

Georgia State University College of Law
Orientation on Professionalism
August 9, 2011

On Tuesday, August 9, 2011 from 3:05 - 5:45 the State Bar of Georgia's Committee on Professionalism and the Chief Justice's Commission on Professionalism will sponsor the GSU Orientation on Professionalism as a component in this year's orientation program.

The Orientations on Professionalism emphasize the importance of adherence to the code or rules of ethics while at the same time going beyond what is minimally required by legal ethics rules to the values of what is called professionalism among the lawyers and judges of Georgia: *competence, civility, integrity, commitment to the rule of law, to justice and the public good*. The message to the law students is identical to the message of Professionalism Continuing Legal Education required of all active members of the State Bar of Georgia: *that the function of lawyers is to assist clients in reaching results desired through the proper use of the legal system, to represent the client's interests in a vigorous and committed manner, while at the same time remaining conscious of duties to other lawyers, the legal system, and the community in general*.

The Orientation on Professionalism program begins with a keynote address by a member of the judiciary or bar leader giving personal reflections on what professionalism means. The Student Professionalism and Honor Code Pledge is then administered to the entire group of students. By reciting the pledge, students signify their intent to join the community of the law school by embracing its values.

The heart of the Professionalism Orientation is the breakout session. Here group leaders assist students in examining hypotheticals designed to provoke discussion of professionalism and ethical issues. To help bridge the gap between law school and law practice, the hypotheticals focus on issues that arise in both the law school and law practice contexts. Group leaders are made up of practicing lawyers, judges, and law faculty. Students are divided into groups of eight to ten with two leaders per group.

Included in the materials:

- 1) Orientation on Professionalism Overview
- 2) Instructions
- 3) Professionalism and Honor Code Pledge
- 4) Hypotheticals
- 5) Lawyers Creed & Aspirational Statement
- 6) Oath of Admission to the State Bar of Georgia
- 7) Atlanta Bar Association Lawyers' Pledge



COMMITTEE ON PROFESSIONALISM

TO: First Year Law Students

FROM: Dick Donovan
Chair, Committee on Professionalism

DATE: June/July 2011

SUBJECT: Law School Orientation on Professionalism Overview

The Chief Justice's Commission on Professionalism is charged by the Supreme Court of Georgia with ensuring that the practice of law in this state remains a high calling, enlisted in the service not only of clients, but also of the public good. The State Bar's Committee on Professionalism focuses the energy and talents of the members of the State Bar on the continuing professionalism movement launched in 1989 by the Supreme Court. An important part of the Committee's on-going effort is the Orientation on Professionalism at each of the law schools in Georgia. With the support of the schools, the Professionalism Committee will conduct a two and a half hour session on Professionalism as part of your law school orientation.

The program will begin with brief remarks by a lawyer or judge, followed by small group discussions of issues raised in the attached hypotheticals. Each group will be composed of 8-10 students and two group leaders who will be assigned to your group from among the Georgia lawyers and judges who have volunteered to participate in the program. The group leaders may also share with you their views of the profession, and you can feel free to ask them questions about their own professional journeys.

Your group will discuss only 3 or 4 of the hypos, but you need to become familiar with the basic fact situations of the all of the hypo. The hypos are structured so that the first four hypos will be discussed by all groups. The next six hypos, which will be chosen by your group leaders, may be discussed if time permit. The last three are only to be discussed if you should get through all of the others. **As the enclosed instructions state, we ask that all you bring to these hypotheticals is your life experiences and your own values. Research is neither necessary nor appropriate.** We hope that you will find the group discussions to be lively and instructive as you begin your careers in the legal profession.

2011 LAW SCHOOL ORIENTATION PROGRAM

INSTRUCTIONS

Prior to the orientation session on professionalism, you should read over these hypotheticals, 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.

These hypothetical situations are intended to expose you to some of the professional challenges you may encounter in law school or after law school in the day-to-day practice of law. The goal of this exercise is **not** to have you approach these situations with the mind-set of a lawyer who is versed in the written codes, rules and aspirations of the profession and makes his or her decisions accordingly. **The purpose of these problems 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 takes place within a context of responsibility to your client, to your profession and to yourself.

To put these discussions in context, it is important for you to be aware of the common understanding among the lawyers and judges of Georgia of the terms *ethics* and *professionalism*. As you begin law school, the word *ethics* probably connotes upright, moral behavior. To lawyers, however, the connotation is to the old codes of ethics that governed lawyer conduct. For instance, the old Canons of Ethics have evolved into the Georgia Rules of Professional Conduct adopted by the Georgia Supreme Court to govern the practice of law. Thus, to lawyers, the word *ethics* means the rules or law of lawyering. These rules establish the minimum requirements of conduct for members of the State Bar of Georgia. *Professionalism*, on the other hand, refers to the attitudes and conduct that rise above this minimum standard and embody the values of competence, character, civility, commitment to the rule of law, to the lawyer’s role as officer of the court, to public and community service. Professionalism is a commitment to carrying out both the letter and spirit of the law.

The message of this program to you law students is the same as the message of Professionalism Continuing Legal Education required of all active members of the State Bar of Georgia: that the function of lawyers is to assist clients in the proper use of the legal system, that a lawyer acts as both advocate for the client and counselor to the client. When acting as advocate, the lawyer represents the client's interests to others in a vigorous and committed manner, while at the same time remaining conscious of duties to other lawyers, the legal system, and the community in general.

We ask that all you bring to these hypotheticals is your life experience and your own values, 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. That is part of the equation, too.

FALL 2011 PROFESSIONALISM AND HONOR CODE PLEDGE

I _____, as a student entering Georgia State University College of Law, understand that I am joining an academic community and embarking on a professional career. The law school community and the legal profession share important values, many of which are expressed in the College of Law's Honor Code, Bulletin and other policies. I understand that I am expected to familiarize myself with these provisions and policies as soon as possible, and that I am bound by them, whether I read them or not. While I am a student at the College of Law, I will at all times conduct my academic, professional and personal life to comply with the Honor Code and other College of Law provisions and policies.

Signature

Date

This Pledge will be kept on file by the College of Law Registrar

REQUIRED HYPOTHETICAL DISCUSSION (4)

PROBLEMS OF BEING A LAW STUDENT

PROBLEM #1

It's the middle of Spring semester and registration for Fall classes is fast approaching. All registration at your law school is done online (with students signing into their password-protected accounts), and each student's first available time to register is determined by the number of credit hours he or she has. Thus, the 3L's get to register starting at noon next Monday, 2L's get to register starting at noon next Tuesday, and 1L's get to register starting at noon next Wednesday. Some classes have limited enrollments, and competition for those slots is keen.

You are A2L. A 3L approaches you the weekend before registration begins with a proposition, saying "I heard you'd really like to be in Course X. I think I can help. On Monday, I'll get online right at noon and register for Course X, which only has space for a dozen students. I don't want to take the course. In fact, I've already taken and passed it, so there's no reason for me to take it. But if you want it, we'll sit together in the library just before your noon Tuesday registration time. I'll withdraw at 11:59 a.m., and then at noon you can jump in the spot I had previously taken. I know for a fact the system isn't geared to keep me from signing up or you from taking the slot I vacate. Otherwise, you'll never get in that class." Unsure about what to do, you just say "Thanks, I'll think about it."

On Monday at 2:00 p.m., the 3L approaches you, saying "Okay, I've signed up for the course, and it's a good thing I did. By 12:05, the course was full. Are we on for tomorrow just before noon? Do you want the slot or not? If not, I'll offer it to someone else."

There's nothing in the Honor Code that specifically addresses this. The Honor Code does have a "Preprofessional Misconduct" provision which prohibits any student from engaging in conduct "which raises a substantial question as to the student's honesty, trustworthiness or fitness to practice law or become a member of the legal profession." The Honor Code also requires all students to report all Code violations to the Associate Dean.

SYNOPSIS: A 3L comes to you, a 2L, and tells you that he will sign up for a course he doesn't need, then withdraw just before your registration time, in order to let you get into this limited-space course.

POSSIBLE QUESTIONS:

1. May you accept the 3L's offer? Should you accept the 3L's offer?
2. If you turn down the 3L's offer and another 2L takes it, should you report the 3L? The 2L?

PROBLEM #2

You are a first-year law student taking a civil procedure course, and the professor has stated that he regularly reuses exam questions so as to maintain equivalent grades across different semesters. Three days before the exam, you receive an e-mail from a college friend who is attending another law school, which is where your civil procedure professor was a visiting professor last year. Your friend states that he has secured for you an old exam and your professor's explanation of how the exam should be answered. Your friend has attached PDF files containing the old exam and the professor's model answer.

SYNOPSIS: *You are a first-year student with the opportunity to have the inside track on an exam because, three days before the exam, you receive an e-mail from a friend at another law school.*

POSSIBLE QUESTIONS:

1. Would you open the attachment?
2. Would you share the information with any of your classmates? All of them?
3. How would your answer change if your friend included the questions within the text of the email such that you may have read the old exam questions without realizing what they were?
4. Would your decision be affected by whether the other law school has a policy to make old exams available on its internal intranet?

PROBLEMS OF THE LAWYER IN PRACTICE

PROBLEM #3

You have agreed to draft a will and a complicated estate plan for a client. You quote your client a flat fee of \$2,500 rather than a hourly rate. In arriving at the fee, you took into account several factors, but the primary consideration was that it would take you ten hours to do the work. The client pays the fee in full in advance. Just as you are about to get started, you learn that another lawyer in your office has just finished putting together a will and an estate plan for a client with circumstances that are similar to your client's. Your work now will be just two hours of editing the other lawyer's work.

SYNOPSIS: *You have quoted your client a package price for the preparation of an estate plan, largely based on how long you think it is going to take you to do it. It turns out that it's going to take a lot less time than you thought, because a partner has done similar work for another client.*

POSSIBLE QUESTIONS:

1. Do you tell the client what has happened?
2. Do you owe the client a refund?
3. Does it matter that the client has already agreed to the fee and paid it?
4. Is the partner's client due a refund now that the earlier work is being used for another client?

PROBLEM #4

In January of this year, Mrs. Nita Newlife filed for divorce against her husband, David, in White County. You represent David. In the divorce, Mrs. Newlife asked for no alimony, but she did ask for custody of her two minor children and child support for them. She was represented by White County attorney Robert Welling. In mid-February, you filed an answer and counterclaimed for custody of the children. In March, Mrs. Newlife moved away and her lawyer withdrew. She sent her new address and telephone number to you. Last week, you received word that the divorce case would be called to trial today. You noticed that the clerk's notice to Mrs. Newlife was sent to her old, local address. You appear at the trial call and you see that Mrs. Newlife is not present. You know that if you proceed to put on evidence that Mr. Newlife will be granted a divorce and custody of the children.

SYNOPSIS: *Your unrepresented adversary does not appear for trial, probably because she did not receive notice.*

POSSIBLE QUESTIONS:

1. Should you inform the court of the problem with the notice to Mrs. Newlife, or should you proceed to trial?
2. Should you tell your client about the problem with the notice that went to Mrs. Newlife? If you tell the client, and the client instructs you not to inform the court of the error, would you do so anyway?
3. Does it matter to you what would be best for the children. Suppose, for example, that you have no reason to believe that Mrs. Newlife is not a fit parent, but you have previously represented Mr. Newlife on a cocaine possession charge, of which you know he was guilty.

ADDITIONAL HYPOTHETICAL DISCUSSION (6)

PROBLEMS OF BEING A LAW STUDENT

PROBLEM #5

Stephanie Hackworth has been charged with plagiarism in connection with a draft article she submitted for the “write on” competition for law review. The charge is that she incorporated a significant amount of textual and footnote material from three law review articles into her draft without any attribution.

Stephanie has asked you, her study companion, to assist her in connection with the law school disciplinary investigation and proceedings. The law school administration sometimes gives permission for law students to “represent” students who have been charged with violations of the law school code of conduct. In this case, you have been given permission to assist Stephanie. Under the procedures, any confidential conversations between you and Stephanie about the subject matter of the disciplinary proceeding are “privileged.” Where the privilege applies, it means that neither of you can be compelled to reveal what either of you says to the other.

After obtaining permission to represent Stephanie in the disciplinary proceeding, you meet with Stephanie to plan your strategy. One of the things that the two of you decide to do is to have Stephanie offer “testimony” in the disciplinary proceeding. The plan would be to have Stephanie say (1) that she is a disorganized and sloppy person; (2) that, when she prepared her draft article, she incorporated a number of different things into it, including many quotations for which she did give proper attribution and some “mini-drafts” that she had written along the way; and (3) that when she incorporated the materials that are the subject matter of the investigation, she mistakenly and sloppily, but not intentionally, thought that they had come from some of the “mini-drafts” that she herself had written earlier.

In a subsequent meeting with Stephanie, she tells you (confidentially) that she is guilty of the charge. She admits that she incorporated textual and footnote materials from the other articles into her draft, without attribution, knowing that this amounted to plagiarism. Stephanie tells you, as well, that she is very upset, because if she is found to have been guilty of plagiarism, she fears that this would eventually be reported to bar admission authorities, and she would not be permitted to sit for the bar exam.

SYNOPSIS: *You agree to represent a fellow student in a plagiarism charge for an article submitted for a law review competition. Shortly after, she tells you that she is guilty but fears that this would be reported to the bar admission authorities and she would not be able to sit for the bar exam.*

POSSIBLE QUESTIONS:

1. What advice do you have for Stephanie at this point?
2. Should you continue to “represent her”?
3. Regardless of whether or not you continue to represent her, should you disclose her “confession” to law school authorities?

PROBLEM #6

Matt and John are first year law students and roommates. In October, they attend the Harvest Moon Ball. Matt drives them both to the ball in his car. Over the course of the evening, both of them have a great deal of alcohol to drink.

After midnight, they decide to go home. John asks Matt if he is “OK” to drive. Matt assures him that he is fine. A short distance from the bar, Matt runs a red light. He is pulled over by a watchful police officer. The officer detects the odor of alcohol, conducts sobriety tests, and arrests Matt for drunk driving.

Matt subsequently pleads nolo contendere to the charge. His license is suspended and he pays a substantial fine.

SYNOPSIS: *A law student is caught driving under the influence of alcohol.*

POSSIBLE QUESTIONS:

1. Should Matt confess this to the Dean of the law school? Why? What are the likely consequences if he does? If he does not?
2. Will Matt have to report this incident to the bar examiners? What are the likely consequences? If he does? If he does not?
3. Does John have any obligation as a fellow law student to report Matt’s conduct? To the Dean? To the bar?
4. How do you think the law school should respond when a law student is arrested? Pleads nolo contendere to a crime? Should there be an institutional response at all?

PROBLEMS OF THE LAWYER IN PRACTICE

PROBLEM #7

You've been hired to represent a defendant in a lawsuit and you've already been in touch with the plaintiff's attorney to let her know of your representation. You're in your office one day waiting for plaintiff's attorney to e-mail you a draft of a proposed consent order for your review. An e-mail from plaintiff's attorney's assistant arrives shortly before you step into a last minute marketing meeting. While rushing to the conference room, you ask your assistant to forward the e-mail and its attachment to your client for review.

Unbeknownst to you, however, plaintiff's attorney's assistant mistakenly e-mailed you the wrong attachment; the document she sent is actually a memorandum assessing plaintiff's case and the attorney's strategy against you. When you call your client after the meeting, he is ecstatic that you've been able to secure a document addressing each of the weaknesses in the case. Assume that you are going to have to inform the opposing attorney of your mistaken receipt of the e-mail and that she will ask you to delete or destroy all copies and that you not use the information contained in the message.

SYNOPSIS: *You receive an email from the plaintiff's attorney. You are rushing to a meeting and without looking at it, you ask your assistant to forward it to your client. Unbeknownst to you, they emailed you the wrong attachment and sent you a memo assessing the plaintiff's case and the attorney's strategy against you.*

POSSIBLE QUESTIONS:

1. If you refuse the opposing attorney's request, what effect do you believe the refusal will have in how this litigation is conducted? Is that a relevant subject for discussion with your client?
2. If you refuse the opposing attorney's request, what effect do you believe the refusal will have on your relationship with her in future cases? Is that a relevant subject for discussion with your client?
3. What if the opposing attorney is a good friend who might lose her client or her job as a result of this mistake? Would that be relevant to your discussion with your client?
4. If you refuse the opposing attorney's request, what effect do you believe the refusal will have on your reputation in the legal community or with the court? Are either or both of those relevant subjects for discussion with your client?
5. How, if at all, would you handle this situation differently if the e-mail revealed that your adversary was planning or implementing an unethical strategy in the case?
6. How, if at all, would your discussion with the client be different if the client was an important source of business for your firm, and the client felt strongly about using the information in the e-mail?
7. What if you and your client just cannot reach an agreement about what to do?

PROBLEM #8

You have a criminal trial practice. A client comes in and tells you she has just made bond on a theft by conversion charge, which is based on her having embezzled nearly \$170,000 from her employer. She admits that she has taken some company funds, but says that she cannot have taken more than about \$60,000 over the last year. She claims other employees were also taking money, but they have neither been accused nor arrested. After making the explanation of how she took the funds, and having looked at the arrest warrant, you conclude that the allegations will never be proved (they know she did it, but they aren't sure how or when, etc.; the arrest is intended to be coercive and tempt her to plead guilty) and she can very likely never be convicted. She explains to you that she has an alcoholic husband who doesn't work, and two children in college, and that she simply needed the money to live on and pay expenses.

Based on the above, you decide you will represent her, but quote a retainer of ten thousand dollars, halfway hoping that she will not be able to hire you. She writes you a check for \$5,000 and pays you on the spot from her purse the \$5,000 balance. The money has to be part of the proceeds of the theft.

SYNOPSIS: *You are hired to represent a criminal defendant who pays you in cash, apparently with the proceeds of the crime.*

POSSIBLE QUESTIONS:

1. Should you take the money, the case and the client?
2. Suppose your proposed client is a long-haired, tattooed, motorcycle-riding young man. He has no visible means of support. He is charged with selling crack cocaine. He pays you your \$5,000 retainer in cash, obviously drug-sale proceeds. Do you take the money, the case and the client?
3. Suppose your female embezzler is accused of taking only \$4,400. She pays you a thousand dollar retainer, but you're still sure it's part of the loot. Do you take the money, the case and the client?

PROBLEM #9

You are a criminal defense attorney with a modest practice. In addition to your private practice, you have contracted with the Superior Court in your county to accept appointed criminal cases for a flat annual remuneration. You get about five cases each month, sixty a year, and the contract price usually works out to about half your hourly rate, but it is a steady check each month. Any cases in which you have or may have conflicts can be returned to the law clerk for assignment to another of the contract attorneys without question (your statement that there is a conflict is always accepted). The contract for appointed cases provides about 25% of your gross practice income.

On a visit to the courthouse you check your box and find a notice that you have been appointed in a serious felony case that has been widely reported in the press. You realize that this means some good public relations and notoriety if you successfully represent this client. You know something more about the case because you have another client who knows the alleged victim and you have already begun to think of defenses and ways to meet the prosecutor's case. You think you can win acquittal for your client based on the facts. You take the notice back to your office, thinking that you will stop by the jail later in the day to interview this new client.

On returning to your office, your secretary greets you with a big smile and hands you a signed retainer agreement (needing only your signature to make it complete) and a check for \$25,000, left by the father of the co-defendant in the same case as a retainer, hiring you to represent his son. You have spoken to neither client, and have not agreed to represent the man's son. You can use the \$25,000. The press coverage will be the same regardless of which defendant you represent.

SYNOPSIS: *You have the opportunity to represent a paying client in a criminal case for which you have received notice of appointment as counsel for an indigent defendant.*

POSSIBLE QUESTIONS:

1. Have you any obligation, ethical or professional, to represent one client rather than the other?
2. What, if anything, will you volunteer to the clerk about the reason for declining the appointment?
3. What will you say if you are asked by the judge why you declined the appointment?

PROBLEM #10

You are the attorney for Blower & Mower, Inc., (B & M) which manufactures push and riding lawn mowers. Andy is severely injured by a lawn mower manufactured by B & M. He hires his brother-in-law Paul to handle his case, which is a very strong one. Paul has a serious cocaine problem, something which is known to you and many other local attorneys, but apparently not to Andy. Paul spends a great deal of his time high, and spends little time preparing for his cases. Andy has hired Paul on a contingency basis, meaning Paul gets 30-40% of whatever Andy wins.

Just before the last scheduled pre-trial conference, Paul panics and comes over to offer to settle with B & M for an amount you know to be far too low considering Andy's injuries and the strength of his case. Paul seems clearly under the influence of some intoxicants at this meeting, but B & M is so excited at getting off the hook so cheaply that the company insists that you take the deal. B & M refuses to allow you to report Paul to the bar association or to the judge for fear that the court might upset the settlement. What should you do?

SYNOPSIS: *Your opposing attorney is apparently high on intoxicants and proposes a settlement amount that is far too low. Your corporate client doesn't want you to report the other attorney to the Bar.*

POSSIBLE QUESTIONS:

1. Do you think that you have to report it when an attorney is doing anything illegal, or just things that clearly affect his representation of his client?
2. Why couldn't you just talk to the other attorney about it or tell his client?
3. If the rules say you have to report it, but your client tells you not to report it, which one wins out in the end?

OPTIONAL HYPOTHETICAL DISCUSSION (3) (If time permits)

PROBLEMS OF BEING A LAW STUDENT

PROBLEM #11

At the end of his first semester, Dan was pleased to find that his grades place him in the top 20% of his class. He therefore prepared a resume reflecting that class rank and sent it out to many possible employers during the spring semester. Primarily on the strength of his grades, Dan got a summer job offer from a large law firm. Unfortunately because of a minor car accident, during the spring exam period, he missed two of his final examinations. Over the summer, he took the two examinations and sadly did very poorly. His cumulative average dropped so that he is now only in the top 40% of his class.

SYNOPSIS: You get a summer job with a large law firm based on the fact that your grades placed you in the top 20% of your class. Because of a car accident you have to make up your last two final exams and do very poorly. This causes your cumulative average to drop and places you in the top 40% of your class.

POSSIBLE QUESTIONS:

1. Dan's summer employer is considering him as a possible future associate. Is Dan obliged to tell them about his new class rank?
2. Suppose the two grades aren't reported until Dan has already dropped resumes for the fall interview season and he has reported his cumulative average and class rank without reference to the missing grades. Is he obliged to withdraw his resume from any employer? To decline interviews with the highly selective firms? To notify any firms that are considering him of his new cumulative average?
3. Would your answer be different if Dan had indicated on his resume that his cumulative average was "incomplete"?

PROBLEMS OF THE LAWYER IN PRACTICE

PROBLEM #12

A Connecticut teenager, John Smith, is killed in an accident while driving his Biggy 4x4 truck in Atlanta, Georgia. You represent Biggy Automobile Manufacturer, Inc., defendant in the multimillion-dollar lawsuit brought by Smith's parents. You have legitimate doubts about the claims brought by the plaintiffs, and you believe the plaintiff's litigation strategy appears to make settlement the less-costly option compared to your client's legal fees.

During the course of pre-trial investigations, the plaintiffs schedule a deposition of Bart Jones, a witness having knowledge of the automobile's design, for 9:00 a.m. Monday. You will be present at the deposition as standard practice to represent your client and make any necessary objections. Your offices are in Atlanta, and you will have to fly in very early Monday morning to attend the deposition in New York City.

You spend much of Sunday afternoon reviewing materials that may be used in the deposition. Early Monday morning you fly to New York. You wait with Bart Jones, but counsel for the plaintiff never appears. You e-mail and call plaintiff's counsel but hear nothing back. After three hours of waiting, the witness decides to leave and at that point, you leave as well.irate, you plan your motion for sanctions against the plaintiff, in which you will seek attorney's fees and your travel expenses, and also ask for dismissal of the complaint to end the plaintiff's case.

You step off the plane and find a voice mail on your cell phone left mid-flight by the secretary for plaintiff's counsel. In the late night the day before, the plaintiff's counsel received a call saying his daughter has been in a serious auto accident in South Georgia and that he may be needed for a blood transfusion. Plaintiff's counsel called his secretary but was unable to leave a message. Plaintiff's counsel then left a message on his answering machine at his office explaining what had happened and asking his secretary to let you know that he would not make the deposition, and that he wanted to reschedule. His secretary, however, had been delayed and did not check messages until 11:30 a.m.; by that time you had already flown in, sat at the deposition location for several hours, and then left.

SYNOPSIS: *You fly into New York for a deposition and the plaintiff's attorney doesn't show. You find out when you return that the attorney was called away on an emergency at the last minute.*

POSSIBLE QUESTIONS:

1. Would you still file the motion for sanctions?
2. What would you do if your client, Biggy, insisted that you file a motion for sanctions?

PROBLEM #13

You represent a client in a civil matter in a county in which you and the client are the same race as the majority of the judges, court personnel and lawyers. The opposing client and his attorney are of a different race. You have been through discovery and are now about to go to trial. In the hallway of the courthouse on the day of trial, you stop for a drink of water at the fountain outside the judge's chambers. As you turn around, the judge, who is the same race as you and your client, approaches his private entry door, and, pausing there, winks at you and says, "don't worry; we're not gonna let these people get anywhere with this." You understand clearly that he intends to do whatever he can to favor your client because of your client's race.

SYNOPSIS: *You have reason to believe that you are about to be the beneficiary of a judge's racial prejudice in a civil case.*

POSSIBLE QUESTIONS:

1. Should you do anything about the judge's remark when the case is called for trial five minutes later?
2. What if the judge's apparent prejudice was against the religion or sex of the opposing party or counsel?
3. What if the judge indicated a bias against an adversary who was from out of town?

A LAWYER'S CREED

To my clients, I offer faithfulness, competence, diligence, and good judgement. I will strive to represent you as I would want to be represented and to be worthy of your trust.

To the opposing parties and their counsel, I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

To the courts, and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship.

To the profession, I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.

To the public and our systems of justice, I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990;
Part IX of the Rules and Regulations of the State Bar of Georgia*

ASPIRATIONAL STATEMENT ON PROFESSIONALISM

The Court believes there are unfortunate trends of commercialization and loss of professional community in the current practice of law. These trends are manifested in an undue emphasis on the financial rewards of practice, a lack of courtesy and civility among members of our profession, a lack of respect for the judiciary and for our systems of justice, and a lack of regard for others and for the common good. As a community of professionals, we should strive to make the internal rewards of service, craft, and character, and not the external reward of financial gain, the primary rewards of the practice of law. In our practices we should remember that the primary justification for who we are and what we do is the common good we can achieve through the faithful representation of people who desire to resolve their disputes in a peaceful manner and to prevent future disputes. We should remember, and we should help our clients remember, that the way in which our clients resolve their disputes defines part of the character of our society and we should act accordingly.

As professionals, we need aspirational ideals to help bind us together in a professional community. Accordingly, the Court issues the following Aspirational Statement setting forth general and specific aspirational ideals of our profession. This statement is a beginning list of the ideals of our profession. It is primarily illustrative. Our purpose is not to regulate, and certainly not to provide a basis for discipline, but rather to assist the Bar's efforts to maintain a professionalism that can stand against the negative trends of commercialization and loss of community. It is the Court's hope that Georgia's lawyers, judges, and legal educators will use the following aspirational ideals to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct. The Court feels that enhancement of professionalism can be best brought about by the cooperative efforts of the organized bar, the courts, and the law schools with each group working independently, but also jointly in that effort.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of
the Rules and Regulations of the State Bar of Georgia*

GENERAL ASPIRATIONAL IDEALS

As a lawyer, I will aspire:

- (a) To put fidelity to clients and, through clients, to the common good, before selfish interests.
- (b) To model for others, and particularly for my clients, the respect due to those we call upon to resolve our disputes and the regard due to all participants in our dispute resolution processes.
- (c) To avoid all forms of wrongful discrimination in all of my activities including discrimination on the basis of race, religion, sex, age, handicap, veteran status, or national origin. The social goals of equality and fairness will be personal goals for me.
- (d) To preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good.
- (e) To make the law, the legal system, and other dispute resolution processes available to all.
- (f) To practice with a personal commitment to the rules governing our profession and to encourage others to do the same.
- (g) To preserve the dignity and the integrity of our profession by my conduct. The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.
- (h) To achieve the excellence of our craft, especially those that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.
- (i) To practice law not as a business, but as a calling in the spirit of public service.

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SPECIFIC ASPIRATIONAL IDEALS

As to clients, I will aspire:

- (a) To expeditious and economical achievement of all client objectives.
- (b) To fully informed client decision-making. As a professional, I should:
 - (1) Counsel clients about all forms of dispute resolution;
 - (2) Counsel clients about the value of cooperation as a means towards the productive resolution of disputes;
 - (3) Maintain the sympathetic detachment that permits objective and independent advice to clients;
 - (4) Communicate promptly and clearly with clients; and,
 - (5) Reach clear agreements with clients concerning the nature of the representation.
- (c) To fair and equitable fee agreements. As a professional, I should:
 - (1) Discuss alternative methods of charging fees with all clients;
 - (2) Offer fee arrangements that reflect the true value of the services rendered;
 - (3) Reach agreements with clients as early in the relationship as possible;
 - (4) Determine the amount of fees by consideration of many factors and not just time spent by the attorney;
 - (5) Provide written agreements as to all fee arrangements; and
 - (6) Resolve all fee disputes through the arbitration methods provided by the State Bar of Georgia.
- (d) To comply with the obligations of confidentiality and the avoidance of conflicting loyalties in a manner designed to achieve the fidelity to clients that is the purpose of these obligations.

As to opposing parties and their counsel, I will aspire:

- (a) To cooperate with opposing counsel in a manner consistent with the competent representation of all parties. As a professional, I should:
 - (1) Notify opposing counsel in a timely fashion of any canceled appearance;
 - (2) Grant reasonable requests for extensions or scheduling changes; and,
 - (3) Consult with opposing counsel in the scheduling of appearances, meetings, and depositions.

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- (b) To treat opposing counsel in a manner consistent with his or her professional obligations and consistent with the dignity of the search for justice. As a professional, I should:
 - (1) Not serve motions or pleadings in such a manner or at such a time as to preclude opportunity for a competent response;
 - (2) Be courteous and civil in all communications;
 - (3) Respond promptly to all requests by opposing counsel;
 - (4) Avoid rudeness and other acts of disrespect in all meetings including depositions and negotiations;
 - (5) Prepare documents that accurately reflect the agreement of all parties; and
 - (6) Clearly identify all changes made in documents submitted by opposing counsel for review.

As to the courts, other tribunals, and to those who assist them, I will aspire:

- (a) To represent my clients in a manner consistent with the proper functioning of a fair, efficient, and humane system of justice. As a professional, I should:
 - (1) Avoid non-essential litigation and non-essential pleading in litigation;
 - (2) Explore the possibilities of settlement of all litigated matters;
 - (3) Seek non-coerced agreement between the parties on procedural and discovery matters;
 - (4) Avoid all delays not dictated by a competent presentation of a client's claims;
 - (5) Prevent misuses of court time by verifying the availability of key participants for scheduled appearances before the court and by being punctual; and
 - (6) Advise clients about the obligations of civility, courtesy, fairness, cooperation, and other proper behavior expected of those who use our systems of justice.
- (b) To model for others the respect due to our courts. As a professional I should:
 - (1) Act with complete honesty;
 - (2) Know court rules and procedures;
 - (3) Give appropriate deference to court rulings;
 - (4) Avoid undue familiarity with members of the judiciary;
 - (5) Avoid unfounded, unsubstantiated, or unjustified public criticism of members of the judiciary;
 - (6) Show respect by attire and demeanor;
 - (7) Assist the judiciary in determining the applicable law; and,
 - (8) Seek to understand the judiciary's obligations of informed and impartial decision-making.

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As to my colleagues in the practice of law, I will aspire:

- (a) To recognize and to develop our interdependence;
- (b) To respect the needs of others, especially the need to develop as a whole person; and,
- (c) To assist my colleagues become better people in the practice of law and to accept their assistance offered to me.

As to our profession, I will aspire:

- (a) To improve the practice of law. As a professional, I should:
 - (1) Assist in continuing legal education efforts;
 - (2) Assist in organized bar activities; and,
 - (3) Assist law schools in the education of our future lawyers.
- (b) To protect the public from incompetent or other wrongful lawyering. As a professional, I should:
 - (1) Assist in bar admissions activities;
 - (2) Report violations of ethical regulations by fellow lawyers; and,
 - (3) Assist in the enforcement of the legal and ethical standards imposed upon all lawyers.

As to the public and our systems of justice, I will aspire:

- (a) To counsel clients about the moral and social consequences of their conduct.
- (b) To consider the effect of my conduct on the image of our systems of justice including the social effect of advertising methods.
- (c) To provide the pro bono representation that is necessary to make our system of justice available to all.
- (d) To support organizations that provide pro bono representation to indigent clients.
- (e) To improve our laws and legal system by, for example:
 - (1) Serving as a public official;
 - (2) Assisting in the education of the public concerning our laws and legal system;
 - (3) Commenting publicly upon our laws; and,
 - (4) Using other appropriate methods of effecting positive change in our laws and legal system.

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OATH OF ADMISSION TO THE STATE BAR OF GEORGIA

“I, _____, swear that I will truly and honestly, justly and
Attorney's Name
uprightly conduct myself as a member of this learned profession and in
accordance with the Georgia Rules of Professional Conduct, as an attorney
and counselor and that I will support and defend the Constitution of the
United States and the Constitution of the State of Georgia. So help me
God.”

As revised by the Supreme Court of Georgia, April 20, 2002



Atlanta Bar Association Lawyers' Pledge

Adopted by the Atlanta Bar Association Board of Directors
December 5, 1996

As a member of the Atlanta Bar Association, I pledge to conduct myself in a manner that will reflect honor upon the legal profession.

I will treat all participants in the legal process with civility.

In every aspect of my practice, I will be honest, courteous and fair.