



The Public Side of Lawyer Discipline:

The Role of Non-Lawyer Public Members

By Charles B. Plattsmier,
Chief Disciplinary Counsel

If someone called and asked if you would be willing to volunteer your time for the next six years helping to regulate a profession of which you were not a part of, would you? If told it paid nothing, generated little or no fanfare, would entail spending hundreds of hours of your time annually reviewing documents, listening to testimony and helping to draft opinions, would you be interested? I suspect many of us would politely decline and chuckle at the notion after hanging up the phone.

But since April 1, 1990, literally hundreds of non-lawyers have volunteered their time and effort to support the Supreme Court's regulation of Louisiana's legal profession. The inclusion of non-lawyers in our disciplinary system has proven to be perhaps the most significant and successful part of the Court's decision to enact Rule XIX nearly 28 years ago and it continues to pay dividends today.

Mindful that the public traditionally has held some in our legal profession in pretty low regard, many lawyers were apprehensive about such a radical change. How would non-lawyers possibly understand the ethical issues presented? Others were firm in the belief that placing non-lawyers on hearing committees as well as on the Disciplinary Board would result in unreasonable and perhaps draconian recommendations for discipline. What we quickly learned, however, was that the non-lawyer public member had much to contribute and, in some ways, made the disciplinary system itself even more accountable, balanced and fair.

Every day we entrust the fate of clients to the fact-finding wisdom of juries composed largely of non-lawyers in both our civil and criminal justice systems. The historical exclusion of members of the public from our lawyer discipline system was odd and frankly did little to engender trust and confidence of consumers of legal services (clients) in our secretive, "lawyers-only" regulatory process. While opening up the disciplinary process to the sunshine of public scrutiny once formal charges were filed did much to sweep away skepticism and mistrust, the inclusion of non-lawyers into the process ce-

mented the public's ownership in one of the few self-regulatory professions in the nation — the legal profession.

The result has been successful by any measure. Public members take the task seriously, come prepared for hearings having read the briefs and record, and ask some of the most probing and fundamentally sound questions of everyone involved. In fact, it has often been a source of embarrassment for the lawyer participants in disciplinary hearings when the most cogent, probing and direct questions come from the public member, leaving many of the lawyers in the room to wonder, "Why didn't I ask that?"

Who are these folks and where do they come from? They are bankers, teachers, insurance agents, secretaries, cement contractors, psychologists, counselors, nurses, financial planners, principals and farmers, to name just a few. From every corner of the state, these folks sit on the nearly 50 hearing committees that currently serve the Court's disciplinary agency. They also sit on the Disciplinary Board by appointment of the justices. They are recruited by board members, lawyers, Supreme Court justices, and former committee or board members.

Perhaps the most interesting question is *why* they would choose to serve in the first place. When introduced to the Louisiana Disciplinary Board, many are surprised that such a regulatory apparatus even exists. As they hear about the system, its history and its structure, whether in Rotary meetings, over lunch with a current or former committee member, or in a chat with a justice, the public member may be a bit skeptical, but also intrigued. When told they would play an important role in the regulatory process, many no doubt feel the draw of curiosity and public service. Whatever the motivation, the new participant is soon immersed in a two-day training seminar — conducted annually — that not only introduces them to the Court's regulatory system found in Rule XIX, but also the Rules of Professional Conduct, how they apply, and the Court's rich jurisprudence on enforcement. Instructors include board members, hearing committee members, respondent's counsel, board counsel, dis-

ciplinary counsel and others. When training is completed, they are assigned to a committee panel with two attorney members to serve within their Court of Appeal district when called upon.

What we've seen is that non-lawyers are often the conscience of the panel they sit on. There can be an insight that public members bring to the task, born of common sense and experience that can level the advocacy and bring into sharp focus the gravity — or lack thereof — stemming from a lawyer's mistake. Over the last three decades, many public member dissents have been so persuasive for the board and the Court that their view ultimately prevails. While it is hard to quantify the importance of the public members' contribution on any given case, it is unquestionably true that their participation brings value to the process and sensitivity to outcomes.

As lawyers, we owed an enormous debt of gratitude to all members of the discipline system, particularly our volunteers. But among those many hundreds of volunteers who have served the Court's regulatory system over nearly three decades, none are more deserving of our thanks, our appreciation and our admiration than those non-lawyer public members who take the time to help us be better as a profession. We salute you.

Editor's Note: See companion article on page 317.

Charles B. Plattsmier became Louisiana's chief disciplinary counsel in 1996 and today stands as the longest-serving chief counsel under the Louisiana Attorney Disciplinary Board. He has authored amendments to the Rules of Professional Conduct and Supreme Court Rule 19, served in the Louisiana State Bar Association's House of Delegates from 1983-95, and was a member of the Ethics 2000 Committee which updated and amended Louisiana's ethics rules. He was a 2002 nominee for the ABA Michael Franck Professional Responsibility Award and, in 2009, received the ABA CoLAP Meritorious Service Award for his commitment to Louisiana Lawyers Assistance Program. He received his JD degree in 1978 from Louisiana State University Paul M. Hebert Law Center. (chuckp@ladb.org; Ste. 607, 4000 S. Sherwood Forest Blvd., Baton Rouge, LA 70816)



Observations from One Layman at the Bench

By Michael DesJardins

I had worked with attorneys extensively handling litigation claims when one attorney asked if I would like to become an Attorney Disciplinary Hearing Committee lay member. It was with some trepidation that I agreed to apply for the position but I was accepted. I had no idea what I had gotten myself into, but was pleasantly surprised by the experience.

The three-member committee was comprised of myself and two attorneys. My expectation was that the attorneys would handle most everything and I would be “window dressing.” However, that was not my experience. I was somewhat dumbfounded when we heard our first case. I attempted to give input during the committee discussion about what our recommendation would be for the attorney brought up on disciplinary charges. I expected a courteous hearing by the two attorney committee members, but not much else. In fact, what they said was that my opinion was very important to them in reaching a decision.

Over the period of my term, I was involved in several cases with a few different attorney committee members. All of the attorneys held my opinion in high regard as a layman. They were very in-

terested in what a non-attorney thought about the activities by the respondent attorney who was the subject of the hearing. My opinion was less about whether the respondent attorney had run afoul of the ethical guidelines than about a common-sense opinion of whether the actions in question met the smell test. My criteria included, in addition to the ethical standards at question, whether the actions of the respondent put the bar in a bad light with the public and, therefore, undermined the integrity of the justice system.

In some cases, I agreed that a technical violation had occurred but that the violation was not offensive to the eyes of the public. My opinion in these cases would somewhat mitigate the recommendation of the committee. In other cases, I found that there was an attempt to abuse the disciplinary system by the complainant for reasons not related to ethical behavior. There were also cases that were a clear ethical lapse that would inure to the detriment of the legal system. In these cases, I recommended strong disciplinary action and found the attorney committee members moved by my opinion to make a strong ruling.

In addition to the final discussions that led to a recommendation, I also

learned to enjoy the role of factfinder with the three-member hearing committee sitting and listening to testimony. I was encouraged to ask questions of the witnesses and found the experience enlightening. After years of investigating facts and evaluating liability ranges in insurance claims, it was a very helpful experience to actually sit in the position of factfinder.

The Attorney Disciplinary Board is a very important piece of keeping the legal system in our state ethical. I was honored to be a part of it and recommend the experience to others. I also appreciate that the attorneys who served with me were open to my input and judgment.

Michael DesJardins recently retired after 24 years as a liability claims adjuster for State Farm Insurance and about 16 years previously in the ministry. The experiences with giving pastoral care and handling insurance claims helped him develop a strong concern for justice and integrity.

Both concerns helped him in his tenure with the Louisiana Attorney Disciplinary Board Hearing Committee. DesJardins and his husband live in New Orleans. Email: mike953@comcast.net.

