

BAR ASSOCIATION

The Magazine For The Legal Professional

Leadership is lifting a person's vision to higher sights, the raising of a person's performance to a higher standard, the building of a personality beyond its normal limitations.

— Peter F. Drucker



Seymour Gordon – 2005-2006

St. Pete Bar President

Pamela D. Cichon

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Professionalism: The Three Duties

Justin R. Zinzow

•

Rejuvenate Your Life....Run a Marathon!

John V. Tucker

•

**Legal Leaders in Training
Elementary Students Hold Mock
Trials for Law Week**

James D. Thaler, Jr.



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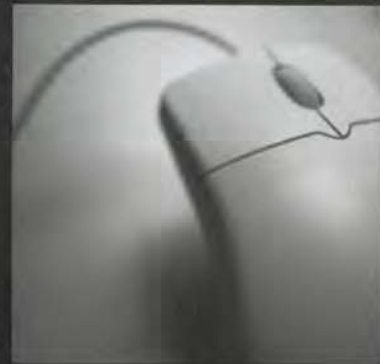
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Professionalism: The Three Duties

First of a two-part article.

By Justin R. Zinzow



I *Professionalism as a Problem in the Legal Profession*

Education, dedication, and discipline: these are the core values of every professional. Over the past decade, the word, "professionalism" has seemingly become a meaningless concept. Some commentators argue that this is especially true in the legal profession. Florida has recently added several law schools, and with the number of new lawyers on the rise, it has become increasingly important to revitalize the concept of professionalism. Professionalism consists of three related duties: the duty to teach, the duty to serve, and the duty to improve. This article will be published in two parts, the first of which discusses the concept of professionalism and teaching the concept of professionalism. The second part will discuss the duty to engage in pro bono services and the duty to advocate for improvement of the law.

II *The Solution: The "Concept" of Professionalism*

I once heard a professor disparagingly say that ethics cannot be successfully taught to college students because if they do not know it by now, it cannot be taught to them. Such a statement reflects the negative personal attitude of many persons in the "teacher's role." The teacher's role is to open students to learning so that those students may later teach themselves. This kind of teaching is not limited to lecturing. Instead, the concept of "education" simply means teaching a person how to develop the

ability, interest and habit of learning, so that the person can develop himself or herself. The reason one needs to "learn how to learn" is that there is no one rule or societal norm that can be strictly applied to every situation. People must learn how to adapt the norms and ethical standards they have read from a textbook to the ever-changing ethical dilemmas one faces in life. So who must teach ethical responsibility? The answer, seemingly sarcastic, is teachers. The noun, teacher, is derived from the verb, to teach. The New Oxford American Dictionary defines the word teach as to "induce someone by example or punishment to do or not to do something." It would be close-minded to think that the only teachers are professional instructors. In reality, all of us are "teachers" in one sense or another, so we must all be dedicated and disciplined in our education practices.

A. *Teaching the Concept of Professionalism*

Dedication and discipline play central roles in the concept of professionalism. These core values are integral to being an uncompromising role model. Every day, voluntarily or not, every person teaches by example. A role model must treat others with the highest respect even when the courtesy is not returned. An individual who leads by example will elevate the professionalism of those around him or her. It seems simple because, after all, written rules of professional responsibility regulate lawyers and law students. But rules are no more than minimum guidelines. Lawyers should aspire

to hold themselves to a level of conduct that far exceeds the minimum standards.¹

Although many students and practitioners can proudly say that they have exceeded many of the minimum standards, their duty to exceed remains. The concept of professionalism is a continuing one. It does not matter what has been done in the past. A lifelong pursuit of a career dedicated to professionalism is what truly matters.

While the concept of professionalism is simple, application of it often is not because the true test of integrity is in the face of adversity. It seems as though the most ethically trying times are the times in which a great deal of self-interest is at stake. A true professional is one who looks temptation in the eye and rejects it. This professionalism philosophy should be advocated by all law students, lawyers, and judges, by virtue of writing on the subject and by virtue of developing and implementing a comprehensive education plan.

1. *Education in the Legal Profession*

Setting an example for law students should be an important goal for lawyers, since today's students are tomorrow's legal professionals. Law school is a type of intellectual boot camp, so it is important to strip law students of pre-programmed fallacies and build core concepts of honor, duty, and integrity. One admirable goal would be to facilitate this by mentoring law students throughout their law school career. As many law students work for

law firms during the summers, lawyers will have extensive opportunities to help develop professionalism in students, and ultimately, in lawyers and judges.

2. Teaching Professionally

Teaching the concept of professionalism in the classroom should not be limited to professional responsibility courses. Instructors can and should find ways to incorporate ethical issues into lesson plans and to discuss practical problem exercises on a weekly basis. After all, professionalism issues are not encountered in a vacuum. In summary, the concept of professionalism is an important one. Every law student, lawyer, and judge should strive to surpass the minimum standards of the profession. Leading by example and instilling values in the youth of the profession will create an atmosphere that is ripe with honor, duty, and integrity. In part two of this article, the

companion duties of pro bono services and improvement of the law will be discussed.

¹After all, the Creed of Professionalism provides that, in addition to adhering to the letter and spirit of the professional code of ethics, lawyers "will at all times be guided by a fundamental sense of honor, integrity, and fair play." Rules Regulating the Florida Bar (2001).

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Professionalism: The Three Duties

Part two of a two-part article.

By Justin R. Zinzow

II The Solution: The "Concept" of Professionalism

In part one of this article (July/August *Paraclete*) the importance of professionalism in the legal profession was discussed. The three element duties of professionalism were outlined, with the first duty, teaching the concept of professionalism, being analyzed. This second and final part of the article will discuss the two remaining duties: the duty of service and the duty of improvement.

B. Professionalism Includes the Duty to Engage in Pro Bono Services: A Duty of Service

Another element of professionalism, which is somewhat unique to legal services, is the duty to undertake pro bono activities. Being a lawyer is a privilege, not a right. Law students and lawyers, unlike so many others, are given the opportunity to learn a specialized legal skill that is integral to the continued vitality of society. Truly professional lawyers will be compassionate to the needs of people less fortunate: people who have nowhere else to turn, people who need a helping hand. It is a lawyer's duty to advocate for, not only those who can afford it, but for those who cannot. The lawyer's duty is to protect those who cannot protect themselves. Every lawyer should continue donating legal services to people who are less fortunate.

C. A Professional Must Advocate for Continuous Improvement of the Law and Society: the Duty of Improvement

The legal profession could not properly function without law. So often, large gaps exist in the law, and many people fall through the cracks. It seems that the majority of people who are

wronged have no remedy. Yet on other occasions, the law provides a remedy where none is needed. All too often, plaintiffs receive a windfall despite their own wrongdoing, ultimately causing an abundance of frivolous lawsuits that clog the legal system and prevent the courts from effectively and efficiently entertaining important claims. But even in those cases where there is a remedy, and that

**A legal system
designed to protect
individual rights
should consist of
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remedy is justified, it is merely reactive in nature, and cannot fully restore the rights of the individual. In theory, many of the laws in existence protect individual rights by punishing those who invade those rights. However, neither money nor incarceration can bring back one's sense of serenity that was stolen by another. Therefore, a legal system designed to protect individual rights should consist of proactive components.

This proactive approach must be strongly and persistently advocated to legislative bodies. As lawyers we have been endowed with the skills necessary to make us persuasive advocates for human rights. It is our duty to use these skills to advocate for, not only our own clients, but for society as a whole. It is also important that lawyers seek to become elected policymakers within legislative bodies. Every lawyer should seek to protect individual liberties by molding and creating law. As policymakers, lawyers would be able to devote their time entirely to serving the

people by drafting and advocating bills that are more proactive and protective than those already in existence.

III Conclusion

In conclusion, the concept of professionalism encompasses more than just following minimum standards. The concept of professionalism includes the duty to educate, the duty to give back to the community, and the duty to advocate for continuous improvement of the law and society. Advocating the concept of professionalism to lawyers and law students will impact a class, which is inclusive not only of those persons, but society as a whole. Lawyers are placed in a position of trust. It is the lawyer's duty to ensure that the letter and spirit of the law created by the legislature and enforced by the judiciary is upheld. Lawyers, judges, and legislators are defenders of our liberty, our privacy, or right to free speech, and freedom of religion. The importance of the law, those who create it, and those who uphold it, is clear when one looks at the effect a single legal dispute has on the entire country. A perfect example of the importance of the legal profession is *Brown v. Board of Education*, where just a handful of lawyers advocated desegregation to a panel of judges on the United States Supreme Court, and thereafter, the culture of this country was changed forever. As Thomas Hobbes discussed in *Leviathan*, without the law, and the people who uphold it, there would be anarchy. It is imperative that law students, lawyers and judges hold themselves to a higher standard than that required by the law; a standard of true professionalism.

¹ Some commentators cite the well-publicized McDonalds lawsuit to support this contention, although as the authors of

the cited article contend, the suit had more merit than the media portrayed. O'Brien, Shafner, Stuart, Kelly & Morris, P.C., The MCDONALDS Coffee Cup Case - - Separating The McFACTS From The McFICTION (November 1999). (holding that a customer who burned herself with hot coffee was entitled to \$ 640,000 in damages).

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If you would like to respond to Justin Zinzow's opinion or any other portion of Paraclete, please e-mail your comments to the Editor at erisa@andersontucker.com.



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