

Code of Professionalism

The legal profession is a learned calling. As such, lawyers should act with honesty and integrity and be mindful of our responsibility to the judicial system, the public, our colleagues, and the rule of law. We, as lawyers, should always aspire to the highest ideals of our profession.

- MY WORD is my bond.
- I WILL conduct myself with honesty, dignity, civility, courtesy and fairness and will not engage in any demeaning or derogatory actions or commentary toward others.
- I WILL NOT knowingly make statements of fact or law that are untrue or misleading and I will clearly identify for other counsel changes I have made in documents submitted to me.
- I WILL be punctual in my communication with clients, other counsel and the court. I will honor scheduled appearances and will cooperate with other counsel in all respects.
- I WILL allow counsel fair opportunity to respond and will grant reasonable requests for extensions of time.
- I WILL NOT abuse or misuse the law, its procedures or the participants in the judicial process.
- I WILL cooperate with counsel and the court to reduce the cost of litigation and will not file or oppose pleadings, conduct discovery or utilize any course of conduct for the purpose of undue delay or harassment of any other counsel or party.
- I WILL NOT engage in personal attacks on other counsel or the court or use the threat of sanctions as a litigation tactic.
- I WILL support my profession's efforts to enforce its disciplinary rules and will not make unfounded allegations of unethical conduct about other counsel.
- I WILL work to protect and improve the image of the legal profession in the eyes of the public.
- I WILL endeavor to improve our system of justice.
- I WILL use technology, including social media, responsibly. My words and actions, no matter how conveyed, should reflect the professionalism expected of me as a lawyer.
- I WILL seek opportunities to be of service to the bench and bar and assist those who cannot afford legal help.
- I WILL be supportive of new members in the profession.
- I WILL stay informed about changes in the law, communication, and technology which affect the practice of law.

Following approval by the Louisiana State Bar Association House of Delegates and the Board of Governors at the Midyear Meeting, and approval by the Supreme Court of Louisiana on Jan. 10, 1992, the Code of Professionalism was adopted for the membership. This revised Code, a product of the LSBA Committee on the Profession, was approved by the LSBA HOD in January 2018 and approved by the LA Supreme Court in March 2018.



Serving the Public. Serving the Profession.

LSBA and Louisiana Supreme Court Update Attorney Code of Professionalism

By Alicia M. Bendana

The Louisiana State Bar Association's (LSBA) Professionalism and Quality of Life Committee began drafting Louisiana's first attorney Code of Professionalism¹ in 1991. The LSBA's House of Delegates and Board of Governors approved the first Code at its Midyear Meeting the following year, and, on Jan. 20, 1992, the Louisiana Supreme Court adopted it.

In 2017, the LSBA's Committee on the Profession, under the leadership of current LSBA President Barry H. Grodsky, formed a subcommittee to revisit, update and modernize the 26-year-old Code of Professionalism. At the outset, the subcommittee agreed it would not rewrite the Code and would style any additions or changes to conform with the existing language in the Code. The subcommittee conducted numerous meetings to discuss current challenges to attorneys, the judicial system and the image of the legal profession. After numerous drafts, the subcommittee agreed on a final draft of an amended Code. The LSBA's House of Delegates and Board of Governors approved the proposed amended Code at the LSBA's Midyear Meeting in January 2018 and the Louisiana Supreme Court adopted the amended Code of Professionalism, as written, on April 11, 2018.

The Code now, as before, represents aspirational goals for Louisiana attorneys who seek to implement and maintain standards of civility and professionalism that exceed the minimum mandated by the Louisiana Rules of Professional Conduct. A "redline" of the LSBA's new amended Code of Professionalism is below. All new

language is underlined and any revised or updated pledges are in *italics*.

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In 1997, the Louisiana Supreme Court amended its Rules for Continuing Legal Education to require that every Louisiana lawyer attend at least one hour of professionalism CLE each year. Attorneys have been taking professionalism courses on essentially the same professionalism topics for the past 20 years. The new amended Code opens up a number of additional topics related to attorney professionalism which the Committee on the Profession hopes will inspire education, discussion and action. Some of the new changes to the Code include the following.

Preamble: The Law is a Profession

The new preamble to the Code stresses that the law is a profession and that “we, as lawyers, should always aspire to the highest ideals of our profession.” The preamble identifies the core characteristics of the professional attorney as honesty and integrity and stresses the professional attorney’s responsibility to the judicial system, the public, colleagues and the rule of law. The new Code encourages attorneys to promote and commit to civility in their professional lives and to work to restore greater civility to the profession.²

Inclusive Thinking

The new Code establishes an aspirational goal for lawyers to be mindful of refraining from actions or commentary that would be considered demeaning or derogatory toward others. This concept of inclusive thinking goes beyond the boundaries of anti-discrimination and hopes to inspire attorneys to consider and incorporate alternative perspectives, experiences, values, expectations and modes of thought before speaking and taking action.

Cooperation

The Bar understands that attorneys must be zealous advocates for their clients, and, especially in high-stakes litigation, opportunities for cooperation do not always present themselves. Attorneys in adversarial situations should, however, challenge themselves to look for opportunities for cooperation, communication, compromise and search for creative solutions. A “scorched earth” approach in litigation and negotiation can be counter-productive as such an approach costs clients money and frequently diverts attorneys’ time, energy and focus away from what, oftentimes, amounts to a smaller number of genuine and relevant disputed facts or issues. Likewise in transactional matters, adversaries who are pushed too hard may refuse to agree to deal points “on principle” despite the fact that such concessions may cost the party nothing and create goodwill which will facilitate deal closing.³

Public Image of the Legal Profession

The public’s perception of, and faith in, the legal profession is waning. There is a need to preserve the image of the legal profession in the eyes of the public and to support programs and activities that educate the public about the law and the legal system. Attorneys should aspire to conduct themselves in a manner that will encourage trust of the legal profession by members of the public. Attorneys should also be mindful of their obligation to enhance the image of the legal profession in all of their professional activities and be so guided in comments about the judiciary, opposing counsel or the members of any other profession, and in the methods and contents of advertising and public communications.

Improve System of Justice

As a self-governing legal community, attorneys should always seek to improve the law and to improve access to, and the administration of, justice. The hope is that the new Code will inspire Louisiana attorneys to work with judges and other members of the bar to strive to make the legal system more accessible, affordable and responsive to all.

Social Media

The American Bar Association’s Legal Technology Resource Center surveys individual attorneys’ and law firms’ use of blogging and social media. The following statistics from the Center’s 2016 Legal Technology Survey Report reveal a majority of attorneys and law firms now use social media for professional purposes:⁴

▶ 74 percent reported that their firms have a presence on social media (only 26 percent do not).

▶ 76 percent reported individually using social media for professional purposes (only 24 percent do not).

▶ 78 percent report that their firms maintain a presence on LinkedIn (only 22 percent do not).

▶ More than 85 percent report that

they individually maintain a presence on LinkedIn for professional use (less than 15 percent do not).

This was not the case 20 years ago. The new Code introduces the concept of *e*Professionalism, defined as the application of professionalism to an attorney’s Internet activities. Beyond the firm website and use of LinkedIn (a professional networking social media platform), attorneys are now communicating for professional purposes through blogging, Facebook and Twitter. Because some of these social media platforms were originally developed and used for personal communications, attorneys focused on professionalism should be mindful about drawing a distinction between private and public communications on such platforms as those lines are not always clear.⁵

Pro Bono and Public Service

The new Code recommends that attorneys seeking to deepen their commitment to professionalism look for opportunities to provide pro bono services to those in need. While there are many ways that private citizens, including attorneys, can serve the public interest, only attorneys can provide legal representation to the indigent. Notwithstanding the primary benefits of assisting the poor and improving the system of justice, attorneys who do pro bono work often report a number of professional and personal benefits including gaining additional experience, education, increased recognition and personal satisfaction.⁶ Moreover, additional incentive exists for pro bono service in Louisiana. Currently, Louisiana attorneys must earn 12.5 hours of CLE credit each year to maintain their law licenses. In March 2015, the Louisiana Supreme Court announced Rule XXX, Rule 3, Regulation 3.21 which went into effect May 1, 2015. The Rule states that attorneys who provide pro bono legal representation “shall receive one (1) hour of CLE credit for each five (5) hours of pro bono representation, up to a maximum of three (3) hours of CLE credit for each calendar year.”⁷

Mentorship

As all experienced attorneys know, law school does not fully prepare new attorneys for the practice of law. Beyond what can be learned in books, new attorneys must learn the most effective ways of advocating to judges and juries, must learn how to handle themselves around difficult, more experienced opposing counsel, and must learn how to manage difficult clients, all while assessing the value of participating in the local legal community, assisting the less fortunate through pro bono service, and self-monitoring their behavior pursuant to the Rules of Professional Conduct. The new Code does not advocate forced mentoring but rather encourages experienced attorneys to look for opportunities to assist new attorneys navigate the many difficult challenges they will inevitably face as their careers progress. This goal also seeks to instill a professional and service-focused mindset in the new members of the profession.⁸

Continuing Skill Development and Adaptation

Graduating from law school, passing the bar exam, and taking required continuing legal education classes should not be the limit of an attorney's education. The amended Code sets an aspirational goal for attorneys to, over the course of their careers, continually self-evaluate capacities and skills that clients want and need. An attorney's development of skills is a life-long process acquired through stages. Given today's ever-changing legal landscape, attorneys should seek to be comfortable adapting to fast-paced changes in the law, communication and technology.

Conclusion

The practice of law is a profession. As members of that profession, attorneys pursue a common calling in the spirit of public service for the public good. Throughout the history of this country, citizens have looked to the legal profession for leadership and guidance. In approving the above



amendments to Code of Professionalism, the LSBA and the Supreme Court seek to expand attorneys' professionalism goals and reinvigorate discussion, education and action on a broader, more current scope of professionalism topics.

FOOTNOTES

1. Forty-four of the 50 state bar associations, as well as many local bar associations and courts, have adopted voluntary Codes of Professionalism. www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes.html.

2. Resources, Law as a Profession: Neil Hamilton and Verna Monson, "The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law," 24 Geo J. Legal Ethics 137, 140 (2011); Michael B. Greenstein, *On Being a Lawyer of Good Reputation, and Why That Matters* (March 17, 2011), <http://spousealouse.wordpress.com/2011/03/17/on-being-a-lawyer-of-good-reputation-and-why-that-matters/>; Daniel L. Harris and John V. Acosta, "Conduct Counts, On Professionalism: Professionalism for Litigation and Courtroom Practice," 67 Or.St.B.Bull. 40 (2007); Christopher J. Masoner, "The Importance of Perceptions," 75 J. Kan. B.A. 7 (March 2006); Pamela Bucy Pierson, *The Business of Being a Lawyer* (2014); Heather Schlegel, *In Trust We Trust: Why Reputation is the Currency of the Future*, CNN (Sept. 23, 2014), <http://edition.cnn.com/2014/09/23/opinion/in-trust-reputation-currency/>; Fred C. Zacharias, "Effects of Reputation on the Legal Profession," 65 Wash. & Lee L. Rev. 173 (2008).

3. Resources, Cooperation: Robin Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Bruce Patton ed., 3rd ed. 2011).

4. Allison Shields, ABA TECHREPORT 2016, *Blogging and Social Media*, www.americanbar.org/groups/law_practice/publications/techreport/2016/social_media_blogging.html.

5. Resources, Social Media: ABA Legal Tech-

nology Resource Center, *Social Media for Lawyers*, www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/social_media.html. Jared Correia, *Twitter in One Hour for Lawyers* (2012); Dennis Kennedy and Allison C. Shields, *Facebook in One Hour for Lawyers* (2012); Dennis Kennedy and Allison C. Shields, *LinkedIn in One Hour for Lawyers* (2d ed. 2013); Ernie Svenson, *Blogging in One Hour for Lawyers* (2012); Cal. Comm. On Prof'l Responsibility & Conduct, Formal Op. 2012-186 (2012); Col. Bar Ass'n Ethics Comm., Formal Op. 127, *Use of Social Media for Investigative Purposes* (2015); Dist. of Columbia Bar, Op. 370, *Social Media I: Marketing and Personal Use* (2016); Dist. of Columbia Bar, Op. 371, *Social Media II: Use of Social Media in Providing Legal Services* (2016); N.Y. State Bar Ass'n Commercial & Federal Litigation Section, *Social Media Ethics Guidelines* (updated June 9, 2015); Pa. Bar Ass'n Comm. on Ethics & Prof'l Responsibility, Formal Op. 2014-300 (2014), *Ethical Obligations for Attorneys Using Social Media*.

6. Resources, Pro Bono and Public Service: Roxanne J. Medina-Solomon, "Variety is the Spice of Pro Bono," 78 Mich. B.J. 1312 (1999); Deborah J. Rhode, "Pro Bono in Principle and in Practice," 53 J. Legal Educ. 413 (2003); Barbara A. Ruth, *Tax Benefits Associated With Pro Bono and Other Volunteer Activities*, <https://www.duanemorris.com/articles/article3160.html> (March 3, 2009); Melissa H. Weresh, "The Chicken or the Egg? Public Service Orientation and Lawyer Well-Being," 36 U. Ark. Little Rock L. Rev. 463 (2014).

7. "To receive credit, the Member shall submit MCLE Form 6 (Application for CLE Credit for Pro Bono Services)." *Id.*

8. Resources, Mentoring: Ida Abbott, *The Lawyer's Guide to Mentoring* (2000); Ida Abbott, *Working with a Mentor: 50 Practical Suggestions for Success* (2006); Matthew Christiano and Amy Timmer, *Maximizing Relationships to Become a Successful Lawyer: Innovative Mentoring for Lawyers and Law Students* (2012); Lori L. Keating and Amy Timmer, *Mentoring: No App for That, in the Relevant Lawyer: Reimagining the Future of the Legal Profession* (Paul A. Haskins ed., 2015); Michael Maslanka, *At Your Desk*, Texas Bar Blog (Sept. 21, 2015), <http://blog.texasbar.com/2015/09/articles/texas-bar-tv/mike-maslanka-your-desk/>; National Legal Mentoring Consortium, <http://www.legalmentoring.org>.

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