school because of the economy and not for the reason that they feel it was their calling. This causes problems with interacting with the law community. Law school does not have a class that helps you with the idea of interacting with the law community. Matt Renert added that in hotel school they had a class called “Cookies” and in that class you went to mingle and eat cookies with people in the hotel industry who told you stories about what they do all day at work.

John Gross stated that the Working Group looked at the Georgia model. He expressed that there is opposition among institutions for a mandated professionalism component to the orientation program. He explained that the Georgia model incorporates a three-year commitment for practitioners and professors to follow students through their law school years. Its structure is one of a mentoring program.

Deborah A. Scalise stated that the women’s program has been mentoring at law schools and they discuss things that occur in their daily lives. It is in the early stages, but it is difficult to get the people to do the mentoring. She added that she thinks offering CLE credit for doing mentoring is worth it.

Mark Solomon responded that when a grievance is a minor matter, why not have a committee on professional standards recommend a mentor. He stated that law schools are generally inhospitable to practitioners. Fundamentally at its core professors and faculty are suspicious of practitioners. They are separate. They are not sympathetic for these situations. Some people have self-destructive problems that could be spotted in law school.

Sandra O’Loughlin commented that you cannot tell someone that they cannot go to law school. However, you can tell them about the committee that they have to go before to get admitted. She went on to say that there is also an inability to share information. An example is one person could not be around other people but they were not allowed to tell the committee about that and they still passed through the interview. You tend to forget that it is a privilege rather than a right to practice law.

Morton Moskin commented that law schools should do a better job of recruiting practitioners to be professors. These people have more experience with the real world. He stated that when he was in law school there was a third year requirement to take a seminar course. He explained that this course was run like a small law firm where the professor would give a fact pattern as an assignment and the students would have to go out and do research on the facts and give a response. Some fact patterns, he stated, dealt with professionalism issues.

Peter Pitegoff stated, "You would be amazed at how much clinical work there is in law schools. The clinical track at Buffalo is a tenured track."

Morton Moskin stated that the first year is not the time to teach professionalism.

Peter Pitegoff added that there is a disconnect between what is taught in law school and what occurs after law school.

Morton Moskin then suggested that people could teach one-credit courses about real world events that happen to lawyers.

Revisiting Kenneth Balkans' comments about the hotlines, Lewis Tesser noted that people who call hotlines are not the lawyers that end up before a disciplinary hearing. Rather, he stated that people who do not call are the problem and it is hard to link them up with mentors.

Barry Kamins asked, "Besides volume, why are there no interviews for law school candidates?" Peter Pitegoff responded that they do not interview applicants because of the sheer volume. However, he stated that it would help to weed some people out of the process.

Sandra O'Loughlin expanded on this discussion and said that some law schools have an application with an oath. If applicants lie it can go to their fitness to practice law. She then asked, "What if the applicants have a string of felonies?" Peter Pitegoff responded by saying that it is possible to keep them out of law schools because the committee to accept students look at the applicants' records

John Gross summarized two of the solutions that were expressed during the round table discussion thus far: Better screening by law schools and a mentoring program.

Key Components for a Successful Law School Orientation Program

John Gross then turned to the round table and expressed his desire for ideas of components for a successful law school orientation program on professionalism.

Diana M. Kearse replied that attention needs to be on teaching where the Disciplinary Rules are and what the grievance committee is. There is a question of accountability and therefore the purpose and the function of the grievance committee needs to be explained. She stated that she would explain such con-

cepts of the grievance committee at some point during law school, either through courses or lectures. She would also do such things as give the basics about escrow accounts. However, she noted that it should be done very straight forward and that she would include both the process and procedures.

Catherine O'Hagan Wolfe noted that a commitment letter seems lofty. She further expressed that information provided to law students must be practical. For example, have lawyers explain their typical work day to law students. She noted that the real practical problem attorneys are facing would be interesting.

Kenneth Balkan stated that he teaches a class on ethics as a guest lecturer each year for Professor Simon at Hofstra University Law School. Each year he reads a list of what clients not to take to the class. He also tells war stories and he added that he feels like it has been effective.

Deborah A. Scalise expressed that she does not want to coddle people from the beginning. She explained that issues come across to lawyers in their practice regarding what to do and how to act. A key concept is that your reputation will follow you. It is important for students to learn from the beginning that your reputation will follow you.

Lauren Raysor commented that many lawyers do not like their clients. She added that lawyers do not understand the process of talking to clients and realizing how important it is to return their clients' telephone calls.

John Gross posed the following question: "How about fashioning a long-term commitment where members of the bar stay with law students for three years and aids them throughout their law school career?" Matt Renert replied that he is in favor of that. He explained that it can be accomplished in many ways. A combination of mentors and an honor code could work. For example, if a law student violates the honor code they could work with a mentor through graduation if that person is redeemable. He further stated that law students would get guidance instead of receiving a warning and having to deal with the character and fitness board.

Kenneth Balkan asked, "Doesn't it make sense to have law students come back and talk about the practice of law after they have spent a summer at a law firm?" Additionally, he commented that law schools should teach a course in third party legal opinions. He explained that when a lawyer is negotiating the subject matter of an opinion he owes a duty of care to the opinion recipient. The recipient is deemed to have knowledge.

Ellen Lieberman stated that during orientation it should be stressed that your reputation starts once you are in law school. She further added that ethical requirements also start once you enter law school because you must adhere to the honor code of the school that you attend.

John Gross then asked, "Does the disciplinary committees have any role in promulgating an honor code?"

Deborah A. Scalise commented that things that happen in law school do not rise to the level that it does in the real world.

With respect to the question of when should something be done about teaching professionalism, Mark Solomon commented that he does not think it matters because whatever law schools do it is not enough or often enough. He added that law schools operate under constraints, such as financial burdens. He then posed the question: "How can we encourage them to understand that this is not a sometimes problem but a matter that has to be addressed always?"

Infusing Professional Responsibility Components into the Law School Curriculum

Mark Solomon commented that the first-year curriculum is an ideal place to address professionalism. He stated that some cases in contracts deal with attorney malpractice. Additionally, professionalism should be addressed at every opportunity by faculty members.

Sandra O'Loughlin stated that The Code of Professional Responsibility has to be something that you know naturally. It has to be a continuous pulse. It should be so integral to the teaching of any course. It is who you are and how you interact.

The Law School Commitment Document

John Gross then addressed the commitment document. He asked the members of the round table to look at the commitment document as an initial device akin to the oath that medical students have to take. He then told the participants that he would appreciate comments from anyone regarding the commitment document.

Mark Solomon commented that if students were allowed to write their own oath/pledge it would be more useful. He stated that professionalism is not viewed the same by everyone. The overall process of individual wrestling with these issues is part of the educational experience and he thinks this is more useful.

Expanding on the discussion regarding the commitment document, Kenneth Balkan stated that he believes the oath to be unethical because he does not think that a law student on the first day can comprehend it. He noted that maybe at some point later on the student will be able to understand the oath. He also stated that he thinks that it is unfair to give the oath to all law students because some of them will never actually practice law. To this, John Gross replied that the medical model requires students to take the oath in their third year.

Deborah A. Scalise then asked, "If the law students violated the commitment document how would the school ever know?" She further asked, "How do you enforce this?" To these questions, John Gross clarified the overall objective

of the commitment document. He replied that the commitment document is not a binding instrument to measure someone's behavior. Instead, he noted that it is a way to get professional responsibility into the curriculum. It does not have to be in a form of a signed instrument. He further clarified that the critical purpose is to communicate overarching core values of the profession. All lawyers contribute to the rule of law. The purpose is to get this into the law students' heads.

David Rubin commented on the phrasing of the commitment document. He stated that the word 'occupation' should not be used because could mean a lot of things. He did not see any problem with the first two paragraphs. However, he had a problem with the third paragraph because of his belief that entering law students do not know what ethics encompasses.

John Gross commented that the Working Group is not welded to use of the document during the first year of law school. It could be introduced later.

Naomi Goldstein stated that the best way to get a moral compass into the students is to get attorneys to come in and talk about the law profession. She noted that the commitment document does not have this value.

Morton Moskin commented that the commitment document should not say 'court' because not all lawyers practice litigation.

David Rubin stated that the first five years out of law school he had no concept of professionalism until he got to Long Island and someone taught it to him.

Lewis Tesser quoted Abraham Lincoln: "If you have the facts pound the facts, if you have the law pound the law and if you have neither pound the table." He stated that the responsibility of attorneys is to represent their clients' interests zealously. Lewis Tesser then remarked that Rehnquist said duty is to advance a client's interest by any ethical means including delaying a trial by motions.

John Gross then stated that if we acknowledge the increase in the number of attorneys then we have a professional responsibility of some core value that we need to put forth. He recognized his attempt in articulating a central core value that everything we do adds up to the rule of law. He added that the notion is that if we get the concept into law students early on then they will carry it through.

Kenneth Balkan asked, "How do you weigh goals against public perception?" He then gave an example of a girl buried alive and the lawyers for the defendant negotiated with the District Attorney for their client. He asked, "How does that jive with the public perception?" John Gross responded that he worries about public perception, but not how to fix it. He added that it is important to get to the core values and how they are embraced. Public perception will always be there.

Kenneth Balkan said that we have gone beyond the search for truth -people know “technicalities” can lead to avoidance of prosecution. He then raised the question: “How do you explain the difference to law students?”

Ellen Lieberman replied that she believes that it neither hurts nor does any good. As a doctor, she explained, everyone has the same general goal, which is to help the patient. However, as lawyers we all have different goals. To John Gross’ question, “Is our obligation to the rule of law?” Ellen Lieberman replied, “Yes, unless you are trying to overturn the law.”

Mark Solomon expanded on this discussion by adding that the rule of law is an alternative to the rule of man. It is not that the rule of law is to overbear the rule of man but it offers an alternative to what has happened in many places. We have accepted the dumbing down of society. We must not accept the dumbing down of society.

Mark Solomon added that you can expect a law student to be a student; not a citizen. All offices have the client’s rights posted and in matrimonial cases the client has to actually sign a sheet of paper with those rights on them. This should be the case for law schools. Law students should have to acknowledge what they believe to be the core concepts of legal professionalism. This can be done each year. In the third year law students should subscribe to the substantive core values of the profession.

Sherry K. Cohen stated that she believes it is important that lawyers feel that they are professional and that they are important and special. She noted that this deals with motivating people. Law schools teach you how to think but does not teach you the law. If we wanted to know how to do things as a lawyer we can find out through other alternatives. She commented that she has a problem with having law students sign the commitment document because it may diminish the value of the oath.

John Gross commented that the opinion here mimics that of the academics. He noted that the commitment document is not a single effort to address all problems.

APPENDIX D

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APPENDIX E

LAW STUDENT PLEDGE OF COMMITMENT TO PROFESSIONALISM

As I begin the study of law, I execute this document understanding that my law school study embraces not only the academic substance of the law but also requires a sincere commitment to professionalism. I acknowledge that law is a learned occupation and is inescapably a public calling. In the aggregate, my chosen profession allows our American democratic system to function through the rule of law by the private ordering of affairs in a responsible, reliable and efficient way and in the facilitation of the resolution of public and private disputes peaceably. These efforts accrue a body of law to guide affairs in the future. By providing diligent service to my clients, I will promote the public interest through application of the rule of law.

I acknowledge that the law is a helping profession; that lawyers, as custodians of the legal system, have enhanced obligations of service to the community and promotion of justice through the rule of law.

During my law studies, and after as a practicing lawyer, I must exhibit certain traits. These include lawyer independence, ethical behavior, self-renewal, competence, responsibility, an appreciation for the historical continuity and tradition of the profession and respect for my client, my adversary and the courts.

Over the course of my law school career, I pledge that I will strive to develop, uphold and maintain the core values of the profession of law and will continue to embrace them upon admission to the practice of law.

SIGN NAME: _____

PRINT NAME: _____

DATE: _____

APPENDIX F

FORM OF LETTER TO LAW SCHOOLS

July 19, 2002

FIELD (Dean Name)
 FIELD (Dean Title)
 FIELD (University)
 FIELD (University 1)
 FIELD (Address 1)
 FIELD (Address 2)
 FIELD (City), FIELD (State) FIELD (Zip Code)

Dear FIELD (Dear Dean):

In March 1999, the New York State Judicial Institute on Professionalism in the Law was officially brought into existence by an Administrative Order of Chief Judge Kaye. The Institute on Professionalism serves as a permanent commission dedicated to nurturing professionalism among the members of the legal profession. It supports the organized bar, law schools and other institutions in undertaking effective programs for the promotion of professional behavior, and stands as a permanent forum in which the various constituencies of the profession can convene regularly to study and address issues pertaining to ethics and professionalism. It is loosely modeled on existing judicial commissions in New York State that address issues affecting minorities, women and children. Though formed under the umbrella of the Unified Court System, these entities have a proven record of independent and effective operation.

In furtherance of its charge, during the fall of 2001 Institute's Chair, Louis Craco, established a Working Group consisting of five Institute members to embark upon the goal of assisting law schools in New York State to establish or expand upon professionalism orientation programs at the outset of law school. This specific charge flows from the Institute's First Convocation held in the fall of 2000 on the "Face of the Profession." Almost unanimous agreement was evident among Convocation participants from the Bench, the Bar and the Academy that direct inculcation of professionalism values at the beginning of law study is critical. The Working Group has preliminarily identified key components of professionalism, drawing a subtle distinction between ethical behavior and profes-

sionalism, the latter being a much broader concept. The Working Group believes that a discussion of professionalism should emphasize certain dominant themes:

- that Law is an inherently public calling which, by providing diligent service to clients, promotes important public interests;
- that Law is a helping profession;
- that lawyers, as custodians of the legal system, have enhanced obligations of service to the community and promotion of justice through the rule of law.

The discussion of professionalism should further emphasize that these dominant characteristics of the legal profession require lawyers to appreciate fully and develop certain important behaviors, including:

- Lawyer independence
- Ethical behavior
- Self-renewal
- Competence, excellence, responsibility
- Historical continuity and tradition of the profession
- Breadth and diversity of the profession
- Respect for client, adversary, and the court
- Societal context of the law

In an effort to facilitate this endeavor, the Institute asks for your assistance in sharing with us your school's approach to instilling professionalism in its students and invites your law school to participate in filling out the attached survey. Enclosed for your convenience is a self-addressed stamped envelope. I very much appreciate your efforts on our behalf.

Very truly yours,

JOHN H. GROSS

Enclosure

APPENDIX G

LAW SCHOOL QUESTIONNAIRE ON PROFESSIONALISM FOR INCOMING LAW STUDENTS

1. Please describe the organization, content and length of your orientation program for incoming law students.
 - I am enclosing printed materials describing our law school's orientation program.
 - I am attaching a brief written description of our law school's orientation program.

2. Does your state have a state mandated or suggested professionalism orientation program?

3. Please describe how professionalism/ethics are handled within your law school orientation program.
 - There is a professionalism/ethics orientation program that is conducted separately from the general orientation program. (Please attach a brief written description or enclose any descriptive printed materials).
 - There is a professionalism/ethics component that is a differentiated part of the overall orientation program. (Please attach a brief written description or enclose any descriptive printed materials).
 - Professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. (Please attach a brief written description or enclose any descriptive printed materials).
 - Other. Please explain.
 - Mandated
 - Suggested
 - Neither

- 4. a. Have practicing lawyers participated in orientation programs in the past and what were their roles?

- b. Who were the speakers at your three most recent orientation programs and what were the topics upon which they spoke?

- 7. Please describe the nature and extent of new law student participation/ interaction, if any, during the orientation program. For example, if there are breakout sessions, how are they organized and what is discussed?

- 8. Do students evaluate the program? _____ If so, would you be willing to share student feedback with the Institute?

- 9. Do you have a law school honor court and/or honor code? _____ If so, please provide any descriptive printed materials or attach a brief written description.

10. Do you have a written pledge or commitment to the honor code or to any standards of ethics or professionalism? _____ If so, please attach a copy.

11. Please include (or attach) any comments or suggestions you may have in connection with utilizing law school orientation programs to promote professionalism in new students.

12. In what ways does your law school endeavor to instill a sense of professionalism in students throughout their law school experience? How, if at all, is your orientation program linked to these efforts?

Please mail the survey and any written attachments in the enclosed self-addressed stamped envelope.

INGERMAN SMITH, LLP.
167 Main Street
Northport, New York 11768

(631) 261-8834

APPENDIX H

FORM OF LETTER TO STATE COURT ADMINISTRATIVE OFFICES

August 13, 2002

FIELD (Adm Director)

FIELD (Title)

FIELD (Adm Office)

FIELD (Address 1)

FIELD (Address 2)

FIELD (City), FIELD (State) FIELD (Zip Code)

Dear FIELD (Insert Name):

In March 1999, the New York State Judicial Institute on Professionalism in the Law was officially brought into existence by an Administrative Order of Chief Judge Kaye. The Institute on Professionalism serves as a permanent commission dedicated to nurturing professionalism among the members of the legal profession. It supports the organized bar, law schools and other institutions in undertaking effective programs for the promotion of professional behavior, and stands as a permanent forum in which the various constituencies of the profession can convene regularly to study and address issues pertaining to ethics and professionalism. It is loosely modeled on existing judicial commissions in New York State that address issues affecting minorities, women and children. Though formed under the umbrella of the Unified Court System, these entities have a proven record of independent and effective operation.

In furtherance of its charge, during the fall of 2001 Institute's Chair, Louis Craco, established a Working Group consisting of five Institute members to embark upon the goal of assisting law schools in New York State to establish or expand upon professionalism orientation programs at the outset of law school. This specific charge flows from the Institute's First Convocation held in the fall of 2000 on the "Face of the Profession." Almost unanimous agreement was evident among Convocation participants from the Bench, the Bar and the Academy that direct inculcation of professionalism values at the beginning of law study is critical. The Working Group has preliminarily identified key components of professionalism, drawing a subtle distinction between ethical behavior and profession-

alism, the latter being a much broader concept. The Working Group believes that a discussion of professionalism should emphasize certain dominant themes:

- that Law is an inherently public calling which, by providing diligent service to clients, promotes important public interests;
- that Law is a helping profession;
- that lawyers, as custodians of the legal system, have enhanced obligations of service to the community and promotion of justice through the rule of law.

The discussion of professionalism should further emphasize that these dominant characteristics of the legal profession require lawyers to appreciate fully and develop certain important behaviors, including:

- Lawyer independence
- Ethical behavior
- Self-renewal
- Competence, excellence, responsibility
- Historical continuity and tradition of the profession
- Breadth and diversity of the profession
- Respect for client, adversary, and the court
- Societal context of the law

The Working Group recognizes that crafting professionalism orientation program components and achieving its other initiatives will require a cooperative effort between the Institute and other institutions.

By this letter, the Institute inquires whether any state mandated or suggested professionalism orientation program exists for first year law students. If yes, can you please send a copy to:

New York State Judicial Institute on Professionalism in the Law
c/o John H. Gross, Esq.
167 Main Street,
Northport, New York 11768

Thank you for your time and effort on our behalf.

Very truly yours,

JOHN H. GROSS
Enclosure

APPENDIX I

LAW SCHOOL QUESTIONNAIRE ON PROFESSIONALISM FOR INCOMING LAW STUDENTS

1. Please describe the organization, content and length of your orientation program for incoming law students
 - I am enclosing printed materials describing our law school's orientation program.
 - I am attaching a brief written description of our law school's orientation program.
 2. Please describe how professionalism/ethics are handled within your law school orientation program.
 - There is a professionalism/ethics orientation program that is conducted separately from the general orientation program. (Please attach a brief written description or enclose any descriptive printed materials).
 - There is a professionalism/ethics component that is a differentiated part of the overall orientation program. (Please attach a brief written description or enclose any descriptive printed materials).
 - Professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. (Please attach a brief written description or enclose any descriptive printed materials).
 - Other. Please explain.
 - I am enclosing printed materials describing our law school's orientation program.
 - I am attaching a brief written description of our law school's orientation program.
 3. In what ways does your law school endeavor to instill a sense of professionalism in students throughout their law school experience? How, if at all, is your orientation program linked to these efforts?
-
-

4. a. Have practicing lawyers participated in orientation programs in the past and what were their roles?
-
-
-
- b. Who were the speakers at your three most recent orientation programs and what were the topics upon which they spoke?
-
-
-
5. Are materials distributed to the students at the orientation programs? _____ (Please enclose any materials you believe are relevant to our inquiry).
6. Are videos shown? _____ If so, please briefly describe the subject matter of the video. (If practicable, we would be interested in receiving and reviewing a copy).
-
-
-
-
7. Please describe the nature and extent of new law student participation/ interaction, if any, during the orientation program. For example, if there are breakout sessions, how are they organized and what is discussed?
-
-
-
-
8. Do students evaluate the program? _____ If so, would you be willing to share student feedback with the Institute?

9. Do you have a law school honor court and/or honor code? _____ If so, please provide any descriptive printed materials or attach a brief written description.

10. Please include (or attach) any comments or suggestions you may have in connection with utilizing law school orientation programs to promote professionalism in new students.

Please fax survey and any written attachments to
Antonio Galvao (914) 997-7781;
or mail to Mr. Galvao, C/O Office of the Chief Administrative Judge,
140 Grand Street, Ste. 704, White Plains, NY 10601.

APPENDIX J

UNIVERSITY OF ARIZONA COLLEGE OF LAW HYPOTHETICALS FROM ETHICS & PROFESSIONALISM PRESENTATION

1. Roger Earl is a well-known criminal defense lawyer. One afternoon three individuals consult him.

Adams, whose murder trial is to begin next week, comes into Earl's office and says, "I was lying when I told you I didn't kill my wife. I did it, and here's the gun I used. I don't know what to do with it, I only know that I don't want the DA to get hold of it." Adams then places the gun on Earl's desk.

Carlton, whom Earl has never met, comes in next. Carlton says: "I just killed my partner. I used this gun. I don't want the gun found, and I don't want to get caught. I am prepared to pay for your advice, and if I am arrested I want you to represent me." Carlton then removes a gun from his pocket and places it on Earl's desk.

While contemplating the events of the day, Earl gets a phone call from Dunn, a former client. Dunn informs Earl that he has been organizing "the heist of the decade," a burglary of the Philadelphia mint. He also tells Earl that the burglary will occur the following Wednesday. He wants to retain Earl in advance in case anything goes wrong. What should Earl do?

2. John and Abigail are getting a divorce. You are an expert in matrimonial law and you represent John. Abigail is represented by Jefferson, a friend of both John and Abigail, who is representing Abigail because she insisted and because he believes such matters should be settled as peaceably as possible. Jefferson is a tax lawyer but knows very little about matrimonial matters.

Jefferson has persuaded Abigail that the best way to get the case settled is to agree on the divorce and then deal with the issue of alimony later after the heat of the controversy has cooled. In the spirit of compromise, Jefferson sends you a manila envelope containing an agreement for a proposed decree of divorce. Jefferson's cover letter explains that he understands that the decree doesn't provide for alimony but he and his client believe that there will be no difficulty in agreeing on the amount

of alimony later. The proposed decree is signed by Abigail and all that remains to be done is for one of the parties to file the agreement and ask the court to enter a decree of divorce accordingly.

Also included in the manila envelope is a smaller, unsealed envelope containing a letter from Abigail to Jefferson, obviously included by mistake. The small envelope is marked “personal and confidential.”

You realize immediately that Jefferson has made two big mistakes. First, he accidentally included the letter from his client. Second, you know, but Jefferson clearly does not, that under the law of the state if alimony is not included in the decree, it is irrevocably lost. Jefferson’s error would constitute malpractice and would benefit your client immensely.

What will you do about (1) the “confidential letter” and (2) the proposed decree?

3. You represent the administration of the estate of Martin Van Buren (no, not that one) who died after a rather lengthy illness. You know that Mr. Van Buren had a lengthy hospital stay at Tucson Medical Center before his death and owed a bill of over \$300,000 when he died. You sent a notice to creditors to the hospital but have never received the written claim required by the probate statute. If no written claim is filed with the time provided by statute, the claim will be barred.

A friend of yours is a partner in the law firm that represents Tucson Medical Center. Will you warn her of the problem?

4. Let’s suppose that you represent Cybertech, a manufacturer whose processes require it to dispose of large amounts of toxic materials. A group of homeowners in the vicinity have publicly alleged that Cybertech has polluted the underground water supply. No lawsuit has been filed but your client is apprehensive. You have undertaken a study of the client’s files and tucked away, in an unexpected place (misfiled, actually), you have found a memo from an engineer warning that Cybertech’s method of disposing the toxic materials might, under certain circumstances, be ineffective to prevent toxic materials from entering the aquifer. You realize that since the memo is misfiled it probably won’t be found. You also realize that if the memo should disappear, it surely won’t be discovered.

What will you do?

Suppose you decide to report your find to the client contact, the vice president in charge of records. During your conversation, she asks, “What will happen if the memo simply disappears?”

What will you say?

Suppose the client, in order to deflect the growing heat, decides to hold a press conference and wants you to participate. The client's president says to you, "The one thing I want you to make clear is that you have thoroughly searched the files and they contain no evidence that our disposal methods was ineffective." You again, search the client's files and do not find the engineer's memo. What will you do?

5. You represent Wilson whose wife Mary was killed when their SUV overturned. Your investigation reveals that the accident may have been caused by a mechanical defect in the vehicle or by the failure of a tire installed at the factory. You also learn that several similar accidents have occurred involving the same model. You have become convinced that the vehicle is dangerously defective and that if it is not recalled other drivers and passengers are at risk of death or serious injury.

You also know from experience that when similar alleged defects have been reported to the appropriate agency, that agency has frequently found no ground to order a recall. As a result, claimants against the manufacturer have been faced with an adverse administrative ruling that has seriously reduced the settlement value of their cases.

You believe that your case is meritorious and that you could persuade a jury to find for your client. You also believe that the case would be jeopardized if the agency were asked to recall other vehicles and refused to do so. In negotiations, the manufacturer seems willing to settle the case so long as you do not ask the agency to recall the model. What will you do?

6. Keck is the attorney for Endrun Corp., a fast rising Fortune 500 Company. Keck loves the job. Keck makes lots of money. Keck does interesting work and Keck gets to hobnob with lots of famous people — especially those on Endrun's Board of Directors.

Last week, Andy Arthursen, the Chief Accountant for the Corporation, came to Keck looking all upset. Andy said, "Keck, there is something you need to know. It looks like there is a serious problem with the company audit. Our published profits and losses are pretty suspect. It looks like the CFO has been hiding debts and exaggerating our income. You better do something about it."

Keck went to Len Kay, Endrun's CEO and repeated what Andy had said. The CEO said to Keck, "Look, I know all about it. But we are taking care of it. The auditors will never tell anyone outside the com-

pany. And as soon as our loan guarantees come in, we won't have to do this anymore. If you say anything now, we will lose the loans and maybe the whole company. And you won't have a job either."

What should Keck do?

*Included with the hypotheticals the students receive a copy of Rule 41 Duties and Obligations of Members from the Court Rules of the Arizona Supreme Court, Preamble: A Lawyer's Responsibilities, Ethical Rule ("ER") 1.1 Competence, ER 1.6 Confidentiality of Information, ER 1.2 Scope of Representation and Allocation of Authority between Client and Lawyer, ER 1.4 Communication, ER Meritorious Claims and Contentions, ER 3.3 Candor Toward the Tribunal, ER 4.1 Truthfulness in Statements to Others, and ER 8.4 Misconduct.

APPENDIX K**FLORIDA COASTAL SCHOOL OF LAW
ORIENTATION - AUGUST 20, 2001
ETHICS IN LAW SCHOOL - DISCUSSION PROBLEMS**Problem 1

- (A) You have been accepted to law school and go on to an orientation a few days before class begins. At orientation, you are asked to sign a pledge not to discriminate against, harass or persecute any students, faculty members or school employees on the basis of race, sex, age, national origin, handicap or sexual orientation. Any violation of the pledge will result in reprimand by the law school Honor Court. Would you sign such a pledge? Would it matter if the school defined discrimination liberally and included both intentional and unintentional actions? What if the law school required it? Should the school be able to regulate your conduct beyond what the laws do?
- (B) Suppose you sign the pledge and after classes begin, you and three of your friends start a study group. Subsequently, a student who is five months pregnant asks to join your study group. You expect that you will be spending a great deal of time with your study groups and believe it will be hard to arrange times with this student. In addition, you are worried that when the baby is born the student will have to abandon the study group, possibly leaving the rest of the group at a disadvantage. What do you do? Would it amount to a violation of the pledge to turn this student away because of her pregnancy? Is this in fact sex discrimination or is it simply a matter of optimizing the effectiveness of the study group? Does it even matter if you have valid concerns that the student may not be beneficial to the study group?

Problem 2

While in law school, you often study and socialize with a fellow student, Meredith Mason. Gradually, you become aware that Meredith uses

cocaine and also sells it to other students. As a result of Meredith's drug use, you distance yourself from her and rarely see her. You understand from others that Meredith continues to use and sell cocaine. What steps would you take as a law student to help Meredith solve this problem?

After you graduate and become a member of the State Bar of Florida, you learn that Meredith is about to graduate from law school and has applied for membership in the state bar. Should you inform the Florida Bar about Meredith's use and sale of drugs?

Problem 3

During a first year Civil Dispute Resolution class, your professor keeps using the same two hypotheticals over and over to stimulate discussion. The class always gets completely wrapped up in trying to solve the issues raised by these two hypotheticals, but the professor never gives you any clue as to whether you are on the right track. The class is frustrated because, even if all of you reach some sort of conclusion, you still don't know if it's the right one, at least as your professor sees it. This is even more frustrating because your professor keeps dropping hints that these, or similar problems will be on the exam. On the next to last day of classes (three days before the exam) you're rooting around in the library and come across an obscure law journal article in which your professor is listed in the foreword as a contributor. He is not, however, formally listed as an author in the article or any reference books or periodical indexes. In the article two hypotheticals you have been hearing over and over again in the class. The article reveals a rather innovative solution to the problem, which has never been mentioned in class. Library policy is that any law journals may be checked out for five days.

Would you check out the law journal? When your professor raises these hypotheticals in the last class, as you are sure he will, would you use your newfound information to participate in the discussion? Would you reveal where you had discovered your new insight? If the professor doesn't raise these hypotheticals in the last class, will you reveal to him or to anyone else, inside or outside the classroom, what you now know?

Problem 4

Late one evening while you're drinking a cup of coffee in the student lounge you overhear Lance and Sybil, two of your classmates, discussing how they collaborated on writing the answer to a take-home examination contrary to the professor's instructions. As best you can tell, there was no one else who overheard this conversation. Lance and Sybil are in your study group. You know that they have both been under a lot of personal stress recently. What action, if any, will you take?

*Included with these problems the students receive a copy of Florida Bar Rule 4-3.3 Candor Toward the Tribunal, Florida Bar Rule 4-8.3 Reporting Professional Misconduct, and Florida Bar Rule 4-8.4.

APPENDIX L

UNIVERSITY OF IDAHO COLLEGE OF LAW ORIENTATION PROGRAM 2003 PROFESSIONALISM SCENARIOS MATERIALS FOR BENCH/BAR PARTICIPANTS

SCENARIO #1

You are a lawyer in a law firm that represents a client who was injured due to an alleged defect in an automobile. You have sued the manufacturer. During the normal course of pre-trial proceedings, the manufacturer's lawyer schedules a deposition to question your client at 2:00 p.m. Monday in Boise. The manufacturer's lawyer is in Detroit and will have to fly in very early Monday morning for the deposition. On Sunday afternoon, you receive a call saying your daughter has been in a serious auto accident in Texas. You rush to take the first flight to Texas to be with your daughter. Before the plane takes off Sunday evening, you call your secretary from the airport. Your secretary isn't home and has no answering machine there, so you leave a message on the answering machine at work, explaining what has happened and asking your secretary to call your client and the manufacturer's lawyer to tell them the deposition will have to be rescheduled. Due to a regular Monday morning staff meeting, your secretary doesn't get around to checking messages until 10 a.m. She contacts your client but the manufacturer's lawyer has already departed to Boise. The lawyer sits at the deposition location for several hours, and then leaves. Only upon returning to Detroit does the lawyer receive your secretary's message. The manufacturer now insists that its lawyer file a motion asking the court to impose sanctions on you or your client for not showing up at a scheduled deposition. Possible sanctions include dismissing your client's case and/or awarding travel costs and attorneys' fees to the manufacturer's lawyer for going to the deposition, or both. *What should you do upon learning that such a motion may be filed? What would you do if you were the manufacturer's lawyer?*

SYNOPSIS: *Opposing counsel travels to a deposition of your client, but neither you nor your client appears because you are called away on an emergency.*

POSSIBLE DISCUSSION POINTS:

This scenario is designed to make students aware that lawyers owe obligations to each other and to opposing parties, as well as to their own clients.

Does a lawyer owe a duty of timely notification to opposing counsel? (IRPC 4.4: Civility Standards, “Attorneys Responsibilities to Other Counsel,” paragraphs 1.15.)

By calling your secretary, did you make an adequate effort to notify other counsel? (IRPC 5.3)

Is a lawyer obligated to do anything and everything a client asks? (IRPC 1.2[a]: Civility Standards, paragraph 16)

SCENARIO #2

One of your regular clients is Susan Shopkeeper, the local manager of a retail business owned by Big Stores, Inc. One day you receive in the mail from Susan a large envelope containing another envelope labeled “2002 Sales Receipts”. Attached to the enclosed envelope is a note that says “You are my lawyer, and I trust you to keep everything confidential. Please hold this envelope at your office, and I’ll talk to you about it soon.” Later that day, you get a telephone call from a local police officer who says, “We are investigating an embezzlement in 2002 of money belonging to Big Stores. The manager, Ms. Shopkeeper, does not seem to have all of the financial records. We understand that you are her lawyer. Do you have any such records?” *How should you respond to the officer?*

Shortly thereafter, you get a call from Susan. She says, “The police just came to the store with a search warrant and rummaged through my records. It looks like I’m in trouble, and I’ll need your help. Please destroy the envelope I sent you, along with everything inside it. I don’t want that stuff falling into the wrong hands.” *How should you respond to your client?*

SYNOPSIS: *A client asks you to hold materials that could be evidence in a criminal investigation.*

POSSIBLE DISCUSSION POINTS:

This scenario is intended to illustrate the interplay of three duties imposed on lawyers by the Rules of Professional Conduct.

- (a) the lawyer's duty to maintain *confidentiality* under Rule 1.6, which the courts recognize through the doctrine of attorney-client privilege;
- (b) the lawyer's duty of *fairness* under Rule 3.4, which prohibits obstructing access to evidence or destroying documents of potential evidentiary value; and
- (c) the lawyer's duty of *truthfulness* under Rule 4.1, which prohibits false statements of material fact to third persons.

What should be the lawyer's response to the police officer? (IRPC 1.6, 4.1)

What should be the lawyer's response to the client? (IRPC 3.4)

SCENARIO #3

Your client has been charged with the crime of burglarizing a home. The client tells you that he, the client, committed the crime, but that he doubts the elderly homeowner got a good enough look at him to provide a confident identification at trial. "The old guy only caught a quick glimpse of me in dim light," the client says, "Get tough, counselor; use your cross-examination skills. There will be reasonable doubt all over the courtroom." Then he adds, "I'll be ready to testify that I didn't do it, if your cross-examination doesn't shake things up." *Should you conduct the cross-examination as the client suggested? Should you call the client to testify as indicated?*

SYNOPSIS: *Client admits guilt but requests vigorous cross-examination of a government witness and expresses an intent to testify falsely.*

POSSIBLE DISCUSSION POINTS

This scenario is designed to illustrate the distinction between defense counsel putting the government to its burden of proving guilt and defense counsel participating in a presentation of false evidence of innocence.

May a criminal defense lawyer represent a client, and put the government to its burden of proof, if the lawyer knows the client is guilty? (IRPC 3.1)

May a criminal defense lawyer assist a client in presenting false evidence of innocence? (IRPC 3.3 and U.S. Supreme Court decision in *Nix v. Whiteside*, 475 U.S. 157 [1986].)

SCENARIO #4

Dan Defendant has been sued for damages as a result of punching another man in a tavern. Dan tells his lawyer, “Yeah, I punched the guy out. He made a move on my girlfriend and when I told him to back off, he put his fists up and said, ‘Let’s get it on.’” Later, at a pretrial deposition, the following colloquy takes place:

Plaintiff’s counsel: “Is it your position that my client made an advance on your girlfriend?”

Dan: “Right.”

Plaintiff’s counsel: “What makes you think that?”

Dan: “Because she told me.”

Plaintiff’s counsel: “How can we contact her?”

Dan: “I don’t know. We split up.”

After the deposition, Dan’s lawyer gets a call from the girlfriend, who tells him, “Just so you know, nobody made a move on me, and I never said that anyone did. Look, Dan gets mean when he’s drinking. He just started an argument with that guy and, wham! If the guy’s lawyer asks me, though,

I'll back Dan's story. After all, I love him - at least when he's sober. That's why we're living together." When Dan's lawyer tells him about the phone call, Dan laughs and says, "She doesn't know when to shut up. Hey, counselor, isn't this a good time to get the case settled? Let's put this problem to bed." *Should the lawyer proceed immediately to settle the case? Why or why not?*

SYNOPSIS: *Lawyer is asked to settle case after learning client has testified falsely in a deposition.*

POSSIBLE DISCUSSION POINTS

This scenario deals with truthfulness in a civil case setting, where the lawyer learns after the fact that the client has given false testimony.

May a lawyer allow false testimony to stand in the record? (IRPC 3.3; ABA Formal Op. 93-376 [interpreting similar ABA model rule to apply to false statements made during discovery])

Can the lawyer breach client confidentiality in order to remedy the false testimony? (Rule 3.3 "trumps" Rule 1.6)

Can the lawyer settle the case without remedying the falsehood? (Immediately settling case at this point is not a "remedial measure.")

SCENARIO #5

You have agreed to draft a will and a complicated estate plan for a client. You quote your client a flat \$1,500 fee for the whole "package" instead of an hourly rate. In arriving at your quote you took into account several factors, but your primary consideration was that it would probably take you ten hours to actually do the work. The client pays you in full in advance. Just as you are about to get started, you strike up a conversation with another lawyer in your office who has just finished putting together a will and estate plan for one of his clients who is in almost exactly the same position as your client. Consequently, your work on this case will now only take a couple of hours at most to complete. *Do you tell the client*

what has happened? Do you owe the client any kind of refund? If so, how much would you give back?

SYNOPSIS: *Lawyer and client agree upon flat fee for a legal service, but lawyer later finds that work will entail much less time than originally contemplated.*

POSSIBLE DISCUSSION POINTS

This scenario is designed to make students aware that the lawyer/client relationship is based upon a fiduciary obligation; it is not a simple commercial relationship.

If the client has already agreed to the price and paid it, what difference does it make? (IRPC 1.5, 1.15[b]).

Why can't a lawyer charge whatever fee the client voluntarily agrees to pay? (IRPC 1.5)

How does a lawyer's expertise, or access to the experience of other lawyers, enter into the determination of an appropriate fee? (IRCP 1.5)

SCENARIO #6

A thirteen-year old child was recently discovered with a loaded gun at his junior high school, a serious infraction of school policy which may cause him to be expelled. The child's indigent parents have approached you about representing him at an expulsion hearing. They have come to you because you are a local expert in school law and have a history of providing free representation to many needy parents in similar matters. Preliminary investigation of the matter leads you to conclude the child's procedural due process rights have quite likely been violated by the school.

Your child attends the same school and you fear for your child's safety. In addition, your spouse is the president of the schools PTA. Your spouse has strongly suggested to you and others that guns in school are a major fac-

tor in parents concerns about safety and the reduction of enrollment in public schools. Your spouse is not at all happy about the prospect of your taking on such a case. *What should you do?*

SYNOPSIS: *You are asked to represent pro bono (free of charge) a child charged with possession of a handgun at your child's school. Your spouse is president of the PTA.*

POSSIBLE DISCUSSION POINTS

Do members of the Bar have any obligation to represent persons who cannot pay the usual fees? (IRPC 6.1)

Should a lawyer's personal feeling about a client or a case affect the lawyer's decision on whether to take the case? (IRPC 1.2[b], 1.7)

Should a lawyer's relationship or feelings toward third parties affect the lawyer's decision on whether to take the case? (IRPC 1.7).

APPENDIX M

UNIVERSITY OF ILLINOIS COLLEGE OF LAW OATH OF PROFESSIONALISM

As I begin the study of law, I acknowledge and accept the privileges and responsibilities inherent in my becoming a lawyer, and the high standards and ideals that accompany such an undertaking.

Accordingly, I pledge that I will at all times conduct myself with the dignity befitting an advocate and counselor in a learned profession.

I commit myself to service without prejudice, integrity without compromise, and the diligent performance of my duties with the utmost good faith.

I acknowledge that I will be a zealous advocate, but will act with courtesy and cooperation toward others, and I will at all times behave in a professional manner.

I will remember that my responsibilities to the legal profession permeate my actions both as a student of the law and, therefore, as a member of the bar.

I accept my new status as a professional, and will approach my colleagues and adversaries alike with the same integrity, professionalism and civility, which I expect from them.

This pledge I take freely and upon my honor.

APPENDIX N**LOUIS D. BRANDEIS SCHOOL OF LAW
HONOR CODE CERTIFICATION****Honor Code Preamble**

As members of the University community and as future members of the legal profession, we recognize the need to set and maintain the highest standards of conduct. The University has set minimum standards of student conduct in various policy statements including, but not limited to, the Code of Student Conduct and the Code of Student Rights and Responsibilities. The standards of academic conduct established by the University, as well as those established by Article I, shall constitute the Honor Code, and shall be applicable to the students in the Louis D. Brandeis School of Law at the University of Louisville.

This is to certify that I have read the HONOR CODE and will assume the obligation contained therein.

Signature

Please PRINT your name

Date

Louis D. Brandeis School of Law Honor Code

Preamble

As members of the University community and as future members of the legal profession, we recognize the need to set and maintain the highest standards of conduct. The University has set minimum standards of student conduct in various policy statements including, but not limited to, the Code of Student Conduct and the Code of Student Rights and Responsibilities. The standards of academic conduct established by the University, as well as those established by Article I, shall constitute the Honor Code, and shall be applicable to the students in the Louis D. Brandeis School of Law at the University of Louisville.

Article I. Standard of Conduct

- 1) A student who knowingly does any of the following may be disciplined under this Honor code:
 - a) Violating any standard of academic conduct established by University policy. See Appendix A, Code of Student Rights and Responsibilities.
 - b) Taking an exam in an unauthorized location.
 - c) Taking or using the notes, books, papers, or other materials of another student without permission.
 - d) Reporting false information about an externship.
 - e) Misrepresenting or distorting academic or biographical data, either in writing or orally, in the employment search process.
 - f) Misrepresenting or distorting academic or biographical data in connection with an application for honors, scholarships, journal membership, or awards.
 - g) Misrepresenting call attendance.
 - h) Hiding library or placement materials for the purpose of obtaining an unfair academic or economic advantage for oneself and/or any other person.

- i) Removing library or placement materials, except in compliance with established procedures, for the purpose of obtaining an unfair academic or economic advantage for oneself and/or any other person.
 - j) Using a student Westlaw or Lexis account for unauthorized academic purposes.
 - k) Taking an exam for or completing an assignment for another student.
 - l) Misrepresenting information to postpone exams or assignment deadlines.
 - m) Disclosing the content of an exam to a student who is scheduled to take the same exam.
 - n) Refusing an Honor Council request to appear as a witness before the Honor Council or refusing to produce materials to the Honor Council.
 - o) Refusing to sign an accurate written complaint of an alleged Honor Code violation.
 - p) Failing to report a violation of the Honor Code.
 - q) Engaging in any other dishonest conduct involving academic endeavors.
- 2) “Knowingly” denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.
- 3) University policies governing non-academic conduct are normally administered by the Vice President for Student Affairs, not the Honor Council, but the Louis D. Brandeis School of Law retains the right to determine whether a student who has violated these policies is fit to continue in the Louis D. Brandeis School of Law.

Article II. Enforcement

1) Enforcement

a) The Honor Council

The Provisions of this Honor Code shall be administered by the Honor Council

b) Composition of the Honor Council

i) The Honor Council shall consist of five members and three alternates.

ii) There shall be three members and two alternates from the third and fourth year classes, and two members and one alternate from the second year class of the Louis D. Brandeis School of Law. The Honor Council shall elect one of the members to act as Chair.

iii) If for any reason there is a permanent vacancy on the Honor Council, the first alternate shall become an active member. In the case of the two senior class alternates, the first alternate shall be the one with the most votes in the election in which the present Honor Council was elected, or otherwise determined by the remaining members of the Honor Council.

c) Selection of Members and of Alternates of the Honor Council

i) All elections shall be by secret ballot and shall be conducted under the auspices of the Student Bar Association, subject to the election procedures of the Honor Council.

ii) To be a candidate for the Honor Council, one must be in good academic standing.

d) Service of Members and of Alternates on the Honor Council

i) Any student who is not enrolled in or is not in good academic standing at the Louis D. Brandeis School of Law during any fall or spring semester shall be terminated from the office of the Honor Council.

ii) The five members shall serve as the body to hear matters brought before the Honor Council, and to recommend appropriate action to the Dean.

- iii) Disqualification and Substitution of Alternates in a Particular Case
 - (a) Any member who discovers a conflict of interest in a particular matter, or is unable to attend all of the hearings for that case shall disqualify himself or herself from that case. The Special Counsel or the accused may also petition the Honor Council to disqualify a member for a particular case if a conflict of interest exists.
 - (b) Upon disqualification, the alternate from the same class as the member shall serve in his or her place for the remainder of the sessions on the particular matter from which the member was absent or disqualified.
 - (c) If the regular member is unable to serve for any reason in any case, one of the remaining alternates is to serve instead for that case.
 - e) Internal Organization and Operation of the Honor Council

The Honor Council shall have the power:

 - i) To enact needed rules and regulations for the operation of the Honor Council which are not inconsistent with his Honor Code; and
 - ii) To propose amendments to the Honor Code as it is determined necessary.
- 2) Enforcement Procedure
- a) Complaint
 - i) Anyone who obtains credible knowledge that a violation has occurred shall report the alleged violation to a member of the Honor Council or the Associate Dean in an oral or written complaint. Except under extraordinary circumstances, the report shall be made within a reasonable amount of time not to exceed three weeks after gaining knowledge of the alleged violation(s). The complainant who made an oral report shall submit to the Honor Council a signed, detailed report of the allegations.
 - ii) The written complaint shall contain a statement of the facts forming the basis of the complaint including, but not limit-

ed to, the name of the accused, the time and place of the incident, and the name(s) of any witness(es).

- iii) After alleging a violation the complainant should avoid discussion of the alleged violation with persons other than members of the Honor Council, the Special Counsel, and the accused.
- b) Reasonable Cause Determination
- i) The Honor Council shall meet to determine if there is reasonable cause to believe there has been a violation of this Honor Code.
 - ii) Except in extraordinary circumstances, the hearing shall be held within seven days after receipt of the written complaint. In no event, however, shall the hearing be held later than thirty days after the receipt of the written complaint.
 - iii) The Honor Council shall determine if the accused, the complainant and/or any other witness(es) shall be present.
 - iv) If the Honor Council determines no reasonable cause exists, it shall immediately dismiss the complaint. Notice of the dismissal shall be given only to the complainant, and, if the accused attended the reasonable cause hearing, to the accused.
- c) Notice to the Accused
- If the Honor Council determines that reasonable cause exists, it shall notify, in writing, the accused, the complainant and the Associate Dean of the charges as soon as possible. The notification shall advise the accused of the hearing, as described in article II(B)(5).
- d) Within ten days following the receipt of such notice, the accused may move to dismiss the complaint or request a more definite statement. If the accused files a motion or request, the hearing shall be postponed at least five days after the Honor Council rules on the motion or request.
 - e) The Special Counsel may move to dismiss the complaint at any time.

f) Hearing

The Hearing shall be in accordance with the following procedure:

- i) Immediately after notification of the reasonable cause determination, the Associate Dean shall appoint a full time member of the Louis D. Brandeis School of Law faculty or law library faculty as a Special Counsel to present the case to the Honor Council. The Associate Dean and the Special Counsel shall not have any communication with the Dean, with reference to the case, so long as the case remains unresolved. The accused may retain and be represented by counsel.
- ii) The Honor Council shall hold the hearing between ten and twenty days after notification of the accused unless the hearing is postponed under Article II(B)(4). The Chair of the Honor Council may set a later hearing date for a good cause.
- iii) The hearing shall be conducted as follows:
 - (a) The Chair of the Honor Council or designate shall preside at the hearing, and shall have discretion regarding the conduct of the hearing. Formal rules of evidence shall not apply.
 - (b) The Special Counsel shall present the case to the Honor Council. The accused shall have the opportunity to respond to the charges.
 - (c) The Special Counsel and the accused may call witnesses and cross-examine opposing witnesses. The Honor Council may question the complainant, the accused or any witness.
 - (d) Upon its own initiative or upon request of either the Special Counsel or the accused, the Honor Council may request witnesses to appear before it or may request materials be produced to it.
- iv) The hearing shall be closed to all but those authorized by the Honor Council.

- g) Determination of an Honor Code Violation
 - i) At the close of the proceeding, the Honor Council shall vote by secret ballot to determine its recommendation(s).
 - ii) A member shall vote that there has been a violation if he or she believes that such violation has occurred by a preponderance of the evidence.
 - iii) If a majority of the Honor Council finds a violation, the Honor Council shall then recommend an appropriate sanction, if any.
- h) Report to Dean

The Honor Council shall report its finding to the Dean, which shall include the vote of the Honor Council and any dissenting opinions, and it shall recommend the course of action for the Dean to take.
- i) Decisions of the Dean

The Dean shall review the findings and recommendations of the Honor Council and shall render a final decision within forty-five days of receipt of the Honor Council's recommendations. The written decision shall be delivered to the accused and be made available to the Chair of the Honor Council and to the Special Counsel.
- j) Sanctions
 - i) If the Dean determines that a violation has occurred, he or she may impose one or more of the following sanctions, as the Dean deems appropriate:
 - (a) Noting the violation in the student's file;
 - (b) Removing the student from organizations and extracurricular activities such as the Student Bar Association, law journals, Moot Court Board, skills competitions, the Honor Council, and the Brandeis Society;
 - (c) Placing the student on probation for a time certain;
 - (d) Suspending the student from law school classes for a time certain;
 - (e) Dismissing the student; and

- (f) The Dean may impose any other sanction, so long as the Special Counsel and the accused have a reasonable opportunity to express their views on it.
 - ii) If the Dean concludes that a violation occurred in connection with a specific law school course, the Dean shall notify the course instructor of the violation. The disposition of any Honor Code violation involving a law school course is independent from a student's grade in that course.
 - k) Restriction of the Honor Council
The Honor Council shall under no circumstances individually engage in investigation or discussion concerning any case pending before it.
- 3) Severability
Invalidation of any part of this Honor Code for any reason shall not affect the validity of the rest of the Honor Code.
- 4) Effective Date
This Honor Code is effective as of November 16, 1999.

Approved by the faculty on November 15, 1999.

Model Rules of Professional Conduct (1998).

APPENDIX O

LOUIS D. BRANDEIS SCHOOL OF LAW LAW SCHOOL NEWS

THE BRANDEIS COMMITMENT TO PROFESSIONAL ETHICS

The commitment of the Brandeis School of Law to ensuring that its students and members of the profession understand and carry out the obligations of ethical behavior is deep and longstanding. Ethical behavior is basically doing the right thing. In the legal profession, we have developed and codified a set of standards that we expect from members of the profession in carrying out their professional responsibilities. These standards cover everything from avoiding conflicts of interest involving different clients, to personal relationships with clients, to prompt handling of client matters, to how to handle client funds. So strong is our commitment to maintaining our high position of public trust that we expect members of our profession not to do anything that even creates the appearance of impropriety.

From the time our students enter the law school, we begin ensuring that they are aware of this high obligation to maintain ethical behavior. Their ethical behavior begins with the Honor Code required of students in their conduct in the academic setting. Violations are reported to the bar authorities when students seek admission to practice law. Because we want our students to be aware of their expectations after law school, before students have even begun classes (as part of the orientation), several representatives from the Kentucky Bar provide a valuable program for all first year students. This program lasts for about three hours, and includes an initial panel discussion by attorneys, breakout discussions of hypothetical ethical dilemmas with those attorney representatives, and a reconvening when the students report back how their groups responded to these issues. The result of this program is that from the very first time students discuss cases in class, they are already thinking about the potential ethical issues in those cases.

Like all law schools, the Brandeis School of Law requires that students take a course in professional responsibility, and virtually all states require that individuals pass a multi-state exam in professional responsibility to ensure that they learned important principles. Several of our faculty members regularly teach this course - Dean Don Burnett, Associate Dan Cedric Powell, Associate Dean Linda Ewald, and Professor Grace Giesel. These faculty members take their expertise beyond the student setting by regularly giving ethics CLE presentations for numerous programs each year. This past year alone, of the 43 CLE presentations

given by Brandeis faculty members, 16 were on topics of ethics. In addition to Professors Burnett, Ewald, and Giesel, Professor Susan Kosse has also given presentations on this issue. Ensuring that their expertise has even broader reach, Dean Burnett, Dean Ewald and Professor Giesel also serve on the KBA Ethics Committee and Dean Ewald is chairing an ethics CLE program at the 2002 KBA Convention.

In preparing to write this month's column, I sent an e-mail to our faculty members asking them to provide examples of how they infuse discussions of ethics into their substantive courses. Several sent me specific examples, and I am sure that many other faculty members also include ethical issues in their substantive course.

Examples include Professor David Leibson who selected the torts casebook because it has problems specifically related to ethical issues in torts settings.

In his law and literature class, he frequently incorporates discussions of ethics and values. Professor James T.R. (Jim) Jones noted that in decedents estates the class discusses questions such as divided loyalty when an attorney represents more than one member of a family and the potential conflicts created in these cases. Tax, of course, is ripe for ethical concerns, and Professor Tom Blackburn provided examples that he uses in his teaching such as disbarment of attorneys in IRS proceedings. The Enron situation provided the opportunity to ask, "Where were the lawyers when these schemes were being planned, implemented, and covered up?" His class discusses the ethical demands of house counsel compared to outside counsel.

In Dean Burnett's criminal procedure class, he devotes portions of several classes to ethical duties of prosecutors and defense counsel. In civil procedure, the Rules of Professional Responsibility are discussed in the context of conduct relating to truthfulness, candor to the tribunal, and fairness to opposing parties and counsel. In law and economic analysis, Dean Burnett devotes portions of several classes to the importance of providing legal representation to persons of modest means and other issues of equity and access to the administration of justice. In Professor Judith Fischer's basic legal skill class, students are often assigned a memo to write analyzing the viability of claim. After the assignment, the class discusses the ethical issues of advising a client and handling a case, where it appears the claim is not viable. Library faculty member Kurt Metzmeier infuses ethics into legal research, specifically the duties regarding competent and diligent research.

Professor Tim Hall discusses ethical duties in insurance defense work in his class on insurance. In his mental health law class, there is discussion about representing clients who may have limited competency to make decisions. In my own class in disability law, when discussing special education cases, I ask students whether in handling such cases for a student with a disability if the client

is the student or the parent. What if the parents disagree about the child's special education needs?

I am certain that all faculty focus on ethical issues at some point or another in their various substantive classes and that many other examples could be given. What is significant is that from legal research and writing to criminal law and torts classes, issues of professional responsibility are highlighted.

In addition to teaching, many of our faculty focus on ethics issues in their research and scholarship. Professor Kosse describes Professor Les Abramson's scholarship on judicial ethics in her column below. Recently Dean Ewald completed an article on "Agreements Restricting the Practice of Law: A New Look at an Old Paradox," which will soon be published in the *Journal of Legal Profession*.

We are proud of our commitment to educating students and members of the bar about professional responsibility and obligations to the clients that attorneys represent. The Brandeis faculty offers its services to the profession to make presentations, write bar articles, and otherwise share the expertise that comes with the privilege of being a teacher and scholar. We hope that by doing so, we can serve our community well.

Laura Rothstein is dean of the University of Louisville's Brandeis School of Law. She serves on the Board of Directors of the Louisville Bar Association and the Louisville Bar Foundation.

APPENDIX P

THE MARYLAND JUDICIAL TASK FORCE ON PROFESSIONALISM

The Honorable Lynne A. Battaglia
Chairperson-designee

Alleghany County	Nicholas J. Monteleone, Esq.
Anne Arundel County	Walter S. B. Childs, Esq.
Baltimore City	Joseph E. Spicer, Esq.
Baltimore County	Dana O. Williams, Esq.
Calvert County	Laurence W. B. Cumberland, Esq.
Caroline County	Anne C. Ogletree, Esq.
Carroll County	Charles M. Preston, Esq.
Cecil County	Michael J. Scibinico, II, Esq.
Charles County	Robert H. Moreland, Jr., Esq.
Dorchester County	Robert S. Collision, Esq.
Frederick County	Thomas E. Lynch, III, Esq.
Garrett County	Cristine Kepple Sweitzer, Esq.
Harford County	Cornelius D. Helfrich, Esq.
Howard County	Daniel H. Scherr, Esq.
Kent County	C. Daniel Saunders, Esq.
Montgomery County	Gary L. Crawford, Esq.
Prince George's County	John C. Frederickson, Esq.
Queen Anne's County	Lance G. Richardson, Esq.
St. Mary's County	Joseph Ernest Bell, II, Esq.
Somerset County	Kristy D. Hickman, Esq.
Talbot County	Michael Francis O'Connor, Esq.
Washington County	William P. Young, Jr., Esq.
Wicomico County	James L. Otway, Esq.
Worcester County	Cathi V. Coates, Esq.
Lawyer-Reporter	Norman Smith, Esq.

APPENDIX Q

UNIVERSITY OF MARYLAND SCHOOL OF LAW HYPOTHETICALS

Hypothetical #1

Student X, a first year student, is taking her second exam of the fall semester. Unlike her property exam, her torts exam is multiple choice and involves the use of a Scantron form. Student X marks many of her answers on the exam paper as she reads through the question and realizes when time is called at the end of the examination that she has failed to transfer her answers to the Scantron card. Despite time having been called by the proctor, Student X continues to write. She does not complete any additional questions after time is called, she merely transfers the answers from the exam sheet to the Scantron card by coloring in the appropriate “bubbles.”

Read Section II of the Honor Code. Has Student X committed a violation of the Code? If so, which provision(s)? If not, why not?

If you believe the student is guilty, what sanction would you recommend? Would your recommendation be different if you learned the student turned herself in?

Hypothetical #2

A few days later, in the contracts essay examination, Student Y, who saw Student X “write over” in the torts exam and decides that although “time” has been called by the proctor, to continue writing his last few thoughts in answer to the final question of the examination. He continues to write, adding new material, despite having been admonished three times by the proctor to “stop work.”

Has Student Y committed a violation of the Code? If so, which provision(s)? If not, why not?

If you believe the student is guilty, which sanction would you recommend? How would you respond to his claim that he saw someone else write over, apparently without consequence and thus figured it “was no big deal”? Would you feel differently if this argument was made by Student X who, in fact,

did not add any new material but simply copied over her answers to the Scantron card?

Hypothetical #3

Student Z is interested in on campus interviewing but is concerned that his grade point average will not make him attractive to employers. He decides to falsify his grade report and makes changes to the grades he received in a number of courses and to his overall grade point average. After he turns in the altered grade report, the professionals in the Career Development Office, as part of their regular review of resumes, transcripts and grade reports, determine that his grade point average is not as represented. When confronted, the student admits that he had altered the document but says that it was part of a “prank” with a law school colleague; they had both made up false grade reports as a joke to inflate their own sense of class standing. The student believes that he must have inadvertently turned in the altered document instead of an actual grade report as he had intended. However, at the final hearing on the matter, the student recants his “prank” story and says that he had knowingly submitted a falsified document because he did not think employers would be interested in him given his class rank.

What provisions of the Honor Code have been violated?

What sanction would you recommend?

Would your sanction recommendation be different if the student had initially pled guilty rather than fabricating the “prank” story?

Hypothetical #4

Student Q is one month away from graduation. He has only a few classes to complete and is working on a final paper for an Independent Written Work grade that he hopes will be approved by the faculty member as satisfying his Advanced Writing Requirement. [In order to be eligible for graduation, all law students must write a paper of substantial quality with a substantial research component that receives a grade of “B” or better.] The student has incurred a significant amount of loan debt while enrolled in law school and is juggling his classes and working almost full time. He lacks confidence in his writing abilities and has missed several self-imposed deadlines. The faculty member is concerned that if he misses another deadline, he will be unable to graduate as she will not even have time to evaluate and grade the paper before the deadline for seniors’ grades. At almost the last minute, the student comes through! He submits, electronically, a paper that appears to meet the published guidelines

for satisfying the Advanced Writing Requirement. However, upon review, the faculty member suspects that the paper may not be the student's own work. In fact, much of the paper seems to be written in a different "tone" and "voice." The faculty member does a simple electronic search of key phrases and determines that a majority of the paper was taken from two law review articles and that the student did not properly attribute or "cite" the articles. The student immediately admits his guilt and "throws himself on the mercy of the Board." He explains his lack of confidence in his research and writing abilities, the extent of his work and school schedule and his fear that if he did not turn in a paper he would be embarrassed in front of his family and friends since that would mean he could not graduate.

What provisions of the Honor Code have been violated?

What sanction would you recommend?

Hypothetical #5

Student J is also hard at work on a paper she hopes will satisfy the Advanced Writing Requirement. She has submitted a number of drafts and worked closely with the supervising faculty member. However, when the final product is turned in, the faculty member realizes that the paper appears to be copied in its entirety from a formerly published article by another author. When confronted, the student expresses surprise and states that "there must have been a mistake!" Later, the student testifies that although she may have submitted a paper that was 95% of that of another author it was submitted by mistake but that it was due to computer virus problems. She was adamant that she never intended to commit plagiarism and that she had a complete document that she could produce showing proper attribution. She was willing to admit that although she had been careless and irresponsible in not having thoroughly checked to make sure that the paper she turned in was her own, there was no intention on her part to submit downloaded and edited versions of another person's work.

What provisions of the Honor Code have been violated?

What sanction would you recommend?

APPENDIX R

**THOMAS M. COOLEY LAW SCHOOL
PROFESSIONALISM PLAN**

Professionalism
Taught, Learned, and Lived
in Law School

Professionalism



Plan

for the Thomas M. Cooley Law School

*A Report of the Thomas M. Cooley
Professionalism Committee
July 2, 2002*

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 Mr. Jared Darrington
 Mr. Jeff Garcia
 Ms. Alecia Noteboom
 Mr. Adam Virant
 Mr. Robert Welch

COMMUNITY MEMBERS AND ALUMNI

Mr. John Berry
 Ms. Karen Bush Schneider
 Mr. Jeff Haarer
 Ms. Susan LeDuc
 Hon. Beverley Nettles-Nickerson
 Mr. Larry Nolan
 Mr. Robert Stocker

CHAIRS

Associate Dean Paul Zelenski
 Associate Dean Amy Timmer

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Thomas M. Cooley Student
Bar Association

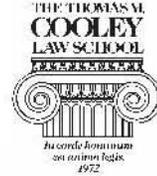
Thomas M. Cooley Law School Faculty

Staff of the Thomas M. Cooley
Law School

Board of Directors of the
Thomas M. Cooley Law School

Thomas M. Cooley Alumni
Association Executive Board

Thomas M. Cooley Alumni Board of
Governors



Dear Reader:

It is our privilege to present to you the Professionalism Plan adopted by the Thomas M. Cooley Law School. Inside you will find an ambitious, wide-reaching plan to create a new culture of professionalism in the law school, the community, and the practicing bar. Students, faculty, and staff worked with members of the local bar and the State Bar of Michigan in preparing this Plan. What you are about to read is the product of their year-long mutual commitment and cooperation.

As challenging as it was to define "professionalism," we had no difficulty agreeing on the Professionalism Principles that appear in the Plan. Once we agreed in principle, the specific goals and initiatives contained within fell into place.

Nothing of this magnitude would have a hope of succeeding were it not for the joint effort of the School and the Bar. Successful implementation of this Plan is virtually assured given the Bar's commitment to remain involved with the School in carrying the vision forward. We encourage other law schools to work with their state bars if they undertake similar efforts.

Our hope is that this Plan will serve as a model and resource for those who, like ourselves, are deeply committed to professionalism and its role in maintaining the integrity and reputation of the legal profession. We encourage you to adopt and supplement our ideas—they are yours for the taking.

Sincerely yours,

Amy Timmer
Associate Dean of Students and Professionalism
Thomas M. Cooley Law School

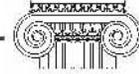
John Berry
Executive Director
State Bar of Michigan

Don LeDuc
President and Dean
Thomas M. Cooley Law School

Reginald M. Turner
President
State Bar of Michigan



Professionalism Principles
Adopted by the
Thomas M. Cooley
Law School Community



Embrace Professional Behavior:

- take responsibility for your own actions and words
- correct misunderstandings and misinformation
- pay attention to detail
- don't criticize without offering a solution
- volunteer to fix what is broken
- try to figure it out yourself, first
- follow appropriate channels in an appropriate manner
- treat others with respect and dignity
- work toward improvement, not destruction or the status quo
- anticipate the impact of your behavior
- behave in a way that will get a positive result
- take into account the demands on and limitations of others
- commit to personal growth and learning

Promote an Ethical School Community: Acknowledge that the school community is us—it is nothing more than a composite of all the people who associate with it and in it. Creation of an ethical community can only be accomplished through the ethical acts of its stakeholders.

Be Accountable: Acknowledge that each member of the Cooley community is accountable for their own development as a professional and for establishing and maintaining a professional school environment.

Serve the Community: Acknowledge that affiliation with the law profession entails public service as its primary purpose. That the profession may provide a means of livelihood makes it no less a public service (with credit to Dean Roscoe Pound, Harvard Law School). Know that professionalism requires providing excellent quality service to your clients and participation in the work of the legal community.

Focus on Students: Acknowledge that all of us—staff, students, faculty, alumni, and community members—have a stake in educating the law student in the ways of professionalism.



Introduction

Until this report was written, the concept of professionalism was exercised at Cooley Law School in a few disjointed and compartmentalized ways, typical in many law schools: all students took a class in Professional Responsibility that teaches the ethical obligations of attorneys; the Honor Council applied the Honor Code and Disciplinary Procedures on a case-by-case basis to behavior that was unprofessional, unethical, or criminal; and the Associate Dean of Students educated entering students about their ethical obligations to the School and the profession.



In May of 2001, Dean Don LeDuc established the Professionalism Committee comprised of members of the faculty, student body, and legal community. The Committee was chaired and organized by Dr. Paul Zelenski, Associate Dean of Professionalism. Dr. Zelenski asked the Committee, in a letter dated May 22, 2001, to "examine the law school experience and find ways to promote and teach professionalism in everything we do." The Committee split into subcommittees to tackle issues that the Committee decided were important to any professionalism initiative: the five subcommittees were Co-Curricular Extra-Curricular Issues, Community Service/Role of the Lawyer, Curriculum Issues, Facility Issues, and Policy Issues. The subcommittees developed a list of issues to begin to tackle and were free to add whatever else they thought might be relevant to their task as their work progressed. Subcommittees met over the course of four months and produced progress reports and final reports. When Dr. Zelenski's job duties changed and he became the Associate Dean of Enrollment and Student Services in January 2002, Associate Dean of Students Amy Timmer took over the duties of Chair, took on the title of Associate Dean of Students and Professionalism, and gathered and compiled final reports from the subcommittees, which together make up this Professionalism Plan (the "Plan").

The Plan includes ideas generated by Committee members and by others who got word of the Committee's ongoing efforts and wanted to contribute. It was approved and adopted by the Committee on June 4, 2002 and presented to President and Dean Don LeDuc for his consideration.

This Professionalism Plan will take the School to the next level: by refocusing and pulling our existing efforts together and by undertaking the initiatives contained in this Plan and others that are sure to come along, we hope to create a culture of professionalism in the School, to create a sense of professionalism in each of the School's stakeholders, and ultimately to teach other higher educational institutions to do the same. Such efforts must be tied to the three areas of student development necessary to be a professional: knowledge, skills, and ethics.

The internal challenge to the School seems impossible yet simple: Expect professional conduct and a focus on professionalism from every person in the School, relying on the principle that a culture is created by the actions of its members. This proposal, then, falls into three areas: teach students to be professional and become professionals, incorporate professionalism into the law school environment, and take our successes outside the School as a model for others.

Executive Summary





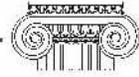
The Committee proposes 18 initiatives, developed further in the body of the Plan:

1. **Reshape the class on Professional Responsibility.**
2. **Require all students to undergo a first-year professionalism and career review.**
3. **Require all students to build a portfolio reflecting their professional growth and activities throughout their three years in law school.**
4. **Consider further refinements to the curriculum to infuse professionalism themes.**
5. **Expand the role of lawyer/mentors in each student's development.**
6. **Monitor professionalism of students.**
7. **Create an elective course on Professionalism and Issues in the Practice.**
8. **Fill the new PR/Professionalism faculty position.**
9. **Create a student ethical oath and standards of professionalism.**
10. **Bring legal professionals' influence into the School and the lives of each and every student.**
11. **Bring State Bar Character and Fitness Committee, Attorney Discipline Board, and Attorney Grievance Commission influences into the School.**
12. **Create a student-run mediation board to address conflicts between students.**
13. **Continue to emphasize professionalism among faculty, staff, and administrators, and ensure that there are systems in place to review and address unprofessional conduct.**
14. **Establish a standing Professionalism Advisory Committee.**
15. **Create a Center for Public Service and Professionalism in the classroom building.**
16. **Create a place for student social interaction with staff and faculty.**
17. **Formally adopt the AALS recommendations on commitment to public service.**
18. **Create an Institute for Principled Administration in Higher Learning.**

Teach Students to be Professional



*We struggle to define what we mean by “professionalism.” Even the committee that carries that name spent much of its first meeting and early months trying to define the concept. But if we start with the basic idea that professionalism embodies **commitment to a career or profession and conduct conducive to success in that profession**, then some initiatives become clear, especially in a law school setting. Certainly, students should be taught how to find work in a law-related career while also learning how to conduct themselves in a way that will help them be successful in that effort and in that career. Those lessons must involve reflection by the students about their growth and development because, through reflection, students will incorporate lessons learned into their own behavior. Mentors and faculty advisors acting as role models of professionalism will help students in that reflection and growth. Professionalism is comprised of the knowledge students must obtain regarding their ethical and professional obligations, the skills students must acquire to conduct themselves appropriately, and the ethics they must internalize to be successful in their professional lives.*



I. Reshape the class on Professional Responsibility: focus on knowledge and ethics.

The current syllabus for Professional Responsibility ("PR") is designed to teach the canons of ethics that govern an attorney's behavior in practice. It was expanded to three credit hours from two credit hours (when the required curriculum changed to three-hour classes for required courses), but not much new material was added to the syllabus. Therefore, one hour per class period, or 13 hours, of this required course could be dedicated to teaching concepts of becoming and being part of a profession. Those concepts could include:

- undertaking unpaid service to the community;
- addressing downfalls of the profession such as alcoholism, stress, sexual irresponsibility, and prejudice by promoting physical and mental health and teaching sensitivity to and appreciation for the diversity of clients, jurors, and colleagues;
- understanding the impact of failing to meet the ethical requirements of the profession (to include presentations on the Honor Code, Character and Fitness Committee reviews, and Attorney Grievance Commission actions);
- finding a job (choosing a law school concentration toward a particular career path; getting experience; choosing an externship; creating a resume; learning to interview successfully);
- taking financial responsibility and understanding its impact on the graduate. The reshaping of the PR course should be assigned to a working group of PR professors, representatives from the Community Service Subcommittee and the Curricular Issues Subcommittee of the Professionalism Committee, the Career Services Office, and the Coordinator of Planning and Programs.

2. Require all students to undergo a first-year professionalism and career review: focus on skills and ethics.

After completing 36 credits, including the reshaped PR course, students would make a formal oral presentation of their progress toward achieving the knowledge, skills, and ethics they must have to become a professional. The presentation could be made to a panel of three people: a faculty member; a student who has also completed at least 36 credits, picked randomly, and a



member of the bar not affiliated in a full-time employment capacity with the School (this could be the student's mentor). The student should address any accomplishments, including the community service (ethics), concentration selection (skills), and law-related work and studying (knowledge) they have achieved to date, and any deficiencies, including behavior and character issues that may be documented formally in their student files. The student should generally address any steps already taken toward attaining the knowledge, skills, and ethics necessary for a career in the legal profession, and plans for continuing professional development.

The panel will use a checklist to make certain that each topic is addressed by the student, and will create a written summary that will be made a part of the student's portfolio (see #3 below). The student will have to write a written reflection on that report for inclusion in their portfolio. Any deficiencies noted by the panel should be addressed in the student's portfolio, with help and input from the student's faculty advisor and mentor.

Students who do not appropriately address the panel or their own deficiencies may be asked to enroll in an elective on professionalism yet to be developed (see #7 below), attend the Ethics School (see # 15 below), or if appropriate, be referred for a more formal review under the Disciplinary Procedures.

The first-year professionalism and career review should be designed by the Coordinator of Planning and Programs and the Associate Dean of Students and Professionalism with input from the Associate Dean of Planning, Programs, and Assessment, and the Community Service Subcommittee of the Professionalism Committee, and should consider other demands on panel members' time.

3. Require all students to build a portfolio reflecting their professional growth and activities throughout their three years in law school: focus on knowledge, skills, and ethics.

The portfolio requirement will cause students to be personally aware of and involved in their growth as professionals. It will require reflection by the student about the student's goals and behavior in light of professionalism. It is a key element of the Plan because through reflection, students will incorporate lessons learned into their behavior. Portfolios could be reviewed by the student's faculty advisor; by the mentor if the student has one (see #5 below), and others.



The portfolio should be organized into three categories—knowledge, skills, and ethics—and can include:

- attendance (physical or possibly electronic) at the three class meetings currently offered at the beginning of the second term, the beginning of the second year, and the beginning of the third year. Those class meetings cover all the school and curricular information students need to continue in their professional development such as course scheduling, application updating, co-curricular and extra curricular opportunities, available academic assistance, bar requirements, and personal development, all of which directly relate to the knowledge, skills, and ethical requirements the student will have to meet to be successful.
- results of the first-year professionalism and career review as written by the panel (see #2 above), the student's personal reflections on that report, and subsequent steps taken to strengthen professional development;
- students' reflections on the new PR course;
- leadership development activities, including participation as a leader in student activities;
- community service, including in-school service such as participating on at least one character review panel (see #2 above) and on the student mediation board (see #12 below) and on the Honor Council;
- Nelson Denny and Myers Briggs evaluations of competencies and personalities;
- certifications indicating understanding of and commitment to the Honor Code and School policies;
- written samples of MacCrate values and skills development, which may be developed in classes as early as Intro to Law I or II and continue through the student's externship;
- students' personal reflections on all of the above and on how school policies, including deadlines and rules, are teaching them to become professionals through the development of their knowledge, skills, and ethics.



The portfolio should be designed by the Associate Dean of Planning, Programs, and Assessment and the Coordinator of Planning and Programs with input from the Co-Curricular/Extra-Curricular Issues Subcommittee of the Professionalism Committee and the Faculty Curriculum Committee.

4. Consider further refinements to the curriculum to infuse professionalism themes: focus on knowledge and ethics.

Ethics and professionalism lessons can be infused into the entire curriculum. For example, Introduction to Law I, which teaches briefing and other skills, could be tied to Trial Workshop and use cases that pertain to a Trial Workshop problem. First-term students could serve as witnesses and bailiffs in Trial Workshop and observe the lawyering skills of the students participating as attorneys. This tie-in addresses a key need of first-term law students—to see an immediate connection between the skills they must master for law school and the skills exercised by attorneys in practice. Introduction to Law II can more directly tie in MacCrate skills as part of the professional skills the students learn in that course (analysis, synthesis). Criminal Law could be tied to Teen Court so that first-term students are mentors to teen defendants (which could also constitute some of the community service required for their portfolio). Law Practice could be adjusted so that students are working together as a law firm. Externship journals can include entries on professional, character, or ethical issues the student observes during the externship. In large “stand up” classes, students could work as law firms to recite cases and respond to questions from the professor. And into every class, professors may incorporate lessons involving professionalism.

The PR/Professionalism faculty should work directly with individual faculty members and with the Faculty Curriculum Committee, the Departments, and the Curricular Issues Subcommittee of the Professionalism Committee, and make proposals for particular courses.

5. Expand the role of mentors in each student's development: focus on knowledge, skills, and ethics.

The Alumni Office currently offers students the opportunity to have a mentor assigned to them who is a volunteer attorney from their local legal community. This effort should be expanded so that entering students are asked to identify their personal mentor before they begin attending Cooley or, at the latest, in the students' first term. Mentors could be lawyers, or perhaps any other type of professional. Lawyer mentors may be alumni of the School



anywhere in the country; they may be local attorneys; or they may be attorneys in the student's home state where the student intends to practice. Our state alumni associations could be of great help to us in this effort. The School should work with state bar associations, beginning with the State Bar of Michigan, to obtain recognition and public service credit for those attorneys volunteering for this significant commitment. Lawyer mentors may be asked to:

- agree to help the student with their portfolio development throughout law school;
- participate as a member of the mentee's first-year professionalism and career review panel (this would involve a personal, telephonic, or satellite appearance by the mentor);
- review the student's portfolio at the end of the student's law school career, along with the student's faculty advisor who will certify its completion; and
- directly oversee the student's mastery of ethical obligations in law practice.

There can be no more direct way to bring each and every student in constant contact throughout their law school career with a professional role model than to involve that professional in the development of the student's knowledge, skills, and ethics.

The Alumni Office, which has vast experience in working with mentors, should assist the Associate Dean of Students and Professionalism, the Associate Dean of Planning, Programs, and Assessment, and the Coordinator of Planning and Programs with this effort.

6. Monitor professionalism of students: focus on ethics.

The faculty and staff should report any unprofessional conduct they observe in individual students on and off campus by simply sending a note to the Associate Dean of Students and Professionalism for investigation. Any findings of misconduct should be addressed by students during their first-year character and career review, or in their portfolio if the issues arise after that review. This will help students reflect on their actions and prepare them to address these issues with their Character and Fitness Committees.



The Associate Dean of Students and Professionalism should meet with Directors and their staffs to put a system in place.

7. Create an elective course on Professionalism and Issues in the Practice: focus on knowledge, skills, and ethics.

This course will cover in more detail the issues raised in the expanded PR course. It will also include coverage of the attorney grievance procedures and outcomes, character and fitness cases, and other discipline matters, along with healthful living techniques for lawyers. The course will address diversity issues and personal conflict resolution, and will emphasize the need for civil legal services for the indigent and related professionalism issues. Ethical issues in securities regulation and in corporate accounting, like those arising in the Enron case, will provide timely material for the syllabus. The particular problems that arise for solo practitioners may also be covered. Students who have experienced discipline problems may be referred to this course as an outcome of their first-year professionalism and career review (see #2 above).

The PR/Professionalism faculty should develop this course in conjunction with the Faculty Curriculum Committee, the Associate Dean of Students and Professionalism, and the Curricular Issues Subcommittee of the Professionalism Committee.

8. Fill the new PR/Professionalism faculty position: focus on knowledge, skills, and ethics.

Three new faculty members have been hired to teach Professional Responsibility and implement the Professionalism Plan along with the Associate Dean of Students and Professionalism.

Incorporate Ethics and Professionalism into the Law School Environment



Classroom teaching can have only so much impact. The environment must reflect those teachings or the lessons will be lost, or worse, disbelieved. Therefore, every effort should be made to pull into the School the good influences from the profession that exist outside the School. We tell students during Orientation that they will be treated like lawyers. So start them with an oath, give them role models, impose on faculty, administrators, and staff the same standards and expectations we have for students, and create opportunities for students to practice professionalism in their personal endeavors.



9. Create a student ethical oath and standards of professionalism: focus on ethics.

The student body as a whole, not just the Student Bar Association, should participate in a school-wide process to create an ethical oath and standards of professionalism to be applied in the classroom and the School. (A kick-off of this effort might be done in conjunction with a symposium on professionalism for the practicing bar to be held at Cooley Law School, to be tied into the Professionalism Advisory Committee's first hundred days progress report. Perhaps the Law Review or the Law Journal would be interested in such an effort.) Students need to own this oath—it needs to be fully debated for a significant period of time. A full year might be dedicated to the debate, which could be held electronically and summarized regularly in the student newspaper. The oath should cover conduct on and off campus.

The PR/Professionalism faculty and the Associate Deans of Students and Professionalism and of Enrollment and Student Services should work with student leaders to design a system for School-wide discussion.

10. Bring legal professionals' influence into the School and the lives of each and every student: focus on skills and ethics.

The first-year professionalism and career reviews (see #2 above), which will occur throughout every fourth term (i.e., continuously), will bring local attorneys acting as mentors into the School environment on a regular basis. Students will learn briefly at Orientation and in more detail during their second-term class meeting about the portfolio requirement (#3 above) and about the first-year professionalism and career review. They will understand the immediate need for, if not the long-term benefit of, a mentor in the legal profession, who will play a significant role in the student's first-year professionalism review as one of the three-member review panel. This mentor, along with the faculty advisor, will act as advocate for the student, and teacher where deficiencies are recognized. Students may be assisted by the Alumni Office (and Cooley's state alumni associations) in securing a mentor during their first term if they do not come to School with a mentor already chosen.

Other areas for involvement by practitioners include teaching particular segments of the reshaped PR course, team teaching the elective on



Professionalism and Issues in Practice (see #7 above), teaching in the Ethics School (see #15 below), overseeing a student's public service, allowing a student to observe the attorney at work throughout a specified time period, and judging student competitions.

The Curricular Issues Subcommittee of the Professionalism Committee should consult with the PR/Professionalism faculty, the Associate Dean of Students and Professionalism, and the Alumni Office Director to expand the influence of legal professionals.

11. Bring State Bar Character and Fitness Committee, Attorney Discipline Board, and Attorney Grievance Commission influences into the School: focus on ethics.

- The Honor Council as it exists under the School's Honor Code is comprised of six faculty members and three students. Its membership does not include anyone from outside the School. As long as confidentiality is preserved, membership should include a representative from the State Bar of Michigan's Character and Fitness Committee or the Attorney Grievance Commission or Discipline Board who is also a practicing member of the bar.
- Likewise, our admissions decisions could be assisted greatly with input from the Character and Fitness Committee on applications from students with criminal histories. The Committee on Admissions, Disciplinary Procedures, Honor Code, and Professionalism should add a member representing the Character and Fitness Committee to accomplish both the admissions review and the Honor Council review.
- We have made an agreement with the Michigan Attorney Grievance Commission to hold its hearings at Cooley Law School. Students taking the elective on Professionalism and Issues in Practice may be required to attend a hearing, as may students attending Ethics School, and students taking the required PR course will be encouraged to attend. Perhaps every student should attend at least one hearing during their enrollment and document that in their portfolio.
- The expanded PR course (see #1 above) should include a three-hour session (one class period) covering unethical conduct from three levels: the Associate Dean of Students and Professionalism will discuss the Honor Code and Disciplinary Procedures, including past cases of student misconduct and the sanctions imposed; the State Bar Character and Fitness Committee will present information about the outcome of



hearings conducted to review the qualifications of bar applicants; and the Attorney Grievance Commission representatives will address the results of unethical conduct by attorneys.

- The Associate Dean of Students and Professionalism will apply for a position on the Ingham County Attorney Grievance Hearing panel in order to bring that experience into the School.
- We should continue our current practice of having a representative of the State Bar Lawyers' Assistance Program speak at Orientation about available help for students with substance abuse problems.

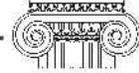
Other opportunities for involvement by Attorney Grievance Commission and Character and Fitness Committee representatives include creating externship placements at their sites, attending Cooley class meetings to emphasize the character review that all students will undergo when they apply to a bar, and speaking to our students at every opportunity about issues affecting lawyers and law students.

The Policy Issues Subcommittee of the Professionalism Committee, the PR/Professionalism faculty, and the Associate Dean of Students and Professionalism should work to implement these steps, and involve the faculty Committee on Admissions, Disciplinary Procedures, Honor Code, and Professionalism where appropriate.

12. Create a student-run mediation board to address conflicts between students: focus on skills and ethics.

Students should create the procedures and practices of this board. This board will deal with a variety of personal matters between students for which the students seek assistance. For example, students sometimes want the School to intervene in conflicts between friends or roommates regarding personal conflicts or lease obligations, to help with personal relationships that have disintegrated into alleged harassment, and to address instances of insulting language or offensive conduct on or off campus. Service on the board or in its creation would count as significant community service in students' portfolios.

The Co-Curricular/Extra-Curricular Subcommittee of the Professionalism Committee endorsed this concept. The Associate Dean of Enrollment and Student Services and the PR/Professionalism faculty should work with the student body to create the board.



I 3. Continue to emphasize professionalism among faculty, staff, and administrators, and ensure that there are systems in place to review and address unprofessional conduct: focus on ethics.

Faculty, staff, and administrators should be role models of professionalism. Through presentations, discussions, and consultation, the School should assist all its employees in conducting themselves in a professional manner. For faculty, this includes appropriate classroom and office demeanor, and fulfilling their teaching and student counseling obligations. For staff, this includes appropriate office demeanor and holding students to deadlines and requirements. All School employees should also be courteous, professional, and thorough in their dealings with students and with each other, and they should be cognizant of their professional obligations on and off campus.

When staff or faculty observe unprofessional student conduct, they should report it to the Associate Dean of Students and Professionalism. Likewise, any reports of unprofessional conduct by staff, faculty, or administrators should be subject to internal review. Students, staff, administrators, and faculty should have access to a process by which unprofessional conduct can be reported and reviewed. Student evaluations should be modified to include a question about the instructor's professionalism in the classroom.

The Curricular Issues Subcommittee of the Professionalism Committee, the Associate Dean of Faculty, faculty volunteers, the Vice Presidents and appropriate Associate Deans, and the Directors should develop ways to help all employees conduct themselves in a professional manner.

I 4. Establish a standing Professionalism Advisory Committee: focus on knowledge, skills, and ethics.

Members of the Professionalism Committee representing various areas of interest should be asked to continue on in their commitment to Cooley's efforts in the area of professionalism by serving on a Professionalism Advisory Committee. The PAC would oversee implementation of the Plan, would receive regular progress reports from the Associate Dean of Students and Professionalism and the PR/Professionalism faculty, and would coordinate public recognition of Cooley's strides in this area.



The Associate Dean of Students and Professionalism should work with the Dean and President of the Law School to put the advisory committee in place.

15. Create a Center for Public Service and Professionalism: focus on knowledge, skills, and ethics.

The Center should be in the building where classes are taught and it could be housed with the Career Services Office. It will have five primary functions:

- Coordinate all the public service activities that currently go on in the School. Almost every student group engages in some public service throughout the year. These efforts are uncoordinated and not well-publicized. For example, more than one student group may ask faculty members to accept a “pass” from students who donate food. This should only be asked of faculty once a year/term, but often more than one group will ask for the same consideration in the same term. By coordinating their efforts over the calendar year, student groups would get more bang for their buck: run ONE marathon, do ONE food collection, ask for ONE “pass” event in class, and so on. By planning ahead for the year, they would not duplicate each others’ efforts and could get more attention for their own project. It would cause them to do some long-term planning for public service which would ingrain the practice into our behavior.
- Publicize all the public service efforts of the School and promote public service and professionalism. The Center should work with our Marketing Department to publicize locally, state-wide, and to all appropriate law-related groups including the ABA and AALS. This should include recognition of students, staff, and faculty for their public service and efforts to bring professionalism into the legal profession. The Center could host brown-bag lunches to discuss public service and professionalism issues and initiatives, and line up speakers. Finally, the Center would give an annual scholarship to a student who exemplifies a commitment to professionalism and public service. The Center could work in conjunction with our state alumni associations in identifying recipients and awarding scholarships.



- Make community service placements available for students who are looking to do public service and for the Associate Dean of Students and Professionalism to use when resolving Honor Code or Disciplinary Procedures cases. This would involve establishing a network with local agencies and would also get Cooley recognition in the community.
- Maintain a library of books, video tapes, and other materials on professionalism for use by students, staff, and faculty. Such materials should include job search and placement information, resume and interviewing materials, and other materials relevant to securing a professional position, along with materials on ethics, morality, and obligations of the profession. There may be an opportunity to work jointly with the State Bar of Michigan to collect and make available these materials.
- Staff and run an Ethics School to be attended by students having problems meeting the professional obligations imposed by the School. Students would monitor State Bar Journal reports of misconduct and disciplinary actions, would attend grievance hearings, and would study and report on their ethical obligations. There may be an opportunity to operate the school in conjunction with the State Bar of Michigan.

This public service function of the Center might initially be staffed by just one full-time Cooley employee who could coordinate volunteer student workers. The library should be run by a librarian. The Professionalism Advisory Committee should oversee the Center's operation, to be directed by the new PR/Professionalism faculty.

16. Create a place for student social interaction with staff and faculty: focus on skills and ethics.

It almost goes without saying that social interaction between staff, faculty, and students is essential to our efforts to instill professionalism values in all of us. The School has a pressing need for a small, school-based place to eat, have coffee, and just talk. A street-level area in the Cooley Center may be ideal for such a spot.

The Facilities Subcommittee should work with President and Dean LeDuc toward a plan to incorporate a socializing/eating area in the Cooley Center.

Take Our Accomplishments Outside



To maintain its status as a profession, lawyering must be re-infused with professionalism. To accomplish that, law schools must commit themselves to teaching professional conduct and personal integrity. Cooley Law School is committed to doing that through the implementation of the initiatives in this Plan. And we are committed to passing the message and the lessons we learn along to other law schools and to other institutions of higher learning. If undergraduate students come to law school already understanding personal integrity and responsibility, we will have won half the battle.



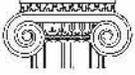
17. Formally adopt the AALS recommendation on commitment to public service: focus on ethics.

In 1997, the AALS created the Commission on Pro Bono and Public Service Opportunities to address public service in law school. "The commission's key recommendations were that law schools: 1) make available a well-supervised law-related pro bono opportunity and either require or encourage the great majority of students to volunteer, and 2) adopt a formal policy to encourage and support faculty members to perform pro bono work that includes an annual expectation of service for substantially full-time law teachers, with annual reporting."¹ The Center for Public Service (see #15 above) will identify these public service opportunities for students, faculty, and staff, and can adopt this recommendation as part of its opening ceremony. The faculty already have a public service requirement and annually report to the Associate Dean of Faculty on their activities. Likewise, a great many students already engage in public service and will feel a greater need to do so to flesh out their portfolio. Therefore, the School is poised to adopt these recommendations almost immediately.

18. Create an Institute for Principled Administration in Higher Learning: focus on knowledge, skills, and ethics.

As the stakeholders in Cooley Law School learn the lessons of teaching and instilling professionalism into our culture, we are obligated to take those lessons to other institutions of higher learning. Our perception is that some students come to law school with little or no understanding of how to conduct themselves as professionals or to work toward becoming part of a profession. Part of the reason may be that undergraduate institutions are not adept at teaching such lessons or they may presume these lessons are taught at home.

Not meaning to indict the higher learning institutions, but rather to bluntly address the problems that all educational institutions are grappling with, the Institute for Principled Administration in Higher Learning ("IPAH") would conduct seminars and conferences for undergraduate and professional school administrators to teach them current legal developments in student discipline and privacy matters, workable solutions to common problems such as alcohol and drug consumption, and tested practices for raising the expectations of student conduct on campus. The Institute would be housed at Cooley but operate independently. One effort of the Institute may be to create a legal "brief bank" for the support of and use by educational institutions who are



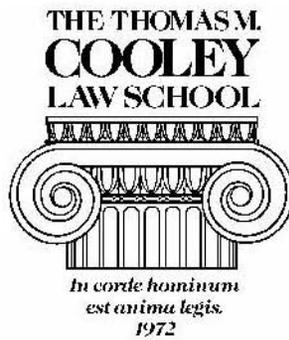
sued by their students to make available to such institutions the latest legal research on issues being litigated. The students who work at IPAHL could do so through work study, as externs in an approved externship site, or as volunteers.

The Associate Dean of Students and Professionalism and the Associate Dean of Enrollment and Student Services will create this Institute. The hope is that it will bring national attention to the problems plaguing our educational institutions and nation-wide recognition of the Thomas M. Cooley Law School as a leader in solving them.

Conclusion



The Professionalism Committee has adopted an ambitious plan, but one that we believe must be far-reaching in order to inculcate a sense of professionalism into everything we do. The entire Cooley community—students, staff, faculty, administrators, and alumni—supports our Plan. As stakeholders in our community, we dedicate ourselves to making Cooley a national leader in teaching, learning, and living professionalism.



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I. Coulter; Dolores, "The Pro Bono Priority," *Michigan Bar Journal*, September 2001, p. 68, citing the Commission on Pro Bono and Public Service Opportunities report, "Learning to Serve."

APPENDIX S

WILLIAM MITCHELL COLLEGE OF LAW ORIENTATION PROGRAM ON LEGAL ETHICS AND PROFESSIONALISM AUGUST 19, 2002

Problem 1

You are the attorney for Home & Lawn, Inc. (“H & L”) which manufactures push and riding lawn mowers. Angie was severely injured by a lawn mower manufactured by H & L. She hired her friend, Paul, to handle her case against H & L. You believe that Angie has a very strong case. Paul has a serious cocaine problem, something which is known to you, but apparently not to Angie. Paul spends a great deal of his time “strung out” and spends far too little time preparing for his case. Angie has hired Paul on a contingency basis, meaning Paul gets about 30% of whatever Angie receives in court or by settlement agreement with H & L.

Just before the pre-trial conference, Paul meets with you and H & L’s corporate officers. He proposes to settle with H & L for an amount you know to be far too low considering Angie’s injuries and the strength of her case. Paul clearly is under the influence of some intoxicants at this meeting, but the H & L officers are so excited at getting off the hook so cheaply that the company insists that you take the deal. H & L has told you not to report Paul to the Board of Professional Responsibility or to the judge for fear that the court might upset the settlement.

What should you do?

Problem 2

PART ONE: Tony, a first-year law student, has been having a difficult few weeks. He is a single father, works long hours, and his daughter is sick with the chicken pox. Tony has been struggling with the last papers for the legal writing course, a court memorandum which involves summary judgment, a procedural rule Tony finds baffling. Tony’s cousin, a

lawyer in Brainerd, e-mails Tony a court memorandum involving summary judgment. Tony finds his cousin's explanation of summary judgment (about a page of text) to be quite helpful. The night before the paper is due, Tony still has not written the summary judgment section. He decides to drop the text from his cousin's court memorandum into his legal writing paper, but he does not attribute the source of the text. Has Tony violated William Mitchell's conduct code?

PART TWO: Anita is a classmate of Tony's and a friend. She is assigned to argue against him in the upcoming oral arguments. As per course rules, Tony and Anita exchange memoranda. A few days before the exchange, Tony intended to assist Anita with her preparation, gave Anita a copy of his cousin's memorandum. Later, as she reads Tony's memorandum, Anita begins to suspect that the language in Tony's document was taken from the cousin's memorandum. She compares the two memoranda and sees that about a page of language is identical. What should Anita do?

Here is pertinent language from William Mitchell's Student Conduct Code:

Prohibited Conduct. It is a violation of the code: Plagiarism. In writing any paper other than a bluebook examination, a student may not borrow an idea or lift language from another source without giving full and accurate attribution by means of well-placed citations and, where there is a direct quote, accurate quotation marks. Not only direct quotes, but also paraphrased language, whether in text or footnotes, must be cited to the source the student used. A citation must appear every time a source is used; a citation that appears in one place does not serve as a citation to later use of the source. Sources include not only published material, but also electronic sources, unpublished manuscripts, briefs, and the like. This rule applies to papers written for courses, independent study projects, the long paper requirement, student competitions, research projects for faculty, articles for The Opinion, or any other College-related activity. This rule is subject to specific instructions by a faculty member or supervisor of the particular activity in question.

Problem 3

You work in a small law firm of about five lawyers, located in a small city. The firm has a thriving practice that focuses on employment law issues. The law firm has developed a very solid reputation, so your practice is busy and the client-basis is steady. Part of your expertise involves assisting companies who hire persons with special skills, but who are not citizens. These workers need special work permits and visas in order to remain in the United States as legal residents.

Recently, a man who is not a citizen, but has a valid work permit and visa, came to your office and requested your assistance. Based on his statements, it appears that his supervisor has reduced his work hours and responsibilities, making it impossible for him to afford to pay his housing and other living expenses. His employer is one of the few technology-oriented industries in town. As the story unfolded, you came to suspect that the person may be treated in this fashion by his employer because he comes from a Middle Eastern country. The man missed several days of work when he was detained and questioned by federal investigators about funds the man sent to relatives in his home country. You also are aware that the story about his being detained and questioned was front page news for several days in the local press.

You believe that not only did the employer treat the man illegally, but that the local bank may have violated banking rules by divulging financial information about the man's accounts, and that the federal agents may have wrongly detained the man.

You have already determined that there is no conflict of interest if the law firm were to take him on as client, but the senior lawyer in your office has encouraged you not to take the case. He has stated many reasons — because it is very complex, it will take a lot of your time, the firm is already very busy, you already have a busy schedule, and the client is not able to pay. You suspect that the firm also is not eager to have the publicity.

What should you do?

Problem 4

During the course of the orientation, you will be given a copy of the William Mitchell College of Law Student Handbook. This Handbook contains the College's Policy Against Discrimination, which reads as follows:

It is the policy of William Mitchell College of Law (the "College") to provide a working and learning environment that maximizes the potential of each student, faculty member and staff member. Discrimination of any sort interferes with that environment. Therefore, disability, marital status, sexual orientation, status with regard to public assistance, membership or activity in a local commission, or any other protected class status defined by applicable law ("discrimination") is prohibited and will not be tolerated. Retaliation against a person who reports or complains about discrimination, who participates in or supports the investigation of a discrimination complaint, is also prohibited.

Any person who feels that he or she has been subjected to discrimination has the right to institute legal proceedings in addition to or in lieu of a complaint pursuant to this policy.

Any member of the William Mitchell community found to have violated this policy is subject to disciplinary action. This policy will be communicated to members of the William Mitchell Community.

Suppose that soon after the semester begins you and two of your classmates start a study group. Subsequently a student who is pregnant asks to join your study group. You anticipate that you will be spending a great deal of time with your study group. One of the members of the study group has raised concerns that it will be hard to arrange times for the group to meet with this student, and that she may not be available to participate as much or may drop out entirely just before final exams begin, leaving the rest of your group at a disadvantage.

How will you treat this request?

APPENDIX T

UNIVERSITY OF MISSOURI COLUMBIA SCHOOL OF LAW PROFESSIONALISM READING FOR JOE E. COVINGTON PROFESSIONALISM LUNCHEON THURSDAY, AUGUST 22, 12:00 NOON.

Source: Robert Aronson, James Devine, William Fisch,
Professional Responsibility, 2.35 et seq. (2nd ed., 1995)

3. *Relationship to confidentiality.* As we will see in the next sections, the professional codes recognize exceptions to the lawyer's duty of confidentiality, at least permitting and sometimes even requiring disclosure of otherwise confidential information (i.e., that defined in Model Rules of Professional Conduct 1.6(b)). The issues of admissibility of evidence in judicial and quasijudicial proceedings and the right of an adversary to require disclosure of evidence, however, continue to be governed by the law of the privilege. Thus an attorney whose client threatens him with murder may be permitted under Model Rule 1.6(b) to disclose the threatening communication in so far as necessary to prevent the client from committing the crime, without making the lawyer's testimony concerning the communication admissible in evidence in a criminal proceeding against the client, see *Kleinfeld v. State*, 568 So.2d 937 (Fla. App. 1990).

2. DIRECT EVIDENCE IN THE LAWYER'S POSSESSION

Problem

James Polk owns a small business which has been failing, and his marriage threatens to break up due to his financial struggles. He has been represented for some years by Mary Barton, a local attorney. Early one morning Polk comes to Barton's office in a highly agitated state, carrying a canvas bag which proves to contain a skier's face mask, a pair of gloves, a sawed-off shotgun, and \$20,000 in currency of various denominations. He tells Barton a disjointed story about robbing a supermarket the night before, taking the night watchman hostage, and going out into the country with the hostage. He remembers the location where he held the hostage, and thinks he may have killed him, but can't sort out enough details to be sure. Barton advises Polk to

go to the police, but he refuses; she then persuades him to go to his doctor (whose office is in the same building), leaving the bag and its contents with her. The doctor immediately hospitalizes him, on the basis of a mental breakdown.

By mid-morning of that day, the robbery has been discovered and a search is on for the watchman. Barton, being careful not to be detected, drives to the remote spot Polk had mentioned to her, finds the watchman's horribly mutilated body in a hollow tree, takes numerous photographs of the scene, and returns to her office with a set of keys which she found 50 yards or so away from the tree. The keys turn out, as she suspects, to belong to Polk.

Questions

(a) After several days of searching, the police are unable to locate the watchman. His family issues a tearful broadcast for help in locating him. Polk is still in the hospital, and there is no indication of suspicion of him in the matter. What can Barton do, if anything, to respond to the distress of the family?

(b) Eventually, suspicion begins to center on Polk, who is still in the hospital unable to talk. The police, acting on a hunch, come to Barton with questions. What can she tell them?

(c) Are the canvas bag and its contents, the keys, or the photographs subject to compelled production on demand of the police? What should Barton do with them?

Rule References

Model Rules 1.6, 3.4(a), 8.4(c,d)
CPR DR 4.101

THE CASE OF ROBERT GARROW'S LAWYERS

[After a man with a rifle was reported to have kidnapped four young campers in a remote area of New York's Adirondack Mountains, a massive 12-day manhunt resulted in the wounding and capture of Robert Garrow. By that time one of the bodies of the four had been discovered, and Garrow was

charged with murder. Two Syracuse lawyers, Frank Armani and Francis Belge, were appointed to defend Robert.

During consultation with his lawyers, Robert admitted having killed three other persons: one of the remaining bodies had already been found, and Robert told Armani and Belge how to find the other two, both young women. The lawyers found the bodies by following Robert's directions, and photographed them - perhaps reassembling one of the bodies in order to photograph it. Within the next several months each body was found accidentally by passersby.

Both of the deceased were the subjects of intensive search and advertising by their families prior to the discovery of their bodies. The parents of one of the girls came to the lawyers and asked for help in locating her; they would only say that they couldn't tell them anything. A year after the incident, Robert was tried for the first murder, and testified, in support of his plea of insanity, not only about that murder but also about the others. The disclosure that the lawyers had known about the bodies months before their discovery but had remained silent unleashed a wave of public indignation and debate about lawyers' ethics. The propriety of the lawyers' silence was addressed in two different judicial proceedings. First, in connection with their representation of Robert by appointment, Armani and Belge submitted claims for compensation beyond the statutorily prescribed amount, alleging not only unusual expenditure of time but also damage to their practices resulting from the public outcry over their conduct. Second, as a result of the public pressure, Belge was indicted under the New York public health laws for failure to give a dead person a decent burial and for failure to report the death of a person without medical attendance. The two county courts each vindicated the lawyers, granting the additional compensation on the one hand and dismissing the indictments on the other. Relevant portions of the opinions follow.]

IN RE ARMANI

Hamilton County Court, 1975.

83 Misc.2d 252, 371 N.Y.S.2d 563.

*** Who can imagine the anguish of these attorneys, fathers themselves, at having to carry inviolate this confidence knowing full well the agonies endured by the parents of the missing girls? Who can appreciate the torment, after the

disclosure was made public, suffered by them as a result of the poisoned pens and poisoned tongues of the self-righteous? Who, indeed, in the legal profession can truly and objectively look back from the comfortable chair of the Monday morning quarterback and say, "I would have done thus and so in spite of the ethic of confidentiality which I am sworn to uphold." ? Indeed, who can understand the anguish of having to defend oneself months later against charge of criminal wrongdoing where one has acted in the highest tradition of the legal profession? * * *

[The court relieved both Armani and Belge from the operation of a state law which would have limited each to a maximum fee of \$500 for the case, awarding a combined fee to the two lawyers of approximately \$12,000.]

PEOPLE v. BELGE

Onondaga County Court, 1975.
83 Misc.2d 186, 372 N.Y.S.2d 798, affirmed 50
A.D.2d 1088, 376 N.Y.S.2d 771 (1975).

* * * The National Association of Criminal Defense Lawyers, as Amicus Curiae, citing *Times Publishing Co. v. Williams*, 222 So.2d 470, 475 (Fla. App. 1970) succinctly state the issue in the following language:

If this indictment stands,
"The attorney-client privilege will be effectively destroyed. No defendant will be able to freely discuss the facts of his case with his attorney. No attorney will be able to listen to those facts without being faced with *188 the Hobson's choice of violating the law or violating his professional code of Ethics."

* * *

The effectiveness of counsel is only as great as the confidentiality of its client-attorney relationship. If the lawyer cannot get all the facts about the case, he can only give his client half of a defense. This, of necessity, involves the client telling his attorney everything remotely connected with the crime.

Apparently, in the instant case, after analyzing all the evidence, and after hearing of the bizarre episodes in the life of their client, they decided that the only possibility of salvation was in a defense of insanity. For the client to disclose not only everything about this particular crime but also everything about other crimes which might have a bearing upon his defense, requires the strictest confidence in, and on the part of, the attorney. When the facts of the other homicides became public, as a result of the defendant's testimony to substantiate his claim of insanity, "Members of the public were shocked at the apparent callousness of these lawyers, whose conduct was seen as typifying the unhealthy lack of concern of most lawyers with the public interest and with simple decency."⁴ A hue and cry went up from the press and other news media suggesting that the attorneys should be found guilty of such crimes as obstruction of justice or becoming an accomplice after the fact. From a layman's standpoint, this certainly was a logical conclusion. However, the constitution of the United States of America attempts to preserve the dignity of the individual and to do that guarantees him the services of an attorney who will bring to the bar and bench every conceivable protection from the inroads of the state against such rights as are vested in the constitution for one accused of crime. Among those substantial constitutional rights is that a defendant does not have to incriminate himself. His attorneys were bound to uphold that concept and maintain what has been called a sacred trust of confidentiality.

The following language from the brief of the Amicus Curiae further points up the statements just made:

"The client's Fifth Amendment rights cannot be violated by his attorney. There is no viable distinction between the personal papers and criminal evidence in the hands or mind of the client. Because the discovery of the body of Alicia Hauck would have presented 'a significant link in a chain of evidence tending to establish his guilt' (*Leary v. United States*, 395 U.S. 6, 89 S.Ct. 1532, 23 L.Ed.2d 57 (1969)), Garrow was constitutionally exempt from any statutory requirement to disclose the location of the body. Attorney Belge, as Garrow's attorney, was not only equally exempt, but under a positive stricture precluding such disclosure. Garrow, although constitutionally privileged against a requirement of compulsory disclosure, was free to make such a revelation if he chose to do so. Attorney Belge was affirmatively required to withhold disclosure. The criminal defendant's self-incrimination rights become

4- Criminal Law Bulletin (Dec. 1974). Article by Monroe H. Freedman.

complete nugatory if compulsory disclosure can be exacted through his attorney.”

In the recent and landmark case of *United States v. Nixon*, 418 U.S. 683, at page 713, 94 S.Ct. 3090, at page 3110, 41 L.Ed. 1039, at page 1061 the Court stated:

“The constitutional need for production of relevant evidence in a criminal proceeding is specific and neutral to the fair adjudication of a particular criminal case in the administration of justice. Without access to specific facts a criminal prosecution may be totally frustrated.”

In the case at bar we must weigh the importance of the general privilege of confidentiality in the performance of the defendant’s duties as an attorney, against the inroads of such a privilege, on the fair administration of criminal justice as well as the heart tearing that went on in the victim’s family by reason of their uncertainty as to the whereabouts of Alicia Hauck. In this type situation the Court must balance the rights of the individual against the rights of society as a whole. There is no question but Attorney Belge’s failure to bring to the attention of the authorities the whereabouts of Alicia Hauck when he first verified it, prevented bringing Garrow to the immediate bar of justice for this particular murder. This was in a sense, obstruction of justice. This duty, I am sure, loomed large in the mind of Attorney Belge. However, against this was the Fifth Amendment right of his client, Garrow, not to incriminate himself. If the Grand Jury had returned an indictment charging Mr. Belge with obstruction of justice under a proper statute, the work of this Court would have been much more difficult than it is.

There must always be a conflict between the obstruction of the administration of criminal justice and the preservation of the right against self-incrimination which permeates the mind of the attorney as the alter ego of his client. But that is not the situation before this Court. We have the Fifth Amendment right, derived from the constitution, on the one hand, as against the trivia of a pseudo-criminal statute on the other, which has seldom been brought into play. Clearly the attorney privilege. An examination of the Grand Jury testimony sheds little light on their reasoning. The testimony of Mr. Armani added nothing new to the facts as already presented to the Grand Jury. He and Mr. Belge were co-counsel. Both were answerable to the Canons of professional ethics.

The Grand Jury chose to indict one and not the other. It appears as if that body were grasping at straws.

It is the decision of this Court that Francis R. Belge conducted himself as an officer of the Court with all the zeal at his command to protect the constitutional rights of his client. Both on the grounds of a privileged communication and in the interests of justice the Indictment is dismissed.

Notes

1. See also New York State Bar Association Committee on Professional Ethics, Formal Opinion 479, 50 N.Y. St. Bar J. 259 (1978), finding no impropriety in the lawyers' conduct (other than possible tampering with physical evidence).
2. From the extensive contemporary discussion of this case see Freedman, *Where the Bodies are Buried: The Adversary System and the Obligation of Confidentiality*, 10 Crim. L. Bull. 979 (1975), reprinted in Freedman, *Lawyers' Ethics in an Adversary System* (1975); Edwards, *Hard Answers for Hard Questions: Dissenting in Part from Dean Freedman's Views on the Attorney-Client Privilege*, 11 Crim L. Bull. 478 (1975), with a reply by Freedman; *Comment, Confidentiality and the Case of Robert Garrow's Lawyers*, 25 Buffalo Law Rev. 211 (1975); Callan and David, *Professional Responsibility and the Duty of Confidentiality: Disclosure of Client Misconduct in an Adversary System*, 29 Rutgers Law Rev. 332 (1976).
3. Would the court in *People v. Belge* have had more difficulty with a charge of "obstruction of justice"? What constitutes "obstruction of justice"? One such crime is defined in New York Penal Law §§205.50 ff. §205.50 provides as follows:

[End of material.]

APPENDIX U

WASHINGTON UNIVERSITY SCHOOL OF LAW CLASS OF 2005 ORIENTATION ON PROFESSIONALISM

Below are four problems. Before the first day of Orientation, please read the problems, give some thought to what issues arise in each situation, and consider what sorts of decisions you would make given the facts as written. Be prepared to discuss why you would make a particular decision or pursue a particular course of action.

In terms of format, our plan is to break out into ten discussion groups, each of which will include a St. Louis area lawyer or judge, a member of the law school faculty, 1 or 2 upper-level students, and 20-25 of you. Further instructions will be provided by the leaders of each discussion group once the groups assemble.

The goal of this exercise is *not* to have you approach these situations with the mind-set of a lawyer who is well-versed in the written codes, rules, and aspirations of the profession and makes his or her decisions accordingly. Rather, the purpose is to stimulate thought and discussion about professionalism and what it means to be a “professional.” It is also to show, at the very outset of your legal career, how the application of legal knowledge and the actual practice of law take place within a context of responsibility to your client, your profession, your community, and yourself.

All you need to bring to these problems is your life experience and your own values and ethics. We are not asking for any professional knowledge or research. Most importantly, do not ignore your “gut reaction,” i.e., how these situations make you feel. That is part of the equation too.

PROBLEM 1

Ralph is in his last year of law school and is filling out an application for admission to the State Bar. One of these questions asks, “Have you ever been arrested, charged with, and/or convicted of a criminal offense?” Ralph’s situation is as follows:

- When he was 14 years old he was caught smoking a joint and was charged with possession of marijuana. After several appearances in juvenile court, he was placed in a special program which made it possible for juveniles to get criminal records completely expunged (in effect, erased) if they satisfied certain requirements. Under state law, once a record is expunged, information about

the record is not available to anyone except the offender him/herself. Ralph subsequently met the applicable requirements and the record of the incident was expunged.

- During his first year in law school he received 3 speeding tickets.
 - (a) How should Ralph answer the question on the application?
 - (b) Did Ralph have any obligation to tell law school authorities about the speeding tickets (which he received after he started law school) while he was in school? Would it matter if the law school's application asked the same question as the bar application?
 - (c) Suppose that the law school application did ask the same question. If Ralph answered the question "NO" on his law school application but now thinks that he may have answered incorrectly, what (if anything) should he do?

PROBLEM 2

You recently graduated from law school and have joined a medium-sized law firm that specializes in plaintiff's employment discrimination work. A law school classmate of yours, Marilyn Morrison, also joined the firm. Over time, you observe that Marilyn frequently comes in late, falls asleep in her office, and leaves from time to time during the day. You become concerned enough to talk to her and ask what is going on. Marilyn tells you that she used to have a drinking problem and has had somewhat of a "relapse," but assures you that she is well on her way to getting things back under control. **What (if anything) should you do?**

Assume the same basic scenario, but in a law school setting. In other words, you have just started law school and Marilyn Morrison is a classmate. Over time, you observe that Marilyn frequently comes late to or misses class, falls asleep in class and in the Student Commons, and disappears from time to time during the day. You become concerned enough to talk to her and ask what is going on. Marilyn tells you that she used to have a drinking problem and has had somewhat of a "relapse," but assures you that she is well on her way to getting things back under control. **What (if anything) should you do?**

PROBLEM 3

You have represented James, a widower, for over twenty years and, in the course of this representation, have drawn up an estate plan for him which leaves a substantial portion of his sizeable estate to his only son, Junior. James and Junior are white (Caucasian).

James' wife died when Junior was five years old. James has raised Junior alone. The two have enjoyed a close relationship. Junior started college away from home two years ago. He recently returned home for his summer break and was visited by his African-American girlfriend, Michelle. Soon after the visit Junior told James that he and Michelle have been dating almost a year and that they plan to be engaged at the end of the summer. James, as a result of Michelle's visit and Junior's relationship with her, has come to you seeking to revise his estate plan. He now wants to leave the bulk of his estate to a variety of charities and completely disinherit his only son. James plainly states that his sole reason for taking this action is that he doesn't believe in "race-mixing." However, he does not want Junior to know anything about what he's doing as he doesn't want to discuss the matter with Junior or "have it out" with him.

Will you make the change? Should you advise Junior or disclose his father's plans? What do you think about the moral implications of your completing the changes? Can those implications outweigh the professional responsibilities in this circumstance?

PROBLEM 4

You represent a client who is charged with robbery. The victim has positively identified your client as the robber, but has mistakenly told the police that the robbery occurred at 10:30 p.m. when it actually occurred 2 hours earlier at about 8:30 p.m. The mistake is perhaps attributable to her watch being stolen and possibly because she briefly lost consciousness. The police report reflects that 10:30 p.m. time.

Your client, reviewing the police report, admits to committing the robbery but says it happened at about 8:30 p.m., not 10:30 p.m. He left the scene of the crime and went to a bar. Having arrived at 9:15 p.m., he has several witnesses who will testify to his presence at 10:30 p.m. Neither the police nor the victim knows the correct time.

Should you present the alibi? What about questioning your client in a way that allows the client to deny committing the crime? Is there a difference between rebutting the facts regarding the time and denying the commission of the crime?

APPENDIX V

UNIVERSITY OF NEVADA WILLIAM S. BOYD SCHOOL OF LAW

REQUIRED FIRST YEAR PROFESSIONALISM PROGRAMS

Introduction to Law Course

We begin law school for the students (and for the faculty) in a non-traditional way. Rather than a one- or two-day orientation followed by an immersion in the hoary old cases of Contracts and Torts, we decided to begin with an intensive week of readings and discussion on the importance of the legal profession; on what lawyers do and the skills, values, and on professionalism and the responsibilities that are necessary to them in doing it; on the historical and philosophical underpinnings of law; on the roles and relationships of the various branches and levels of government; on the different sources of law; and on the place of litigation and alternatives to it in the dispute avoidance/dispute resolution continuum.

This week-long, team-taught course, “Introduction to Law,” was designed to expose students – at the earliest and most enthusiastic stage of law school – to these important topics. The course seeks to ameliorate the common problem of law students becoming so focused on appellate cases, judges, and litigation that they lose sight of the profession as a whole. Students during Introduction to Law are presented with a positive (but not Pollyanish) view and understanding of the legal profession and of the important roles that lawyers play, and historically have played, in our society.

Lawyering Process Program

The Lawyering Process classes build on the Introduction to Law course by continuing students’ exposure to the various roles that lawyers play with emphasis on the skills, values, and responsibilities that are associated with those roles. The Lawyering Process program reflects the faculty’s thinking that the teaching of legal analysis, legal writing, legal research, lawyering skills, and pro-

fessionalism are naturally intertwined. The overall goal of the program is to prepare students to be thoughtful, reflective lawyers who (1) analyze legal issues logically and thoroughly, (2) communicate clearly using the conventions of legal discourse, (3) grasp the basics of interviewing and negotiating skills that all lawyers must possess to be effective and competent practitioners, and (4) understand the nature of the lawyer/client relationship, as well as the roles lawyers play in our society and the responsibilities those roles carry with them. These programmatic goals further the stated mission of the law school, especially the desired emphasis on professionalism.

The Lawyering Process sequence consists of three courses (Lawyering Process I, II, and III) totaling ten credit hours over the student's first three semesters at Boyd. It involves students in role-playing, with a heavy emphasis on ethical and value-laden issues, and it includes significant instruction and experience in legal research, analysis, and writing, with the assignments tied to differing lawyering roles that extend beyond litigation.

APPENDIX W

WAKE FOREST UNIVERSITY SCHOOL OF LAW ARTICLE

PROFESSIONALISM IS A SUBJECT OF THE GREATEST IMPORTANCE

Over the past several decades, no subject has received more attention at bar association meetings at all levels than “professionalism.” Professionalism is a subject of the greatest importance. What role should our law school play in inculcating professional values?

Our law school’s mission statement says that we have “a responsibility to provide our students with a foundation of legal knowledge and skill upon which they can build lives of service within the legal profession. We must attempt to instill in every student a respect for the rule of law, a devotion to the ideal of public service, and a commitment to basic professional values, honesty, diligence, competence, intelligence, and civility.”

How to teach professionalism in law school is a matter of constant concern and deliberation. This year, I am the Chair of the American Bar Association Section of Legal Education and Admissions to the Bar. Two years ago, this section published a thoughtful report, “Teaching and Learning Professionalism.” The committee drafting this report was chaired by Reese Smith of Florida, a former president of the American Bar Association, and included among its members Professor David Logan of our law faculty and Dean Arthur Gaudio, a former Wake Forest faculty member. The report was extremely thought provoking and was distributed to our entire faculty. As a follow up to this report, the ABA section has had several national meetings this year. One meeting took place in Dallas at the ABA mid-winter meeting. It was a one-day meeting between approximately 140 law deans and the members of the National Conferences of Bar Presidents, Bar Executives, and Bar Foundations. This was a conference to plan ongoing efforts between the ABA section and the leaders of these bar organizations to better legal education through cooperative efforts with particular reference to professionalism. Then, the section cosponsored a special program at the end of February on the professionalism related topic of “Lawyers as Creative Problem Solvers.” Finally, the section continued the effort at the ABA annual meeting in New York. The section’s program present-

ed concrete examples of what law schools are doing to teach professionalism, an illustrative “best-practices” program.

In the fall of 1998, I created an ad hoc committee on teaching professionalism to study what we are doing at Wake Forest with respect to this important subject. The committee was chaired by Professor Rhoda Billings and began its work by reviewing the ABA report. Members of the committee visited each member of the faculty to conduct an inventory of what the faculty are doing to teach professionalism, and to get new ideas to spread throughout the faculty. As a result of this committee’s study, a standing Professionalism Committee has been created to sponsor workshops on teaching Ethics and Professionalism, and many of the committee’s recommendations have been adopted by the faculty for implementation this year.

We begin professional values education even before our students arrive for orientation. In the summer before they enter, we provide them with a list of books to read concerning great lawyers. It is of the utmost importance that students have heroes and heroines in the law, professional role models. This year, we are requiring our incoming students to read *To Kill A Mockingbird* in preparation for small-group, faculty-led discussions about being a lawyer and what it means to enter the legal profession. These discussions will take place on the first morning of the orientation period. In preparation for these discussions, the faculty members leading the discussions will also read *In Search of Atticus Finch* by Michael Papantonio. A faculty discussion leader training session will be held before orientation.

Last year during orientation week, with the cooperation of the leadership of our Public Interest Law Organization, we had the first-year class learn about opportunities for pro bono work in our community. We sent them out with members of the faculty and staff to different public service organizations to acquaint them with specific pro bono opportunities. This year our PILO officers, in cooperation with the faculty and administration, are continuing to refine this program.

For the past several years, we have had a mandatory first-year professionalism series throughout the fall and early spring focusing on the different issues of concern to the profession, such as pro bono obligations, quality of life issues, civility, the lawyer as civic leader, and substance abuse. We hope to continue this first-year series, but we plan to make greater use of small group break-out sessions. We will need more role-model judges and lawyers to volunteer to come to the law school to join the students and faculty for these sessions.

Of course, we have a required course in Professional Responsibility or, as it is also called, “Legal Ethics.” For the past several years, this course has been

taught in three sections. Starting next year, we will add a fourth section of Professional Responsibility, so that there will only be small sections of Professional Responsibility, as in our first-year courses. This will allow for more interaction in this highly important class.

Issues of professionalism are highlighted in many other upper-level courses and programs in a pervasive manner, whether the course be Negotiation, Trial Practice, Legal History, or another subject. Our library staff is collecting materials on teaching professionalism and making them available to faculty interested in addressing issues of ethics and professionalism in their substantive courses.

Over half our students take one of our two client-contact clinics before graduation. Each of our clinics has a required two-hour-per-week classroom component that focuses extensively on professional values. In the original clinic, which is litigation oriented, the students are supervised by a member of our full-time faculty and by supervising attorneys in the field. The supervising attorneys are chosen in consultation with the Clinic Committee of the Forsyth County Bar Association. A strong component in choosing the clinical supervisors is the degree to which they will be professionalism role models.

Ten years ago we established the first Inn of Court at a law school in North Carolina. The Chief Justice Joseph Branch Inn of Court meets monthly during the academic year, bringing together judges, lawyers, and students to discuss professionalism issues. Between the masters of the bench of our Inn and the supervising attorneys in our clinics, a large percentage of our students have mentors from the practicing bar while at Wake Forest; however, we want to expand the mentoring program. We are doing so in cooperation with our Law Alumni Council and our chapter of the Law Student Division of the American Bar Association.

Our faculty, staff, and students are involved in a variety of activities that stress the values of public service, including our Public Interest Law Organization, the Teen Court, and the Domestic Violence Advocacy Center. This latter group was part of a consortium organized by Professor Suzanne Reynolds and alumnus Chief Judge Bill Reingold with the Forsyth County Bar Association. It won the prestigious Harrison Tweed Award from the American Bar Association. Student and lawyer volunteers provide representation to victims of domestic violence at the ten-day hearing held to determine whether a protective order issued against the abuser *ex parte* should become final. A student in the DVAC program noted: "It provides desperately needed services to victims of domestic violence, and it gives students the opportunity to get into a true court proceeding where they're not doing a classroom project."

As the ABA MacCrate Report indicated, law school is part of an educational continuum by which lawyers acquire lawyering skills and professional values throughout a lifetime, including both before and after the law school experience. I welcome your thoughts on how our law school can help students better develop the values of our profession.

APPENDIX X

OHIO NORTHERN UNIVERSITY PETTIT COLLEGE OF LAW STUDENT CODE OF PROFESSIONAL RESPONSIBILITY

Adopted May 14, 1986
Revised March 22, 1988; May 15, 1990

PREAMBLE

Our self-governing society can exist only in an environment stabilized by law and stimulated by an informed and responsible citizenry. We have entered a specialization which performs a vital role not only in guarding the law but also in protecting the public's perception of the law's usefulness. While a lawyer may use the accumulation of evidence, the citation of precedent and the drafting of documents to cope with our increasingly complex culture, the ultimate tool must be the lawyer's conscience.

The canons which reflect our professional ethics are not a substitute for conscience; rather they provide guidelines for lawyers to deal with constantly changing situations. The specifics of these canons will be understood when, as law school graduates, we progress to our respective states. However, our responsibility to the law does not begin on the day we pass the bar examination; it begins on the day we enter law school. The Pettit College of Law Student Code of Professional Responsibility attempts to set forth acceptable student conduct and to aid the student in becoming a respected member of the legal community. In addition to defining conduct which is unacceptable, the Code suggests conduct which is commensurate with the highest standards of the legal profession.

The self-government of the bar, like the self-government of our society, requires something extra of its people. Ultimate responsibility for the future of the legal profession rests within the conscience and morals of its members. Only through vigorous dedication to the high standards that have traditionally characterized the practice of law can we hope to enter the twenty-first century with the respect of the public we serve.

It is, therefore, the duty of every student, as we pursue our study of the law, to aspire to the highest ethical standards and to assist in the enforcement of this student code. Only in this way will we be able to preserve the commendable ideals that have come to signify the word "attorney" and continue the rich heritage of our profession.

APPENDIX Y

WILLAMETTE UNIVERSITY COLLEGE OF LAW ORIENTATION PROGRAM AND MATERIALS

DATE: July 2002
TO: Facilitating Attorneys and Judges
FROM: Kathy Graham, Associate Dean
SUBJECT: Orientation Program on Professionalism,
Wednesday, August 21, 2002

Thank you for agreeing to participate in the professionalism orientation program for first-year students at Willamette University College of Law. You are making a significant contribution to the education of these students and to our profession.

The facilitators will meet in ***Room 218 of the law school at 9:15 a.m. on Wednesday, August 21, 2002.*** The schedule for the program will be as follows:

9:15	Orientation meeting for facilitators
9:45	Program introduction by Chief Justice Wallace P. Carson, Jr.
10:10	Break (move to small group meeting rooms)
10:20	Small group introductions
10:30	Small group discussion of hypothetical questions
12:00	Lunch

Enclosed are the six hypotheticals that have been provided to the students, together with some background materials on the questions presented. The hypothetical questions are not meant to be "solved" by reference to these materials. Indeed, many questions have no right or wrong answer and are only meant to give students the opportunity to consider the ethical ramifications of legal decision-making. You may refer to these materials at your discretion, however, to show students examples of professional guidelines.

Please note that the students have not been provided with the background materials. Rather, each student has been asked to consider the questions in light of his or her own life experience and personal set of ethics. The students have also received the Oregon State Bar's Statement of Professionalism, a copy of which is enclosed.

We hope to have two attorneys acting as facilitators for each small group. To get the group started, please introduce yourselves and ask the students to introduce themselves. You probably will not have time to discuss all the hypotheticals, so you may want to announce which ones you will discuss or to ask the students which hypotheticals interest them most. Please try to include everyone in the discussion and not allow any one person to dominate.

A map is enclosed for your use. No permits are necessary to park in any university lot on August 21. You may park in any open space except those marked "reserved" or "visitor." We look forward to seeing you. Please notify the Dean's Office at (503) 370-6402 if your plans change and you are unable to participate.

Encls. Map and directions
 OSB Statement on Professionalism
 Hypotheticals
 Background materials on hypotheticals

STATEMENT OF PROFESSIONALISM

Introduction

As members of the Oregon State Bar, we belong to a profession devoted to serving both the interests of our clients and the public good. In our roles as officers of the court, as counselors, and as advocates, we aspire to a professional standard of conduct. With adherence to a professional standard of conduct, we earn a reputation for honor, respect, and trustworthiness among our clients, in the legal community and with the public.

Professionalism

Professionalism includes integrity, courtesy, honesty and willing compliance with the highest ethical standards. Professionalism goes beyond observing the legal profession's ethical rules; professionalism sensitively and fairly serves the best interests of clients and the public. Professionalism fosters respect and trust among lawyers and between lawyers and the public, promotes the efficient resolution of disputes, simplifies transactions, and makes the practice of law more enjoyable and satisfying.

To further our commitment to conduct ourselves as professionals, we adopt the following principles as guidelines for our practice.

General Guidelines

- 1.1 As officers of the court, we will promote the integrity, dignity, independent judgment, effectiveness and efficiency of the legal system.
- 1.2 We will work professionally with all parties whose activities relate to our client's work.
- 1.3 We will conduct our practice in a courteous, fair and respectful manner.
- 1.4 We will conduct our practice in a timely manner.
- 1.5 We will commit ourselves to developing and preserving the ideals of integrity, honesty, competence, fairness and devotion to the public interest.
- 1.6 We will represent our clients zealously within the bounds of the law and the ethical standards approved by law or the Oregon Supreme Court vigorously protecting the interest of our clients in a responsible manner.
- 1.7 In appropriate cases, we will advise our clients of the availability of mediation, arbitration, and other alternative methods of resolving disputes.

- 1.8 We will avoid all forms of discrimination. We will actively support all efforts to assure that all members of our society are afforded the protections and rights provided by law.
- 1.9 We will not knowingly misstate facts or law. We will not knowingly cause a person to form a mistaken conclusion of facts or law.
- 1.10 We will learn and follow practices and civilities that encourage respect, diligence, candor, punctuality, and trust.
- 1.11 We will avoid unjust and improper criticism and personal attacks on opponents, judges, and others and will refrain from asserting untenable positions.
- 1.12 We will not use delaying tactics.
- 1.13 We believe lawyers should solve problems and not create or exacerbate them.
- 1.14 We will be knowledgeable in the areas in which we practice and when necessary will associate with or refer clients to counsel knowledgeable in other fields of practice.
- 1.15 We will not threaten to make complaints to a regulatory agency to gain advantage.
- 1.16 We will honor the client's right to our candid view of opposing counsel only to the extent that those views are relevant to the client's interests and not for the purpose of disparaging other counsel.

Litigation

- 2.1 We will advise clients against pursuing litigation that is without merit.
- 2.2 We will not use tactics that are intended solely to delay, harass, or drain the financial resources of the opposing party.
- 2.3 Whenever litigation is contemplated in order to preserve the right of a party against the running of a statute of limitations, we will endeavor before bringing the action to seek an agreement to follow to toll the statute of limitations long enough to investigate whether a lawsuit is warranted.
- 2.4 We will not assert claims for relief that have no merit.
- 2.5 Upon receiving a complaint and, if possible, before a responsive pleading is due, we will try to initiate informal discussions with opposing counsel to determine the precise nature of the claim, the prospect of settlement, and the possible use of alternative dispute resolution. We will try to reach agreement for scheduling of future motions, discovery, pretrial conferences, and other matters in an effort to reduce the cost of litigation to the parties and to accommodate all parties' schedules.

- 2.6 With respect to discovery, we will not seek information from our adversaries for the purpose of harassment, nor will we refuse to produce information that we know the court will ultimately require to be produced. We will try to schedule depositions informally by mutual agreement for the convenience of parties, counsel and witnesses before resorting to formal notice procedures.
- 2.7 In making motions, we will consider costs and benefits to the parties, the court, and the system of justice, giving due consideration to any tradeoffs to our clients and the progress of the case as a whole. Motions will be considered carefully in light of the likelihood of success and practical benefit to the client.
- 2.8 We will make every effort to be punctual in attending hearings, conferences, and depositions.
- 2.9 In civil matters we will stipulate to fact as to which there is no genuine dispute.
- 2.10 We will encourage innovative methods that simplify and make less expensive the rendering of legal services. We specifically adopt and incorporate in this statement the cost containment guidelines promulgated by joint action of the Oregon Trial Lawyers Association and the Oregon Association of Defense Counsel.

Business Practice

- 3.1 We will endeavor to represent the best interests of our clients and at the same time seek to resolve matters in a manner that minimizes legal expenses for all involved and accomplishes the goal of our client.
- 3.2 We will clearly identify, for other counsel and all parties, all changes made in documents submitted for our review.
- 3.3 We will avoid quarrels over matters of form or style and will concentrate our energy and resources on matters of substance and content.
- 3.4 In making representations concerning the facts of a matter, we will be accurate and indicate clearly the extent to which we have the authority to bind the client.

Lawyering in the Public Interest

- 4.1 When the interests of our clients are not involved, we will endeavor to put aside self-interest and support legislation that is in the public interest. We will urge legislative bodies to consider the consequences of proposed legislation on the courts and legal system.
- 4.2 We will discuss the nature of the fee arrangement with the client at the beginning of the representation.

- 4.3 We will avoid advertising that is not fair, factual, informative, sensitive to the recipients, or beneficial to the public.
- 4.4 We will endeavor to increase our participation in pro bono activities. We will help lawyers recognize their obligation to make legal services available to all members of society.
- 4.5 We resolve to employ all the organizational resources necessary to assure that the legal profession is effectively regulated from within.
- 4.6 We will support activities that educate the public about legal processes and the legal system.

Conclusion

We are committed to this statement of professionalism and we will conduct the practice of law in a manner consistent with these precepts.

Order of the Supreme Court of Oregon

The Supreme Court of Oregon is committed to the highest standards of professionalism and expects those standards to be observed by lawyers in this state. Compliance with high standards of professionalism depends primarily upon understanding the value to clients, the legal system, the public and lawyers of adhering to the voluntary standards. Secondly, compliance depends upon reinforcement by peer pressure and public opinion, and finally, when necessary, by enforcement by the courts through their powers and rules already in existence. These standards of conduct are not intended to be a set of rules that lawyers can use to incite ancillary litigation on the question whether the standards have been observed by an adversary.

We must always be mindful that the practice of law is, above all, a profession. As members of a learned art, we pursue a common calling in the spirit of public service. We have a proud tradition of leadership in our society, and we now call upon all Oregon lawyers to rededicate themselves to practice law in a manner that maintains public confidence in our profession, faithfully serves our clients, and fulfills our responsibility to the legal system.

It is now, therefore,

ORDERED that, in pursuit of these objectives, the Supreme Court of the State of Oregon hereby approves the Statement of Professionalism adopted by the Oregon State Bar on October 5, 1990, attached to and made a part of this order.

DATED this 23rd day of January 1991.

**WILLAMETTE UNIVERSITY COLLEGE OF LAW
ORIENTATION FOR FIRST-YEAR STUDENTS**

August 21, 2002

Orientation on Professionalism

INSTRUCTIONS: Before the orientation session on professionalism, you should read these hypotheticals, give some thought to the issues that arise in each situation and consider what decisions you would make given the facts as written. Be prepared to discuss why you would make a particular decision or pursue a particular course of action.

All that we ask you to bring to these hypotheticals is your life experience and your own set of ethics, whatever they may be. We are not asking for any professional knowledge or research. Most importantly, do not ignore your “gut reaction,” i.e., how these situations make you feel.

Spend a few minutes writing a short answer to each question. Bring the questions with you to orientation. Your answers are confidential and will not be viewed by anyone but you. Thinking about the questions ahead of time will improve the discussion.

You are not required or even encouraged to do any legal research for this exercise. The goals are to probe your expectations concerning the profession of law and to begin (but only to begin) to learn a few of the basic concepts and rules that you will master in detail over the next few years and, in fact, throughout your professional life.

Hypothetical Questions

QUESTION 1

John Doe sued Amtrak, alleging that he suffered personal injuries while working for Amtrak. He hired attorney Pete Howard to represent him in this lawsuit. Howard has a reputation for being a hard-nosed and aggressive lawyer. Rick Gallagher represented Amtrak.

Recently, Doe’s lawsuit went to trial. The trial began poorly for Gallagher, as testimony from Doe’s witnesses showed that certain representations that Gallagher had made during his opening statement were false. Gallagher responded by cross-examining Doe with a line of questioning that Howard

believed was improper and which angered Howard. After the cross-examination, the court called a recess.

In the presence of several witnesses, Howard approached Gallagher with his fists cocked and began screaming. Howard called Gallagher a “fat pig” and “lower than whale s_____”. He also said, “If you come around me, I’m going to kill you.” These threats culminated with Howard’s assistant having to physically pull Howard away from Gallagher. The events so upset Gallagher that later that afternoon, he advised Amtrak to settle the case with Doe. The next day, the parties settled the case. Howard’s “trial tactics” proved effective in obtaining a favorable result for his client.

Please discuss the appropriateness of Howard’s behavior and Gallagher’s response to that behavior.

QUESTION 2

The law firm of Abercrombie, Babo & Crum (“AB&C”) was retained by the state of Oregon to sue paint manufacturers on the state’s behalf for reimbursement of state Medicaid funds spent on lead-related health care expenses. For the past fifty years, paint companies knowingly produced lead-based paint which, when inhaled or ingested by children, caused cancer and other serious diseases.

The law firm’s terms of employment were simple - they would be paid nothing unless they won, but they would get 25% of any recovery. The firm faced enormous risk, expense and complexity in litigating these cases against the wealthy paint manufacturers.

After two years of litigation and \$1.5 million in expenses, AB&C obtained a giant and unprecedented settlement from the defendants who agreed to pay \$10 billion over the next forty years to the State of Oregon. The State of Oregon now refuses to pay AB&C, and wants to renegotiate the attorneys’ fees. It argues that \$2.5 billion is an unreasonable and outrageous sum for attorneys’ fees, and that it breaks down to AB&C lawyers being paid \$12,500 per hour.

Should AB&C be paid the \$2.5 billion for their efforts in this litigation?

QUESTION 3

Carl and Jane Jones have decided to get a divorce. They have been married for 15 years and have two children. They both agree that a divorce is a good idea, and they have agreed on custody of the children as well as other property issues. You are a new young lawyer practicing in family law. You have known the Jones couple for years.

Carl and Jane make an appointment to meet with you to ask you to represent both of them in their upcoming divorce. They have a draft of a marital settlement agreement, that both have agreed is fair, which they want to have incorporated into the final divorce decree. Their agreement works out the child custody arrangements, provides for the child support, and divides the property. Should you agree to represent both of them in their divorce action?

QUESTION 4

You represent a client who has been sued for negligence by George Smith. Your client, Hank Green, was involved in an accident that caused substantial damage to Smith's car and also injured Smith. Smith claims that Green had been drinking and was under the influence of alcohol when the accident occurred. Smith states that after the accident, he spoke to Green, who slurred his words and stumbled as he walked from his car.

Green has admitted to you privately that he had been drinking on the evening of the accident. He had attended a bachelor party for his best friend, and he consumed more than a few beers. Your client will be deposed next week by the claimant's attorney. (A deposition is a hearing when a witness or a party to a lawsuit may be questioned under oath about the facts relevant to the lawsuit.)

Green tells you that he plans to deny that he was drinking on the night of the accident. He tells you that he doesn't think the claimant can prove that he was drinking, and he doesn't want to admit it because he is afraid he will lose his driver's license, his insurance rates will go up, and his reputation in the community will be damaged. Green tells you that he is counting on you to represent him and to protect his secret about the drinking on the night of the accident.

How do you advise Green in preparing him for his deposition?

QUESTION 5

Lawyer represents a client with a breach of contract claim against a defendant who has limited funds. The lawyer knows that the statute of limitations has run on the claim. But the lawyer also believes that the defendant probably won't hire a lawyer to defend the case, and the lawyer will likely be able to get a default judgment for the client.

Should the lawyer file the claim? If so, why do you believe that? If not, why do you believe that?

QUESTION 6

An American Indian consults a lawyer about a claim against a third person. The lawyer decides not to take the case because the lawyer knows that juries in the county in which the case must be filed are prejudiced against Native Americans. For that reason, there is a reduced likelihood of success. Lawyer would have taken the case if it involved a white person.

Did the lawyer do the right thing?

Background Materials for Orientation Program on Professionalism

The following are background materials* available for your consideration as you prepare for your discussion group on August 21, 2002, at the Professionalism Program during our orientation for first-year students:

QUESTION 1

Law students (and lawyers) often confuse the meanings of “ethics” and “professionalism”. In the hypothetical, attorney Howard may have breached *ABA Model Rules of Professional Conduct (ABA Model Rules)* and the *Oregon Code of Professional Responsibility (Disciplinary Rules)* prohibiting conduct prejudicial to the administration of justice, or conduct that raises questions regarding lawyer’s fitness to practice law. Those are ethical breaches.

Professionalism, however, should be the focus of the discussion. Professionalism means exercising civility, courtesy, and kindness while zealously advocating one’s client’s interests. One bar association has observed:

Courtesy is neither a relic of the past nor a sign of less than fully committed advocacy. Courtesy is simply the mechanism by which lawyers can deal with daily conflict without damaging their relationships with their fellow lawyers and their own well-being.
(The Virginia Bar Association Creed)

The discussion should examine whether it is possible, and desirable, for lawyers to refrain from engaging in rude and contentious tactics even if they yield a desirable result for the client.

* These materials have been prepared by Distinguished Jurist in Residence and Former Supreme Court Justice Edwin Peterson, Associate Dean Kathy T. Graham and Professor Yvonne Tamayo.

QUESTION 2

William Shakespeare wrote that “lawyers dream on fees” (*Romeo and Juliet*, Act I, Scene 4). In recent years, the fees of which lawyers dream have increased tremendously. A case in point is the \$2.5 billion sum referenced in this hypothetical.

ABA Model Rule 1.5 states that a lawyer’s fee shall be reasonable. Some of the factors to be considered in determining the reasonableness of a fee are: 1) the time, skill and labor required, 2) the fee customarily charged in that locality, 3) the amount involved and results obtained, 4) the experience, reputation, and ability of the lawyer.

Even if the fees are reasonable under Rule 1.5, large awards of attorneys’ fees continue to receive media scrutiny. As a result, popular opinion that lawyers are greedy in accepting outrageously large sums of money persists in tarnishing the bar’s reputation. This issue should also be considered in this discussion. In other words, the students should discuss whether the public perception of lawyers as “greedy” rather than as public servants should cause us to go beyond Rule 1.5 in determining reasonableness of attorneys’ fees. (See also *Disciplinary Rules*, DR 2-106.)

QUESTION 3

Discussion about this hypothetical might begin by considering circumstances where representing two clients does not create a conflict of interest. For instance, clients who have a common purpose such as to create a partnership or to complete a real estate deal might be represented by the same lawyer with no problem.

ABA Model Rules §1.7(a) provides that a lawyer shall not represent a client if the representation of the client will be directly adverse to another client. Section 1.7(b) provides that notwithstanding the prohibition in section (a), a lawyer “may represent a client with a concurrent conflict of interest if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client” and each client consents to the representation. (See also *Disciplinary Rules*, DR 5-105.)

In this divorce situation, it is unlikely that an attorney can provide competent and diligent representation to both parties in the face of potential disagreements about the terms of their divorce. Though the parties have agreed on a settlement of the issues associated with their divorce, each party should have the terms of the agreement reviewed by independent counsel to ensure that each spouse’s interest is adequately protected. Each spouse has a different interest at stake at divorce when faced with determinations about custody and financial issues. (See *OSB Legal Ethics Op.* No 1991-86.)

QUESTION 4

This hypothetical depicts the age-old dilemma of the lying client and how an attorney deals with the situation.

The ABA Model Rules §3.3(a)(3) provides that “A lawyer shall not knowingly offer evidence that the lawyer knows to be false.” (See also *Disciplinary Rules*, DR 7-102.)

In the face of the client’s statement that he intends to lie at the deposition, the lawyer will want to counsel the client against such a plan. The lawyer may also caution the client that if he does lie at the deposition, he may refuse to offer this false evidence at trial. Or alternatively, maybe the lawyer needs to withdraw from the case at this point to allow Hank Green to pursue his claim without a lawyer’s representation.

QUESTION 5

Although some might argue that filing the claim would violate the *Disciplinary Rules* (see, e.g., DR 1-102(A)(3), “It is professional misconduct for a lawyer to: ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation,” and DR 7-102(A)(2), “In the lawyer’s representation of a client ... a lawyer shall not ... knowingly advance a claim or defense that is unwarranted under existing law”), the writer believes that this conduct would not be unethical. Thus, this question is directed at the professionalism aspects of the conduct.

The client has a claim. Granted, it is barred by the statute of limitations. But a defense of the statute of limitations is an affirmative defense (ORCP 21A(9)).

The *Oregon State Bar Statement on Professionalism (Professionalism Statement)* states in part:

Professionalism. Professionalism includes integrity, courtesy, honesty and willing compliance with the highest ethical standards ...

2.4 We will not assert claims for relief that have no merit.

There may be no correct answer to the question. Assuming that the conduct violates no ethical rule, should a professional lawyer file the claim? There is little question that judgment would be awarded if the defendant failed to assert the statute of limitations defense. (What should the trial judge do when the plaintiff presents the motion for default judgment under ORCP 69, and the judge notes that the claim is barred by the statute of limitations?)

Is asserting the claim consistent with integrity, courtesy, honesty and willing compliance with the highest ethical standards?

QUESTION 6

This question is designed to address an aspect of racial discrimination. The question assumes that the lawyer “would have taken the case if it involved a white person.” Assuming for the sake of argument that there is no violation of any state or federal law prohibiting racial discrimination — that is beyond the scope of this question — unquestionably if the lawyer declines to press the claim because of the client’s race, the lawyer would be treating the client differently than the lawyer would treat a white client. Is non-assertion of a claim because the likelihood of success is diminished because of a client’s color consistent with “the highest ethical standards?” (See the second paragraph of the *Professionalism Statement*.)

See also Section 1.8: “We will avoid all forms of discrimination. We will actively support all efforts to assure that all members of our society are afforded the protections and rights provided by law.”

By not asserting the claim, the lawyer violates the *Professionalism Statement* because, at bottom, the basis for not taking the case is, pure and simple, the color of the client’s skin.

APPENDIX Z**UNIVERSITY OF TOLEDO LAW REVIEW ARTICLE
FALL, 2002****Leadership in Legal Education Symposium III*****179 ARE WE GATEKEEPERS?**

Barry R. Vickrey [FNa1]

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DISCUSSIONS between law schools and lawyers about bar admissions, when such discussions occur, almost always get around to the question of whether or not law schools are or should be gatekeepers for entry to the legal profession. Most practicing lawyers with whom I have discussed bar admissions assume that law schools are, since the J.D. we grant is a prerequisite to admission. Some think we just are not very good at gatekeeping, that we should have admissions standards that screen for character as well as academic potential, or at least that we should use the three years we have the students to weed out the morally as well as the intellectually deficient.

Some lawyers assume that law faculty are diametrically opposed to character-related gatekeeping and focus only on the intellectual achievement of students. Candidly, I do not know what most faculty think about this issue. Some are apathetic, others are as concerned about character issues as any practicing lawyers, and some take the position that legal education is just that, education that should be divorced from the issue of bar admission.

From various discussions of this issue with deans, it is my impression that most law deans recognize that law schools are de facto gatekeepers. While I suspect all of us claim that a legal education is great whether or not a student plans to practice law, most of us recognize that the vast majority of our students will in fact seek to be admitted to the bar. Thus most deans take seriously their responsibility to certify the good character of graduates who sit for the bar. As lawyers, most of us are subject to some version of Rule 8.1 of the ABA Model Rules of Professional Conduct, which states: “[A] lawyer in connection with a bar admission application ... shall not ... knowingly fail to respond to a lawful demand for information from an admissions ... authority” Beyond that, we are genuinely concerned about the profession of law and the clients our graduates serve.

Those of us whose schools produce most of the lawyers for a jurisdiction are likely to be particularly aware of our bar admissions responsibilities. We recognize that the cit-

izens of our state will be directly affected, negatively or positively, by the quality of our graduates. We do not have the luxury of hoping that our problem students will be absorbed into the million or so lawyers nationally. We know they will be conspicuous members of the few thousand lawyers practicing in our state.

In this essay, I will describe briefly a few things that we have done at the University of South Dakota to improve our ability to discharge this responsibility effectively. I will also indicate a few areas in which bar admissions authorities might assist law schools in carrying out this responsibility.

We introduce the bar admission process to students at the earliest opportunity, during orientation of first-year students. I suspect most law schools do so, but I ***180** believe our approach is particularly effective because the messenger is the chief justice of our state's supreme court. In our students' second year, I teach the professional responsibility course mandated by ABA accreditation Standard 302(b), and the first topic we cover is bar admissions. I find the class discussion in which we apply the factors considered by bar admission authorities to hypothetical fact patterns to be some of the liveliest of the course. I also find that individual students approach me privately to discuss concerns about incidents in their past that they are sure will keep them from being admitted to the bar; in almost all cases, I can reassure them that this will not be the case. In the third year, before students begin work on the bar application, a member of the board of bar examiners meets with students to discuss the bar admission process.

One of the first things we did after I became dean was review the character-related questions on our law school application and compare them to the questions on the South Dakota bar application. I was inspired to do this by the work of Cornell's associate dean Anne Lukingbeal, who has spoken and written on the various ways in which various jurisdictions' bar admissions authorities ask about applicants' character. This is a real burden for a truly national law school such as Cornell. For USD, where the majority of graduates sit for the South Dakota bar, we only had to look at one set of bar admissions questions to address the problem of inconsistent questions for most of our graduates.

The problem we were addressing is the apparent lack of candor if a graduate's answer to a bar admissions question seems inconsistent with that graduate's answer to a similar question on the law school application. This is a problem for the graduate because candor is an important character trait considered by bar admissions authorities. If there is a question about the bar applicant's candor, then answers to other questions become suspect. The bar admissions authority may reasonably begin to doubt that the applicant's court filings, trust account compliance reports, and dealings with clients will be as candid as the ethical practice of law requires. As a result, bar admissions authorities often request a copy of the applicant's law school application if other sources have called into question information in the bar application.

Given the sensitivity of character information, questions that seek the same information but with different wording may create a trap for the applicant. Applicants to

either a law school or the bar are understandably reluctant to divulge embarrassing personal information. In my opinion, they are entitled to withhold this information except in response to a well-crafted question. It is not reasonable to ask an applicant to either law school or the bar to determine what sensitive information the decision-maker wants and then volunteer it. It is, however, reasonable to ask an applicant to answer well-crafted questions truthfully.

Even if the questions on the law school application and the bar application are identical, it is not inconceivable that the same person may answer the question differently as a law school applicant and as a bar applicant. We spend a lot of time teaching our students to understand and answer questions. We also teach them about the ethical requirements of the legal profession. As a result, we should expect them to answer character-related questions on the bar application with more care and a greater appreciation of their importance than they did similar questions on the law school application.

*181 If, as I am suggesting, an applicant might answer law school application questions differently than identical bar application questions, it is even more likely that this might occur if the questions are not identical but seek similar information with different wording. Because the bar application can be longer and more detailed than the character portion of the law school application, it is difficult to make the two sets of questions identical. In our review, however, we did find it possible to modify our law school application questions to reduce the likelihood of inconsistent answers.

A second change I instituted requires students to update annually their answers to the character-related questions in the law school application. This gives students who, as a result of their legal education, know how to answer questions better and appreciate the ethical requirements of the legal profession an opportunity to correct their pre-admission answers well before a bar admissions authority sees the law school application. In rare cases, the new information may lead to a reconsideration of the admissions decision or disciplinary action against a student. Even in these cases, this is preferable to the bar admissions authority's discovery of an inconsistency that would disqualify a graduate who had spent three long years in law school.

This annual update process also requires students to reveal any conduct that occurs during law school that should have been disclosed if it had occurred before law school admission. To use a too-frequent example, since the law school application requires disclosure of convictions for driving under the influence, students must report DUI convictions that occur during law school. This provides us a more reliable basis for accurate character reports to the bar admissions authority than the court reports in the local newspaper or the school rumor mill, allows us to assist students in addressing the underlying problems, and allows students to demonstrate candor, which should be at least somewhat helpful in the bar admission process.

One additional change in which I was involved was our state's adoption of a conditional admission option for bar applicants. Through my service on the ABA's Standing

Committee on Lawyer Competence, I had learned that a few states permitted conditional admission. Typically, conditional admission allows the applicant to practice law but postpones the final determination on character and fitness. The result is that the burden of proof remains on the applicant rather than shifting to a disciplinary entity that seeks to remove an admitted lawyer from practice. Without the option of conditional admission, a bar admission authority is required to roll the dice if an application raises serious doubts and either admit or deny admission. Conditional admission is particularly valuable for the applicant who has a dependency problem but is now in treatment. The applicant may proceed with a legal career, while the bar admissions authority may monitor the new lawyer's conduct for the protection of the public.

Effective fulfillment of a law school's responsibilities related to bar admission requires a cooperative working relationship with bar admissions authorities. Unfortunately, this cooperative relationship is complicated by bar admission authorities' legitimate concerns for the privacy interests of bar applicants.

Bar admissions authorities rarely give law deans any feedback about the use of the information they provide about the character of applicants. This is to some *182 degree understandable, because bar admissions authorities should protect the privacy interests of applicants. This legitimate concern, however, makes it difficult for deans to determine what information to provide and to assist the bar admissions authorities by explaining the process accurately to faculty and students.

A new provision of the ABA Model Rules of Professional Conduct, which permits lawyers to seek ethical guidance from other lawyers, provides a useful analogy for cooperation between deans and bar admissions authorities. Rule 1.6(b)(2) legitimizes a long-standing practice by which one lawyer poses an ethical issue involving protected client information to another lawyer in hypothetical form. Any lawyer who has been engaged in one of these hypothetical discussions, either as the seeker or giver of advice, knows that confidential information may be divined by the advice-giver, even though the facts are nominally hypothetical. The information is, in reality, protected not by the hypothetical construct but by the advice-giver's professional commitment to the protection of confidential information. Because a dean, as a lawyer, shares this professional commitment to confidentiality, a bar admissions authority should be able to provide a dean feedback on the use of information disclosed by the dean without excessive concern that the information will be used to the detriment of an applicant. The bar admissions authority may choose to provide the feedback in a form that does not overtly identify an applicant, but it should not be overly concerned if the dean is, in fact, able to make a connection between the feedback and a specific applicant.

I offer another unrelated suggestion to bar admissions authorities. That is a modification of the release form signed by applicants to address the requirements of the Family Educational Rights and Privacy Act (FERPA), often referred to as the Buckley Amendment.

Bar admissions authorities routinely have applicants sign a release of information held by a laundry list of agencies, including the applicant's law school. When bar admissions authorities request a copy of an applicant's law school application or other information from a law school, they accompany the request with a copy of the applicant's signed release. I have yet to see a bar admissions release that, in my *183 opinion, satisfies FERPA's release requirements. This puts the law school in the position of choosing between its obligation to assist the bar admissions authority and its obligations under FERPA; a violation of the latter can conceivably result in loss of federal funds for the school's parent institution.

I have mentioned this problem at national meetings on bar admission, but as yet to no avail. In order to protect my law school, I now have matriculants sign a form during orientation that releases the school from any liability under FERPA for providing information to bar admissions authorities. Because professional licensing of various types is extremely important to the protection of society, an amendment to FERPA to protect institutions that provide information to professional licensing entities is advisable. Absent that, bar admissions authorities should be able to develop a release form that would protect law schools from FERPA claims.

The bar admissions process is vitally important to the legal profession. As deans, we should take seriously our role in this gatekeeping process, and I believe we do. Better cooperation between law schools and bar admissions authorities and more attention to specific details of our interrelationship would benefit both and, in turn, the legal profession and the public we serve.

[FN1] Dean and Professor of Law, University of South Dakota School of Law.

[FN 1] MODEL RULES OF PROF'L CONDUCT R. 8.1.

[FN 2] A new comment to Rule 1.6 contains the following limitation: "A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved." It is unclear whether or not this limitation applies to disclosure of confidential information in order to obtain ethical guidance. A new comment specifically related to the new Rule 1.6(b)(2) denotes the ethical guidance as "confidential legal advice," indicates that "[i]n most situations, disclosing information to secure legal advice will be impliedly authorized for the lawyer to carry out the representation," and permits disclosure even when not impliedly authorized "because of the importance of a lawyer's compliance with the Rules of Professional Conduct." The recognition that the ethical guidance provided by another lawyer is itself "confidential," the fact that "impliedly authorized" disclosures need not be in hypothetical form and thus are not limited by the new comment on hypotheticals, and the emphasis on compliance with the Rules combine to support the proposition that a lawyer may pose a hypothetical to another lawyer to seek ethical guidance, even if the advice-giver may divine pro-

tected client information. In fact, it appears that the lawyer seeking advice need not use the hypothetical construct under the new Rule 1.6(b)(2) and its specific comment. Most lawyers are accustomed to this convention, however, and should continue using it, since it reminds the advice-giver of the importance of protecting confidential information that may be revealed by the hypothetical.

END OF DOCUMENT

APPENDIX AA

UNIVERSITY OF THE DISTRICT OF COLUMBIA DAVID A. CLARKE SCHOOL OF LAW

SYLLABUS

Law and Justice: An Introduction to the Study of Law Academic Year 2001-2002

Wednesday, August 8	9:30-11:00 a.m.
Monday, August 13	9:00-11:00 a.m.
Tuesday, August 14	9:00-11:00 a.m.
Wednesday, August 15	9:00-11:00 a.m.
Thursday, August 16	9:00-11:00 a.m.
Friday, August 17	9:00-11:00 a.m., 12:30-2:00 p.m.
Monday, August 20	9:30-11:00 a.m.
Fall 2001, Spring 2001	Forty hours of law-related public service work at an approved placement

Course Overview and Objectives: This course does not approach Law & Justice as a subject “out there” to study. Law and Justice is what you are about, why you are here – and what you will be doing with the rest of your life to make the legal system more responsive to the legitimate grievances of persons and more accessible as an instrument that enables all people to fulfill their dreams. You will get out of this course what you put into it. It is safe to say that it is not a bar prep course. It is a life prep course.

The course will introduce you to:

- Your classmates so that you can gain an appreciation for the extraordinary group of human beings you are
- Basic legal concepts: rules, rights, causes of action, tests, prima facie case, etc.
- Briefing a case

- Specific case law regarding trespass, tenancy at sufferance, negligence, notice
- The plight of the homeless in Washington, DC
- The Code of Professional Responsibility and the Model Rules of Professional Conduct
- The diverse roles that lawyers play
- What “Co-Production of Justice” means
- The varied uses of Time Dollars as a problem solving tool

Materials

The required reading is The Street Lawyer by John Grisham, Model Rules of Professional Conduct, and the District of Columbia Bar Rules: Rules of Professional Conduct. The Rules are available on the Internet and will also be provided to you on diskette. You will need to retrieve a copy of your essay regarding injustice from the Admission Office. Other materials will be handed out in class.

Course Requirements

There are three course requirements:

- You should read closely assigned materials and be prepared to participate in class on a regular basis. Regular attendance at scheduled classes is required by the UDC-DCSL attendance policy, reproduced in the Student Handbook. In addition to the classroom component, you are required to perform forty hours of law-related public service work at an approved placement by the end of the spring semester, 2002. Please see Community Service Guidelines for community service placement requirements.
- You must submit a new version of the Injustice Essay you wrote as part of your application. Part of this school’s legacy is to bring into the legal profession persons who have a first hand knowledge of injustice. We hope to develop a compilation of your statements as a statement of what this school is about. You may rewrite the statement submitted in your application or write about an entirely different injustice. In addition to describing the injustice, what you did, and what you would do now, in retrospect, **add one additional element:** Explain why you regard this is an injustice with particular reference to some of the larger issues touched upon in the course. The approximate length of the essay should be 1,000 to 2,000 words, not

Wednesday, August 15 Assignment:

Briefing Cases, Mentschikoff & Stotzky, The Theory and Craft of American Law Write Brief of Brown v. Southall Realty Co. using Mentschikoff & Stotzky format

Topic:

Introduction to Briefing a Case: Brown v. Southall Realty Co., the law in The Street Lawyer (Brown, Mendes, Diamond)

Thursday, August 16 Assignment:

Brief Robinson v. Diamond (Diamond 2 and 3)
Read Mendes

Topic:

The Street Lawyer -Legal Analysis and Robinson v. Diamond
Career Planning and the Law

Friday, August 17**Assignment:**

Read: Reinventing Poverty Law; Co-Producing Justice: The New Imperative; Report on Community Service

Topic:

Discussion of Co-Production of Justice Community Service Requirement

Monday, August 20**Assignment:**

Read Model Rules of Professional Conduct, apply them to The Street Lawyer

Topic:

Professional Responsibility and The Street Lawyer

¹ “Law is not solely or even centrally an affair for courts, but rather consists in constellations of forums where pressures bearing the imprimatur of legitimation are brought to bear to make conduct conform to publicly articulated norms, rules, policies and principles. Courts are only such forum; rules of law are only one kind of pressure.” Cahn & Cahn, The New Sovereign Immunity, 81 Harv. L. Rev. 970 (1968)

APPENDIX BB**WEST VIRGINIA UNIVERSITY
COLLEGE OF LAW****PROFESSIONAL RESPONSIBILITY PLEDGE**

I, _____, as a
(PRINT NAME)
student at West Virginia University College of Law,
understand that I am a part of an academic community
and embarked on a professional career. The Law School
community and the legal profession share important
values that are expressed in the West Virginia University
College of Law Student Code of Professional
Responsibility. I will read the Code and will conduct my
academic, professional and personal life to honor those
shared values.

SIGNATURE_____
DATE

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