



**Atlanta's John Marshall Law School
Orientation on Professionalism
August 13, 2016**

On Saturday, August 13, 2016 from 9:45 - 12:15 the State Bar of Georgia's Committee on Professionalism and the Chief Justice's Commission on Professionalism will sponsor the Atlanta's John Marshall Law School 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 the bar, giving personal reflections on what professionalism means. The Law Student's Oath of Professionalism 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 these materials:

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

Note: You will not need to bring these hypotheticals with you to the orientation program. A complete set of materials will be handed out on site at the law school on the day of the program.



COMMITTEE ON PROFESSIONALISM

TO: First Year Law Students

FROM: Elizabeth L. Fite
Chair, Committee on Professionalism

DATE: July 2016

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 signed up 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 may only discuss 3 or 4 of the hypos, but you need to become familiar with the basic fact situations of the all of the hypos. **As the enclosed instructions state, we ask that all you bring to these hypotheticals is your life experience 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.

2016 LAW SCHOOL ORIENTATION PROGRAM

INSTRUCTIONS FOR STUDENTS

What is the Law School Orientation on Professionalism Program?

Each year, every law school in Georgia partners with the State Bar Committee on Professionalism and the Chief Justice's Commission on Professionalism to conduct a program that orients incoming students (new, transfer, visiting) to professionalism. The program engages students in interactive discussions – using hypothetical situations relating to law school and the practice of law – that are facilitated by Group Leaders who are judges, lawyers and law professors.

The message of this program to 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 and 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.

What Should You Do Before the Orientation?

Prior to the orientation session on professionalism, you should:

1. Read over the hypotheticals,
2. Give some thought to what issues arise in each situation, and
3. 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.

What Should You Expect to Get From the Discussions?

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 the group discussions 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.

What Is the Difference Between “Ethics” and “Professionalism”?

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 in reference to the old codes of ethics that governed lawyer conduct. The old Canons of Ethics 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 laws of lawyering. **These Rules establish the minimum requirements of conduct for members of the State Bar of Georgia.**

Professionalism, by contrast, refers to **the attitudes and conduct that rise above this minimum standard.** It embodies the values of competence, character, civility, commitment to the rule of law, to the lawyer’s role as an officer of the court, and to public and community service. Professionalism is a commitment to carrying out both the letter and spirit of the law.

What Else Should You Bring to The Discussions?

We ask that all you bring to the discussion of these hypotheticals are your life experience and your own values, whatever they may be. We are not asking for any professional knowledge or research. Most important, do not ignore your “gut reaction,” i.e., how these situations make you feel. That is part of the equation, too.

Your professional identity will take shape in many ways over the years as you experience your life as lawyer. Let your journey begin now.



Law Student's Oath of Professionalism

As I begin the study of law at Atlanta's John Marshall Law School, 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, personally and professionally, conduct myself in a professional manner.

I will remember that my responsibilities to the legal profession should control my conduct both as a student of the law and, therefore, as a member of the bar.

I hereby accept my new status as a professional, and I will approach my colleagues and adversaries alike with the same integrity, professionalism and civility that the practice of law demands.

I pledge to conduct myself in accordance with and abide by Atlanta's John Marshall Law School's Code of Student Responsibility.

This pledge I take freely and upon my honor.

Signature: _____

REQUIRED HYPOTHETICAL DISCUSSION (7)

PROBLEMS OF BEING A LAW STUDENT

PROBLEM ONE

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 a 2L. 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 Code of Student Responsibility that specifically addresses this.

The Code does have a Disciplinary Rule which prohibits any student from engaging in conduct "evidencing bad moral character that is relevant to fitness for the study or practice of law. ." The Code also requires all students to report that knowledge to the Law School.

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?*
3. *What if he offered to do it for anyone who paid him \$100?*

PROBLEM TWO

In Tom's first year Civil Procedure course, the professor keeps using the same two hypotheticals to stimulate discussion. The class always got involved in trying to solve the issues raised but the professor never gave any clue that the class was on the right track. She hints that these, or similar problems, will be on the exam.

Three days before the exam, Tom receives an e-mail from a college friend who is attending another law school. His friend tells him that Tom's Civil Procedure professor used to teach at that law school a couple of years ago. Tom's friend has learned of a book that contains a contribution by the professor in which she discussed those favorite hypotheticals in depth. Tom found the book in the John Marshall law library. He was permitted to check it out and he kept it for the rest of the semester. There was just one copy.

POSSIBLE QUESTIONS:

1. *Should Tom have checked out that*

REQUIRED HYPOTHETICAL DISCUSSION (7)

<i>book?</i>	POSSIBLE QUESTIONS:
2. <i>Should he have shared this information with his classmates? Members of his study group? Anyone else?</i>	1. <i>Should Matt confess this to the Dean of Students of the law school? Why? What are the likely consequences if he does? If he does not?</i>
3. <i>Suppose he just photocopied the relevant parts of the book and then took it to another part of the library and shelved it with some little used materials instead of returning it to its proper place where it could easily be found by other students?</i>	2. <i>Will Matt have to report this incident to the Bar Fitness Board? What are the likely consequences if he does? If he does not?</i>
4. <i>Suppose his friend's email contained an attachment which was an old exam by his Civil Procedure professor AND the professor's model answer. From the body of the message, Tom realized that this exam contained those same hypotheticals. Should he open the attachment? If the exam and the model answers are in the text of the e-mail message, should he read it?</i>	3. <i>Does John have any obligation as a fellow law student to report Matt's conduct? To the Dean of Students? To the Bar Fitness Board?</i>
	4. <i>Suppose that John had been unable to offer to drive in place of Matt because John had taken a Xanax. Suppose further that the Xanax was originally prescribed to Matt, but Matt had some left over. John had periodically "borrowed" a pill every now and then when he was stressed out or had trouble sleeping, and he had taken one that night to help put him at ease at the Ball. John had never actually asked Matt for the pills, although he told Matt about it after the Ball in explaining to Matt why he couldn't drive instead. Must Matt report John's taking a Schedule II narcotic not prescribed to him? Even if he is not obligated to, should he report it?</i>

PROBLEM THREE

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 drink a great deal of alcohol.

After midnight, they decide to go home. John asks Matt if he is "OK" to drive. Matt assures him that he is fine. On their way home, Matt runs a red light. He is pulled over by a watchful Atlanta police officer. The officer detects the odor of alcohol, conducts a sobriety test and arrests Matt for DUI.

Matt subsequently pleads guilty to the charge. His license is suspended for six months; he receives six months probation and pays a substantial fine.

PROBLEM FOUR

(A) Ray posts an unflattering picture of Carol from a recent law school party and makes unflattering comments about her on one of the social media applications he uses. Others – some of whom go to the same school – comment about the picture on the site, and also posts about other students. Many comments posted contain racist, sexist and other derogatory language and make false

REQUIRED HYPOTHETICAL DISCUSSION (7)

claims about the student's sexual activities, including their sexual orientation. Carol and the other targets of these comments are appalled and angry. They complain to the Dean of Students and demand that the pictures and posts be taken down.

POSSIBLE QUESTIONS:

1. *What, if anything, should the law school do in response to this situation?*

(B) Suppose Ray had set the privacy settings on this post so that only his "followers" could see it, and Carol (who is not Ray's "follower") found out about the post from a classmate who was on Ray's list. The classmate "unfollowed" him after reading these posts. Does that alter your view of Ray's actions? Of Carol's proposed resolution?

POSSIBLE QUESTIONS:

1. *What are the possible consequences for Ray:*
 - (a) *From current and future colleagues?*
 - (b) *From potential employers?*
 - (c) *From the bar fitness board?*

(C) What if, instead of a social media account, Ray used an email or text account to circulate offensive jokes? Carol receives several of these and is offended by them. She sends Ray a message on the same service telling him she is offended and asking that he stop sending them out. Ray's reaction is to send a response, calling her a "b****" and telling her to "lighten up" and "get over it."

POSSIBLE QUESTIONS:

1. *What would you advise Carol to do?*

2. *What should the law school do in response to this situation? When confronted, Ray claims he is just exercising his constitutional right to free speech. Do you agree?*

PROBLEMS OF THE LAWYER IN PRACTICE

PROBLEM FIVE

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 your client. 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.

POSSIBLE QUESTIONS:

1. *If you refuse the opposing attorney's request, what effect do you believe the*

REQUIRED HYPOTHETICAL DISCUSSION (7)

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?*
8. *How, if at all, would you handle the situation differently if you opened the attachment before asking your assistant to forward the email to your*

client? Would you still send the email and attachment to your client?

PROBLEM SIX

(A) You are a young associate and have been assigned to an important, but very busy partner in the firm. The partner seems to have a lot of confidence in your abilities. Late one Friday afternoon, the partner comes to your office with an assignment, drafting an answer and counterclaim in a federal civil case, that he wants completed by Monday morning. He tells you not to spend more than four hours on it. The partner is leaving for his weekend home, where there is no phone (at least that he will tell anyone about). You realize you have no idea what to do, or how to do it.

POSSIBLE QUESTIONS:

1. *What are you going to do if you believe you are incompetent to do the project?*
2. *If you accept the assignment but it takes more than four hours to do it, how are you going to record your time?*
3. *If you accept the assignment, where can you turn for help? Can you call your uncle the lawyer? Can you call your old law professor?*
4. *What else can you do to complete the assignment?*

REQUIRED HYPOTHETICAL DISCUSSION (7)

(B) You are a young associate and have been assisting a partner in a complex case involving a software development company. In pretrial proceedings, the partner has been frustrated by the fact that the judge has not ruled on a number of pending motions that will significantly impact the scope of discovery. Last week, you met a law school classmate at a social function and learned that he is clerking for this judge. When you mention this to the partner, he suggests that you call your friend and ask him to urge the judge to issue rulings on the pending motions.

POSSIBLE QUESTIONS:

1. *Should you talk to your friend about the case?*
2. *What if your supervisor tells you it is perfectly ethical and acceptable for you to do so? May you rely on the partner's judgment?*
3. *What if the partner orders you to talk to the friend?*

PROBLEM SEVEN

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.

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.*
4. *How, if at all, would you handle the situation differently if you were aware that Mrs. Newlife had notified the Clerk of her new address but the Clerk still sent the trial notice to her old address?*

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

PROBLEMS OF BEING A LAW STUDENT

PROBLEM EIGHT

(A) At the end of his first year of law school, David is pleased to find his grades placed him in the top 20% of his class. He prepared a resume reflecting that class rank and sent it to many possible employers in the fall of his second year. Later that fall, following his interview with a boutique law firm that the firm extended in reliance on his resume and cover letter, David got an offer of employment with the firm starting in the summer after his second year, potentially leading to permanent employment after graduation. Unfortunately, he ended up not doing so well in his second year, so his cumulative average at the end of his second year put him only in the top 40% of his class.

POSSIBLE QUESTIONS:

1. *Is David obligated to tell his employer about his new class rank as soon as he learns it?*
2. *What might happen if he does? What if he does not?*

(B) Emily, a first year law student, accepts a summer volunteer position with a federal government agency. The day before she is due to start at her volunteer job, she receives an offer of a paying position at a small firm. She was really hoping to start her career in the federal government, but she could really use the money. Although the firm does not have a formal summer program as part of their hiring process, there is a

possibility that her work might ultimately lead to a job at the firm, if all goes well and they need someone when she graduates.

POSSIBLE QUESTIONS:

1. *Can (and should) she accept the paying position after having committed to the volunteer position?*
2. *If so, how should she handle this situation?*
3. *Should she contact someone at her school's career services office?*

(C) Suppose Emily keeps the summer volunteer position and is working on an assignment. However, midway through the summer, she comes down with pneumonia, so she isn't able to come to work for a few weeks. When she first got sick, she sent her supervisor an email to let him know of her illness. He told her just to come in as soon as she was feeling better.

Just as she is beginning to recover from her illness, Emily goes to visit her family for a week to help deal with a family crisis. By the time she returns, the fall semester is about to start, and she still hasn't completed her work assignment. Although she initially told the supervisor about her illness, she hasn't been in touch with her placement for a few weeks now, and she still has the agency's files that she's using for the assignment.

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

POSSIBLE QUESTIONS:

1. *How should she handle this? Should she try and complete the assignment?*
2. *Should she contact her supervisor now to explain, or wait until she is able to turn in the assignment. What should she say?*
3. *How should she return the materials? Should she destroy them?*

PROBLEM NINE

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.

POSSIBLE QUESTIONS:

1. *What advice do you have for Stephanie at this point?*

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

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?*
4. *Should you review your law school code of conduct? What would you look for?*

and they challenge the professor’s answers to questions, telling him “that is just completely wrong.” They talk among themselves while he is writing on the board, and when he turns around to ask them to be quiet, they snicker.

POSSIBLE QUESTIONS:

1. *Should you do or say anything – to these students, to the professor, or to the class generally? Or to someone else at the law school?*

PROBLEM TEN

(A) There are a number of international students in your Employment Discrimination class. When the professor calls on one of these students, the student’s accent makes it difficult to understand the response. A handful of students in the class have taken to rolling their eyes and audibly groaning whenever one of these students is called on. Occasionally, a student will mutter something just loud enough to be audible, like “I can’t believe this!” or “Speak English!”

(C) You are Facebook friends with one of these students, and she posts comments on Facebook during class making fun of what the professor is wearing. Notification of the post pops up on your phone, and you hear the other students in the group laugh out loud.

POSSIBLE QUESTIONS:

1. *Should you do or say anything – to these students, to the professor, or to the class generally? Or to someone else at the law school?*

POSSIBLE QUESTIONS:

1. *Should you do or say anything – to these students, to the student trying to answer the question, to the professor, or to the class generally? Or to someone else at the law school?*

(B) Now suppose a handful of students are openly disrespectful to the professor. They roll their eyes and groan or sigh loudly when the professor is speaking,

PROBLEMS OF THE LAWYER IN PRACTICE

PROBLEM ELEVEN

Cory is a summer intern at a local prosecutor’s office. The attorneys in the office are mostly young, and the office atmosphere is relatively informal, with the attorneys often going out for social events together after work.

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

One of Cory's supervisors, Taylor, has been very helpful, never seeming to be in a rush when Cory has a question, and often stopping by just to chat and make sure Cory feels welcome, to the point where Cory's other supervisor jokes about Cory being "Taylor's crush." This comment starts to make Cory wonder, and worry a little – Cory knows Taylor is married, and in any event, although Taylor has been a great supervisor, Cory isn't at all interested romantically in Taylor.

One day, at the end of the workday, Taylor invites Cory out for drinks, implying that it is an office happy hour. Cory is trying hard to network and get a job in a prosecutor's office in the area, so Cory believes this is not an opportunity to pass up. However, when Cory gets there, it turns out that it's just Taylor, who grins and says "welcome to the happy hour – you and me, getting happy, for an hour – or more, if you like."

POSSIBLE QUESTIONS:

1. *Has Taylor behaved unprofessionally?*
2. *What can (or should) Cory do?*
3. *Suppose that, instead of waiting until Cory shows up, Taylor calls Cory before the end of the day and says that it turns out most of the people in the office can't go, so it's just the two of them; "is that ok?" What can (or should) Cory say?*

PROBLEM TWELVE

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.

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*

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

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 THIRTEEN

Note: if time is short, only one of the fact patterns should be discussed.

(A) As a newly hired district attorney, Doug is excited about the opportunity to work with his supervisor, Dana, on a high-profile murder case. While reviewing documents prior to trial, Doug runs across a twenty-year old file, and realizes the witness who allegedly sold the gun to the defendant in this case pled guilty to forgery. The witness neglected to mention it in their interview.

The file, including the witness interview notes, had been timely handed over to the defense during discovery. However, the notes didn't include anything regarding the prior conviction, because the witness didn't mention it.

Doug doesn't know if the defense has another way of knowing about the prior conviction, and asks Dana for her advice. She says that it's defense counsel's responsibility

to ask about the criminal backgrounds of all the witnesses, so if they didn't specifically ask for that information, that's their problem.

(B) Kate just started working in-house at a pharmaceutical company. The company is being sued in a products liability claim, and the General Counsel (GC) has asked Kate to help work with outside counsel. Plaintiffs have alleged one of the company's prescription medicines caused seizures in children, leading to permanent brain damage. The company's defense looks strong because none of the controlled studies submitted to the FDA suggest that seizures are a side effect.

During document review in a warehouse, she runs across a long-forgotten internal memo written by a still-employed researcher. The memo cited an "alarming increase in reports of adverse effects" linked to the active ingredient of the drug (not to the company's brand-name specifically).

The researcher was concerned her findings were not reported in the journal most often read by the doctors who typically prescribed the drug, and thus they may not be aware of the adverse reactions. Further, the employee recommended the company immediately terminate sales of products containing the drug. Kate knows that the company kept marketing the drug well after the date of the memo.

Kate talks to the employee who states that she not only wrote the memo, but she told the GC. The GC never followed up, so she doesn't know if he forgot, or decided not to do anything about it.

ADDITIONAL HYPOTHETICAL DISCUSSION (7)

The operative document request only seeks “all documents regarding” the product name, which is not mentioned in the memo, only the active ingredient is. Alternatively, if the document request were interpreted broadly, nearly everything in the warehouse might have to be disclosed.

She is not sure what to do, so she decides to just put the memo in a box of otherwise unrelated documents and let outside counsel decide what to do, if they happen to run across it. If they don’t, no one’s the wiser.

POSSIBLE QUESTIONS

1. *What should the young attorneys in each of these cases do?*
2. *Do they have an obligation to report the information to their supervisors?*
3. *Do they need to go above their supervisor’s heads if the supervisor blows off their concern? To the client (who is the client)? To opposing counsel? To the court?*

he is in desperate need of a “fix.” What do you do?

POSSIBLE QUESTIONS:

1. *Does the boy’s age affect your attorney-client relationship? How should you handle decision-making and confidentiality in the representation of a minor?*
2. *Would you be violating the rules by getting the son out on bail when you know that he intends to commit a criminal act?*
3. *What is the father’s status with regard to you and the criminal case? Does he have a right to be a part of the decision-making process in the son’s case?*
4. *Does it matter who is paying your fee?*

PROBLEM FOURTEEN

One of your long-time clients asks you to go to the jail and bail out his 16-year old son who has been arrested for dealing drugs. When you arrive you realize that the boy has a serious drug problem but you can arrange to have him released that afternoon. He informs you that he needs to get out quickly because



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.

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.
- (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;

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- (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.

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. As a professional, I should ensure that any advertisement of my services:
 - (1) is consistent with the dignity of the justice system and a learned profession;
 - (2) provides a beneficial service to the public by providing accurate information about the availability of legal services;
 - (3) educates the public about the law and legal system;
 - (4) provides completely honest and straightforward information about my qualifications, fees, and costs; and
 - (5) does not imply that clients' legal needs can be met only through aggressive tactics.
- (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.

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.