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HENRY LATIMER CENTER FOR PROFESSIONALISM

# The PROFESSIONAL

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Fall 2015

## UPCOMING EVENTS:

**September 3 - 4, 2015**

Practicing with Professionalism  
Tampa, Florida

**September 17, 2015**

Standing Committee on  
Professionalism  
Tampa Airport Marriott

**September 18, 2015**

Professionalism Matters  
NDFLBBA Annual Seminar  
WaterColor Inn & Resort  
Santa Rosa Beach, Florida

**October 1, 2015**

Practicing with Professionalism  
Tallahassee, Florida

3rd Annual Professionalism and  
Civility Summit

Miami Dade College, Wolfson Campus

**October 2, 2015**

Professionalism in the Electronic Age  
GPSF Ethics Update  
Tampa, Florida

**October 7, 2015**

Practicing with Professionalism  
Ft. Lauderdale, Florida

**October 8, 2015**

Practicing with Professionalism  
West Palm Beach, Florida

**November 6, 2015**

Practicing with Professionalism  
Jacksonville, Florida

**December 18, 2015**

Practicing  
with Professionalism Bonita  
Springs, Florida

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## A MESSAGE FROM THE CHAIR

By Caroline Johnson Levine



Caroline Johnson Levine,  
current Chair of the  
Standing Committee on  
Professionalism

The Florida Bar Standing Committee on Professionalism has fulfilled many wonderful goals in the past year and is looking forward to accomplishing a great deal more in the year ahead! The Standing Committee on Professionalism works on many projects throughout the state of Florida and is driven by the hope of enhancing and improving the legal profession, for both attorneys and the public.

One major project that was completed within this past year was the creation of the Professionalism Expectations. You can find these Expectations on the Henry Latimer Center for Professionalism's [website](#). The expectations cover nearly every issue which face attorneys in the modern age and what the appropriate response should be. Some of the content includes preventing disparaging remarks on social media and in emails. The Board of Governors approved the Professionalism Expectations on January 30, 2015. The next task will be to disseminate the meaningful information contained within the Expectations to every member of the Bar and law students in order to prevent future negative issues in the profession.

Education is one of the largest components

necessary to increasing professionalism throughout the Bar. There are many seemingly small mistakes that an attorney can make, which could result in sanctions and the Florida Supreme Court's website reveals that attorneys are disciplined on a regular basis for issues related to a lack of diligence, honesty, competence, responsiveness, and oftentimes incivility. These disciplinary decisions demonstrate that a lack of professionalism can have wide ranging consequences for an attorney and disciplinary sanctions can be severe.

"Professionalism" is a word that is frequently aggrandized by attorneys, however, it can sometimes appear to be an elusive ideal in practice as we dwell in a world that appears to be losing its hold on civility. Oftentimes in the legal field, one's "intelligence quotient" (IQ) is celebrated as the ultimate obelisk; however, an attorney's "professionalism quotient" (PQ) may be more important to cultivate in a profession that services the needs of clients.

Professionalism may be an easy concept in theory, however, it can become very challenging in practice. The Merriam-Webster dictionary

*See "Chair's Report," next page*

## Chair's Report

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saliently defines professionalism as “the skill, good judgment, and polite behavior that is expected from a person who is trained to do a job well.” Overwhelming caseloads, conflicts with distressed clients, and challenging communications from opposing counsel, can sometimes create unexpected pitfalls for an attorney. Importantly,

attorneys must consider that professionalism is intractably tied to the ethical Rules Regulating The Florida Bar.

It is clear that attorneys should strive to continually and exponentially develop their professionalism skill set. One of the very best methods for attorneys to grow and improve their PQ, is to join and actively participate in a local bar association. Joining and volunteering in the various sections available, or moving up the leadership ladder, can lead to service

opportunities in unexpected ways and also create exposure to countless examples of excellent leadership and professionalism in addition to creating long term, essential connections.

*Caroline Johnson Levine is the Chair of The Florida Bar's Committee on Professionalism and has also been appointed by The Florida Bar Board of Governors to the Supreme Court Commission on Professionalism.* 



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# DIRECTOR'S REPORT



## HEADED IN THE RIGHT DIRECTION

By Jacina Haston, Director of the Henry Latimer Center for Professionalism

The 2015 Annual Convention was very invigorating. Elements of professionalism were infused all around for attendees and it was hard to escape the hallmarks of professionalism: Character, Competence, Commitment, and Civility. The Center began its participation at Annual Convention by joining the Florida Lawyer's Mutual Insurance Company (FLMIC), the General Practitioner and Solo Small Firm Section of The Florida Bar (GPSSF), and the Young Lawyer's Division (YLD) to present the 2015 Law Student Essay Contest winner, Bonie Montalvo Navarrete, with a \$1000 check. Bonie, a rising third-year law student at the University of Florida Levin College of Law, wrote the winning essay entitled [Be Tweet Life and Death: Utilizing Social Media While Avoiding Legal Malpractice](#), which was recently published in the June/July edition of The Florida Bar Journal.<sup>1</sup> In addition, the full article can be found on the Center's [Library Guide](#) located on our [website](#).

The following day the Supreme Court Commission on Professionalism tackled the challenges facing the recently created Local Professionalism Panels ("the Panels") while vowing to continue assuring that the Panels provide a seamless process for those choosing to utilize the resource to ensure professionalism and civility within their legal community. Justice R. Fred Lewis established subcommittees among the Commission to study several areas as they relate to the Panels including: the Market-

ing and Publicity Subcommittee, the Panel Coordination Subcommittee, and the Confidentiality and Public Records Subcommittee. The Commission will reconvene at The Florida Bar's Winter Meeting to discuss the individual work of the subcommittees and the Panel's progress in each of the twenty circuits.

The Commission meeting was followed by the Judicial Luncheon during which several Standing Committee on Professionalism award recipients were recognized. The Honorable Anne C. Conway, Chief Judge of the United States Middle District Court of Florida, received the William M. Hoeveler Judicial Professionalism Award. The Law Faculty Professionalism Award was presented to Professor Scott Rogers, from University of Miami College of Law. The Group Professionalism Award was presented to Barry University Dwayne O. Andreas School of Law. Dean Leticia Diaz accepted the award on behalf of Barry University School of Law. Full details on each award recipient are provided in a separate article.

Shortly after the Judicial Luncheon, the Standing Committee on Professionalism met and, before Michael Schneider passed the gavel to incoming Chair Caroline Johnson Levine, the Center acknowledged the efforts of a number of members who termed off the Committee, including: Rachael Greenstein, Alexa Hartley, Amanda Jesteadt, Barbara Junge, Richard Lawson, and Robert Palmer. Former Director of

the Center, Linda Calvert Hanson, was presented with special recognition by Mr. Schneider for her extraordinary dedication to The Florida Bar, the Henry Latimer Center for Professionalism, and the Standing Committee on Professionalism. The meeting attendees were presented with reports from each of the former working group chairs and received Caroline Johnson Levine's vision for the upcoming year. The meeting adjourned with Caroline delegating the charges to the new working group chairs and allowing the groups to meet for formal introductions and to begin planning their year.

Following the Standing Committee on Professionalism meeting, I had the wonderful opportunity to partner with Former President Greg Coleman at the Stetson College of Law Alumni Reception to present the 2015 Law Student Professionalism YouTube Contest winners with a \$500 check. The recipients were: Elizabeth Harbaugh, Patrick Iyampillai, Daniel Kavanaugh, and Colby Connell. Together these law students created a YouTube video entitled "Practice in Motion," which delves into several professionalism concepts. This YouTube video will be used by the Center in CLEs and other programs and can be found on the Center's [website](#).

The next day President Ray Abadin tackled the hallmark of competency head-on during the General Assembly as he encouraged members of the Bar to "embrace

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**Director's Report**  
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technology." He invited members of the Bar to view technology as a gift and to attend CLEs to gain practical knowledge on how to utilize technology to run an effective practice. President of the YLD, Gordon Glover, laid the foundation for the YLD's theme for the year "Thinking Different" tailored after the late Steve Jobs. Gordon reminded everyone that times are changing and the YLD is committed to embracing the change and moving forward.

Later that day, I was invited to the Law Student Division (LSD) meeting of the YLD. During that meeting the Florida State College of Law received the Best Program of the Year Award from the LSD for the "Winning Edge" program. The "Winning Edge" was a pilot program that was created and designed by the Center in partnership with the Standing Committee on Professionalism and the YLD to focus on how law students can develop their own professional identity, build professional

relations and a network, and appreciate the impact of social media on their career path. The "Winning Edge" will be hosted by all twelve law schools this fall, along with the "Balancing Life and Law" program in the spring.

Following the LSD meeting, I witnessed the graduation of Class II of the Leadership Academy and had the distinct pleasure of speaking to Class III on "Harnessing the Power of Relationships: Mentoring, Sponsoring, and Network." It has been such a rewarding experience to watch the Leadership Academy evolve and grow and have the Center involved in creating curriculum that will shape future leaders of the Bar.

In closing, the year ended well for the Supreme Court Commission on Professionalism, the Standing Committee on Professionalism, and the Henry Latimer Center for Professionalism. The new year is off to a great start as Sarah Bolinder, the Center's Assistant Director, and I facilitated the Professionalism Workshop in Tampa with guest Judge E. Lamar Battles on August 27. The Professionalism Workshop has been revised to include a component on Emotional Intelligence offering an area

of reflection for attendees. In addition, on September 18, 2015, Sarah will present "Professionalism Matters" at the Northern District of Florida Bankruptcy Bar Association's 2015 Annual Seminar held at the WaterColor Inn & Resort in Santa Rosa Beach, Florida. Further, on October 2, 2015, I will be presenting "Professionalism in the Electronic Age" at the GPSSF Section's Annual Ethics Update in Tampa, Florida as well as moderating a panel on "Perspectives on the Bar Grievance and the Disciplinary Process by Bar Counsel."

The Standing Committee on Professionalism is also on the move for the new year. The Working Groups are already busy starting their initiatives before convening at the Fall Meeting on September 17. Without a doubt we are headed in the right direction and professionalism is at the forefront. **IP**

**Endnote:**

- 1 Bonie Montalvo Navarrete, [Be Tweet Life and Death: Utilizing Social Media While Avoiding Legal Malpractice](#), Fla. B.J., July/August 2015, at 52.



Participants accepting the award for Best Program of the Year from the LSD for the "Winning Edge" program, from left to right: Ben Gibson, participant in the Winning Edge panel, Lolia Fernandez, 2014-15 Florida State University College of Law LSD representative, Melanie Kalmanson, 2014-15 Professionalism Chair of the LSD, and Jacina Haston, Director of the Center for Professionalism.



From left to right: Jacina Haston and Winner of Law School Essay Contest, Bonie Montalvo.

## Standing Committee on Professionalism Changes

### Past SCOP Chairs

Michael L. Schneider, Chair  
Donise Edwards Brown, Vice Chair  
Caroline E. Johnson Levine, Vice Chair

### SCOP Members – Termed Off

Rachel Greenstein  
Alexa Hartley  
Amanda Jesteadt  
Barbara Junge  
Richard Lawson  
Robert Palmer

### New SCOP Chairs

Caroline E. Johnson Levine, Chair  
Timothy Patrick Chinaris, Vice Chair  
Judge Frances Maria Perrone, Vice Chair

### New SCOP Members

Judge Patricia D. Barksdale  
Lisa Marjorie Berlow-Lehner  
Luis A. Cabassa  
Chioma Rucshana Deere  
Juan Escar  
Matthew James Feeley  
Starling Newcomb Hendriks  
Gisela Then Laurent  
Sara K. Peacock  
Irene Maria Rodriguez  
Jennifer Ashley Smith  
Larry Dean Smith  
Cherine Smith Valbrun  
Judge Caroline Jeanne Tesche  
Whitney Marie Untiedt  
Judge Suzanne Van Wyk



Immediate Past Chair Michael Schneider is presented with the David A. Hallman Chair Award by current Chair Caroline Johnson Levine.

## Seeking Professionalism CLE?

Are you, or an organization with which you are involved, interested in offering a professionalism CLE program? Well, the Henry Latimer Center for Professionalism has several options that may meet your needs. Presentations include (not all programs offer CLE credit):

- Professionalism Matters (CLE)
- Professionalism in the New Digital Age (CLE)
- Professionalism Adds to Work Life Fulfillment (CLE)
- Professionalism: An Expectation in Florida (CLE)
- Harnessing the Power of Relationships: Mentoring, Sponsoring, and Networking (CLE)
- Empowering Across Generations (CLE)
- Mentors in Training: Building Effective Leaders
- The Winning Edge
- The Benefits of Mentoring for an Organization
- Overview of the Disciplinary System (CLE)

If you or your organization is interested in offering any of the listed programs, please contact the Henry Latimer Center for Professionalism to discuss and schedule your program at (850) 561-5747 or [cfp@flabar.org](mailto:cfp@flabar.org). We look forward to hearing from you!

# 2015 PROFESSIONALISM AWARD RECIPIENTS

Each year at the Judicial Luncheon held at The Florida Bar’s Annual Convention, the Standing Committee on Professionalism (“SCOP”) presents three professionalism awards: the William M. Hoeveler Judicial Professionalism Award, the Law Faculty/Administrator Professionalism Award, and the Group Professionalism Award.

This year, the chair of SCOP, Michael Schneider, presented the first award, the **William M. Hoeveler Judicial Professionalism Award**, to the **Honorable Anne C. Conway**, Chief Judge of the United States Middle District Court of Florida. Judge Conway was appointed to the Federal bench in 1991 by then President George H. W. Bush. Throughout her career, Judge Conway has exemplified strength of character, service, and competence as a jurist, lawyer, and public servant. She has routinely opened the doors of the Federal Courthouse to encourage participation in professionalism enhancement and her commitment to professionalism is displayed in her daily actions on the Bench. Despite the added pressures and administrative duties that come with being Chief Judge, Judge Conway has never shied away from her adjudicative responsibilities and remains the consummate professional.

SCOP’s **Law Faculty/Administrator Award** went to Professor Scott Rogers

of the University of Miami School of Law. Professor Rogers is a pioneer of the mindfulness in law movement which is a movement designed to encourage practitioners and law students to focus on their work in a more effective manner. Professor Rogers founded, and is currently the Director of, the Institute for Mindfulness Studies and of the University of Miami School of Law’s Mindfulness in Law Program. Over the last decade, in an effort to introduce mindfulness to lawyers, law students and educators, Professor Rogers has lectured to numerous groups and published over a dozen articles and four books focused on the topic.

Last, SCOP honored **Barry University Dwayne O. Andreas School of Law** with the **Group Professionalism Award** for its implementation of a unique professionalism enhancement program. This program requires law students engage in at least (6) hours of professionalism programming prior to graduation. In order to aid in the implementation of this requirement, Barry strongly encourages law school student organizations to host and coordinate professionalism programs using the skill modules developed for that purpose. This original program promotes professionalism on two fronts by offering professionalism events to the student body and by encouraging student participation in the preparation and

coordination of these events.

SCOP was privileged to present this year’s professionalism awards to such a deserving pool of winners whose commitment to professionalism impacts the Florida legal community as a whole. We look forward to next year’s nominations. More information about nominations can be found on the Center for Professionalism’s website: [www.floridabar.org/professionalism](http://www.floridabar.org/professionalism). 



From left to right: 2014-15 Chair of SCOP, Michael Schneider, Judicial Award Winner Judge Anne C. Conway, and 2014-15 President of the Bar, Greg Coleman.



From left to right: 2014-15 Chair of SCOP, Michael Schneider, Dean Leticia Diaz accepting the Group Award on behalf of Barry University Dwayne O. Andreas School of Law, and 2014-15 President of the Bar, Greg Coleman.



From left to right: 2014-15 Chair of SCOP, Michael Schneider, Faculty Award Winner Professor Scott Rogers with the University of Miami School of Law, and 2014-15 President of the Bar, Greg Coleman.

The Florida Bar's Henry Latimer Center for Professionalism  
and the Standing Committee on Professionalism Presents:

# THE 2015 LAW STUDENT PROFESSIONALISM YOUTUBE CONTEST

**First Place  
Cash Prize  
\$500**



All law students and student organizations are encouraged to participate individually or in groups. The skit must pertain to legal professionalism in Florida, incorporating the Professionalism Expectations, Guidelines for Professional Conduct and/or the Rules Regulating The Florida Bar.

Entries should be 2 to 4 minutes in length and must be submitted with an approval letter from law school administration. The winning submission will be posted on the Center for Professionalism's website.

All entries become property of The Florida Bar and are subject to use in CLE programs.

Full details at [floridabar.org/professionalism](http://floridabar.org/professionalism), under "Awards and Contests."

# REFLECTIONS: PROFESSIONALISM AS A TOOL OF NEGOTIATION

Professionalism pays dividends, and nowhere is this more evident than in the process of negotiation. As a mediator since 1996, I have had the opportunity to observe thousands of negotiators in action, most of them lawyers. A few have been wholly ineffective, some merely acceptable, some good, and some truly great. The great ones consistently obtain optimal results for their clients. They, without exception, embody the essential attributes of professionalism: character, competence, civility and commitment. By reason of character, habit and/or intuition, each realizes that professionalism is an indispensable tool of successful negotiation.

Each great negotiator knows that negotiation is the respectable art of persuasion and that he or she will not persuade by intimidating, badgering, shouting, insulting, or degrading the opposing party. Great negotiators understand that they do not have to be disagreeable in order to disagree and that offensive conduct is counter-productive. As one negotiator expressed it so colorfully and succinctly: "No one wants to compromise with a jerk."

A great negotiator knows that negotiation begins the moment he or she first makes contact with the opposing lawyer or party. They work continuously to foster an atmosphere of goodwill. They avoid animosity and distrust. They subscribe to the Preamble of The Florida Bar's Rules of Professional Conduct that provides: "A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others." By the time formal negotiation begins, opposing participants respect him or her. More than once I have heard someone in private caucus say of the lawyer in the other room, "I think we'll get this case settled. Mr. or Ms. \_\_\_\_\_ is a real pro." There can be few higher accolades.

Each great negotiator is competent, prompt and diligent. They come to the negotiation understanding all the facts and issues, and they have thoroughly informed their client of all risks -- thus avoiding unreasonable expectations. They are careful to avoid misstatements of fact or law. They realize that misleading, lazy or careless



Howard Marsee, Alternative Dispute Resolution Counsel with Upchurch, Watson, White and Max and member of the Standing Committee on Professionalism.

assertions will reflect negatively on their credibility, competence, or character -- to the detriment of their client.

Great Negotiators adhere to the Golden Rule. They deal candidly and respectfully with everyone, and they expect that others will deal candidly and respectfully with them. They command dignity and respect by exhibiting dignity and respect. They are patient and always mindful of human foibles. They are slow to take offense, always dissecting seemingly offensive statements or conduct for underlying motivation and for any negotiating advantage that may be derived from them.

Great negotiators are careful of attitude, choice of voice, and language. They avoid rough, loud, or profane language. Their humor is refined or self-deprecating.

They adopt a cordial voice, avoid demands, and steer clear of ultimatums. They do not whine, become unduly emotional, or take things personally. They, at all times, adopt a positive, "We're-here-to-make-a-deal-attitude." They

cultivate a spirit of cooperation. They know how to say "no" firmly but gracefully. They respect the need for others to "save face."

Above all, every great negotiator has, over the course of their practice, developed a reputation for integrity, honesty, candor, and fair dealing. They know that their success or failure as a negotiator began long before they met their current client. They understand that their reputation is an integral cog in the machinery of negotiation -- in their ability to obtain the best results for their client. They never violate their adversary's trust because they know that trust is too hard won to squander. They never gloat or brag when successful, and they are gracious in both victory and defeat. They know how to resist the "uncontrollable urges" of anger, resentment, vituperative response, and revenge. They assiduously avoid creating visceral opponents, emotional adversaries who disagree not only with their point of view but with them as a human being.

Professionalism matters, and the great negotiators know it. Their clients know it. Their results attest to it. Perhaps subconsciously, these lawyers use professionalism as surely as a carpenter uses a hammer or saw. Moreover, professionalism is to them more than some arcane code of behavior. It is an integral part of who they are, providing for them: motivation, trust, camaraderie, honor, respect, and dignity.

*Howard R. Marsee, Alternative Dispute Resolution Counsel with Upchurch Watson White & Max* 



The Henry Latimer Center for Professionalism is now accepting submissions for the upcoming edition of the legal publication *The Professional*. If you or any legal organization you are a member of would like to submit an article for consideration please email your submissions to [sbolinder@flabar.org](mailto:sbolinder@flabar.org) with "article submission" in the subject line. The articles should pertain to issues of professionalism and be inspirational and/or motivational in content. Please use Microsoft Word and limit submissions to no more than 800 words (12 point font, double spaced).

# ERA OF TECHNOLOGY: LIVING IN, AND ADAPTING TO IT

By Roger A.G. Roche, Florida State University College of Law, Class of 2015

I remember the first time I accessed the internet. It was an arduous experience – waiting to connect to the America On-line servers, hearing that awful screeching noise made by my computer’s modem, and then “surfing” through the World Wide Web at a snail’s pace. Back then, the internet was a far cry from what it is today. Google, Amazon and certainly Apple were not the ubiquitous powerhouses they are for my generation. But since my first venture into the internet, it has become commonplace to access it from nearly every type of device. Technology has penetrated nearly all facets of our lives and along with it so has the internet – a

technological revolution of sorts, known as the Internet of Things. Our mobile phones are becoming our personal computers; our homes are becoming ‘smart;’ and shortly, our vehicles will be driving themselves.

Like all professions, the legal profession profits from these emerging technologies in many ways. New technologies allow legal work to be more easily disaggregated and efficiently processed, and also allow effective communication with clients. Although technology can bring about utility, the legal profession lags behind other industries in incorporating new technologies; in fact, it receives the least amount of venture capital investment out of all other industry sectors.<sup>1</sup> Regardless, the legal profession, like all others, will transform, whether we like it or not. Technology will inevitably have to be included – clients will ask for it, lawyers will need to understand it to better facilitate their client’s requests, and most importantly, it will automate a lot of what lawyers currently do.

In this new digital era, staying technologically competent has become a factor of Professionalism. The hallmarks of Professionalism are the four C’s: Character, Civility, Commitment, and Competence. The Florida Bar’s Rule on Professional



Conduct 4-1.1 states: “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.”<sup>2</sup> Competent handling of a particular matter requires maintaining the requisite knowledge and skill associated with the changes in the law and its practice. And as the legal profession begins to incorporate new technologies it is up to the lawyer to be well versed when using these new technologies and be committed to staying abreast of all the needed changes. In fact, the Bar’s Program Evaluation Committee is considering implementing a technical competency component into an attorney’s required CLE credits. Keeping up and understanding new and existing technology is extremely important to the professionalism of today’s lawyers.

One technology, arguably the most interesting and potentially game changing as it has received Wall Street’s approval in a recent survey, is known as “blockchain.”<sup>3</sup> A blockchain is a distributed database that maintains a continuously growing list of data records. “Think of a payment system with no middleman, where every payment is recorded and verified by anyone who

accesses the blockchain.”<sup>4</sup> This new technology won’t be replacing the need for lawyers; “it will change the way we approach contract drafting, administration and enforcement among other aspects of the practice.”<sup>5</sup>

For lawyers in the financial and real estate sectors, this technology could potentially change the manner in which firms transfer assets between the time of purchase and the finalizing of a transaction.<sup>6</sup> Two attorneys at Holland & Knight, Joe Dewey and Shawn Amui-al, foresee a future where blockchain technology will dramatically decrease human

interaction during asset transfer and contract execution.<sup>7</sup> They envision a transactional process as follows: (1) lawyers type out a few lines of code creating a contract from pre-generated provisions; (2) the contract is then encoded into a program and sent into the blockchain database; (3) the contract will sift through the database’s public ledger until all conditions are met; (4) once met, the contract will self-execute and prearranged assets will transfer.<sup>8</sup> This transactional technology is not something in the realm of fiction – the finance industry is already examining the implementation of blockchain.<sup>9</sup> If you told lawyers twenty years ago that they would be scanning, editing, retrieving, and sending their legal documents through a handheld device, you would have likely been met with a tremendous amount of skepticism. Yet, all of these tasks that, twenty years ago, required an assortment of bulky equipment, can now be done by a modern mobile phone or tablet. With this backdrop, it is entirely plausible that transactions of the future will be further simplified and become wholly automated due to blockchain technology.

Technological competence is not  
*continued...*

## Era of Technology

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limited to knowledge of emerging technologies; it includes being aware of the risks associated with technology. In August 2012, the American Bar Association amended Rule 1.1 (Competence) of the Model Rules on Professional Conduct to include such a duty.<sup>10</sup> The most significant risk associated with technology is: “your data being compromised.” Peter Tyrrell, Chief Operating Officer of Digital Guardian, a data security firm, has stated that 80 percent of the 100 biggest law firms have had some sort of data breach.<sup>11</sup> This does not mean small firms are “safer” and more “secure” – data breaches can happen to any firm. And in this new era, where every industry is continuously being hacked, understanding how you manage your firm’s information through technology is crucial. Prior to this era, a competent lawyer would do their best to protect their client’s personal information from any party other than the client. Like then, today’s lawyers must be diligent with protecting such information, especially with the new technological tools they are equipped with.

The three leading causes of data breaches are: external intrusions, intentional insider threats, and insider ignorance – for example, an employee uses a personal device which is infected with a virus to access the firm’s network.<sup>12</sup> In [The ABA Cybersecurity Handbook: A Resource for Attorneys, Law Firms, and Business Professionals](#), authors Jill Rhodes and Vincent

Polley outlined several steps lawyers can take to mitigate the risk of data breaches. The take-away:

- routinely employ security measures to protect the firm’s data;
- develop policies on, but not limited to, the use of personal devices, web browsing, and how/where firm’s network can be accessed;
- regularly monitor the firm’s network for potential breaches;
- train yourself and your employees on the technology employed within the firm; and,
- if possible, employ or contract IT security personnel or an IT provider.<sup>13</sup>

Technology, like most other things, has its associated risks. Being aware and taking measures to mitigate those risks are central to being a competent lawyer in this new technological era.

At the end of the day, the legal profession will incorporate technology because “it is neither the strongest nor the most intelligent; it is those who can adapt to change who survive.”<sup>14</sup> Technology has penetrated, and will continue to penetrate, ever deeper into our lives, changing the way we work and live. As lawyers, we have a duty to keep up with it and do our best to avoid its pitfalls. Being a competent lawyer requires it, thus Professionalism requires it. 

### Endnotes:

1 Sarah Reed, *Lawyer, Disrupt, Thyself*, TechCrunch, Mar. 21, 2014, <http://techcrunch.com/2014/03/21/lawyer-disrupt-thyself/>.

2 The Rules Regulating The Florida Bar, Rules of Professional Conduct, §4-1.1 (2014).

3 Matthew Leising, *The Blockchain Revolution Gets Endorsement in Wall Street Survey*, July 22, 2015, <http://www.bloomberg.com/news/articles/2015-07-22/the-blockchain-revolution-gets-endorsement-in-wall-street-survey>.

4 Joe Dewey & Shawn Amual, *Blockchain Technology Will Transform the Practice of Law*, Bloomberg BNA, Legal Communities, Big Law Business, <https://bol.bna.com/blockchain-technology-will-transform-the-practice-of-law/>.

5 Dewey & Amual, *supra* Note 4.

6 *Id.*

7 *Id.*

8 *Id.*

9 Leising, *supra* Note 3.

10 American Bar Association, ABA Commission on Ethics 20/20, [http://www.americanbar.org/groups/professional\\_responsibility/aba\\_commission\\_on\\_ethics\\_20\\_20.html](http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html) (follow “Revised 105A as amended” hyperlink).

11 Ellen Rosen, *Most Big Firms Have Had Some Hacking: Business of Law*, Bloomberg Business, <http://www.bloomberg.com/news/articles/2015-03-11/most-big-firms-have-had-some-form-of-hacking-business-of-law>.

12 *Law firms not immune to cybersecurity risks*, Your ABA e-Newsletter, October 2013, <http://www.americanbar.org/newsletter/publications/youraba/201310article01.html#top>.

13 *Id.*

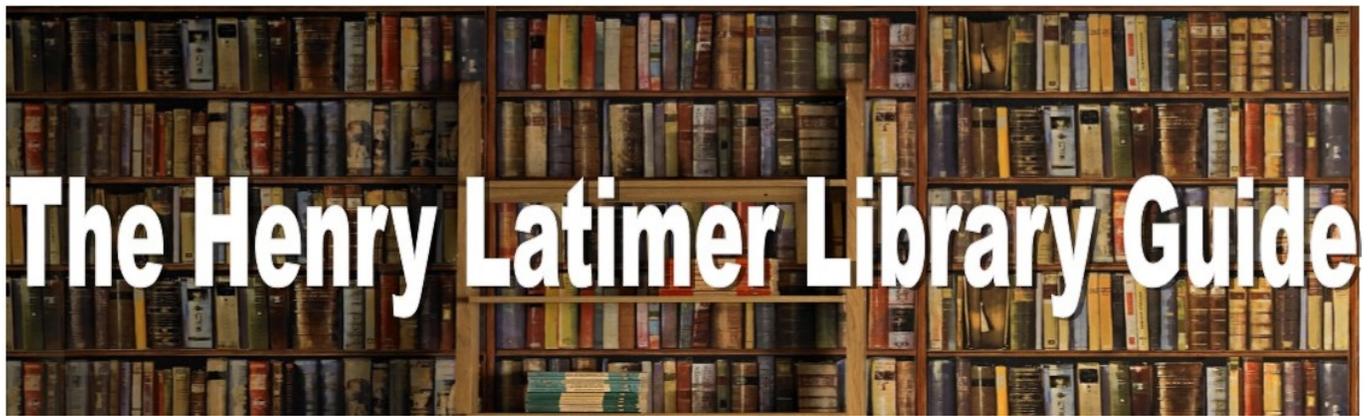
14 Monica Bay, *TRUST DARWIN; How technology will disrupt, transform and save the legal profession*, Law Technology News, Feb. 1, 2015, at 55.



## Historical Video Series

For groups looking to boost membership and provide members an excellent opportunity to interact while gaining CLE credits, the Henry Latimer Center for Professionalism has the solution. The Center offers more than 30 Historical Video Series (HVS) interviews. Interviews include Justice Barbara Pariente, discussing the changes she has seen in the practice of law during the course of her career; U.S. District Court Judge Alan S. Gold discussing the importance of the daily practice of mindfulness and the significance of professionalism in the legal community; and U.S. District Court Judge Paul C. Huck, sharing the importance of mentoring. Each video covers a range of topics. Voluntary bar associations can couple the video with a brown bag lunch and discussion as a great way to gain CLE credits. A full listing of videos and ordering instructions can be found on the Center’s website at [www.floridabar.org/professionalism](http://www.floridabar.org/professionalism), under “CLE.”





**By: Sarah Bolinder Assistant Director**

The Center for Professionalism in partnership with the Florida International University's Law Library, is excited to announce the launch of the Henry Latimer Professionalism Library Guide which can now be viewed [online](#). In addition, the Guide is accessible through a link provided on the Center's website. Through the Guide, users can download a wide variety of professionalism articles and videos geared at furthering their professional development.

For example, the Guide offers articles and videos dealing with Professionalism - Civility which explore the history and definition of professionalism in the legal community. In addition, the Guide offers a Technology Section focused on technological competence and professionalism in this digital age. The Work-Life Balance Section of the Guide provides attorneys with the necessary tools to establish healthy boundaries for their personal and professional life. The Mindfulness Section explores the definition of mindfulness and provides practical tips for application of the doctrine in an attorney's every day work life. Last, the Leadership Section of the Guide focuses on necessary leadership skills in the workplace such as emotional intelligence, personality type assessments, and competencies. The Guide further offers videos, helpful links, and professionalism regulation documents for easy viewing and use.

We invite our readers to browse the Guide and provide feedback to the Center regarding the articles or any potential articles they would like to see displayed. The Center will update the Guide frequently and is always on the look-out for great articles to highlight and showcase. For more information about the website or to provide materials for consideration, please contact Sarah Bolinder, Assistant Director of the Henry Latimer Center for Professionalism by email at [sbolinder@flabar.org](mailto:sbolinder@flabar.org).



## SELECTED RECENT PUBLICATIONS AND DECISIONS

### PUBLICATIONS

Lawrence Krieger & Kennon Sheldon, What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success, 83 Geo. Wash. L. Rev. 554 (2015).

Peter H. Huang & Corie Rosen Felder, The Zombie Lawyer Apocalypse, 42 Pepp. L. Rev. 727 (2015).

Katerina P. Lewinbuk, Mindfulness Meditation, 78 Tex. B.J. 454 (June 2015).

Bonnie M. Navarrete, Be Tweet Life and Death: Utilizing Social Media While Avoiding Legal Malpractice, The Florida Bar News, (2015).

Leslie A. Gordon, How Can Lawyers Avoid Burnout and Debilitating Anxiety, American Bar Journal, In-Depth Reporting, [http://www.abajournal.com/magazine/article/how\\_lawyers\\_can\\_avoid\\_burnout\\_and\\_debilitating\\_anxiety](http://www.abajournal.com/magazine/article/how_lawyers_can_avoid_burnout_and_debilitating_anxiety).

Daliah Bauer, Ph.D., Improving Attorney Quality of Life: The Emerging Role of Dialectical Behavior Therapy, 62 La. B.J. 278 (January 2015).

Ann H. Abbrecht, Establish Mindfulness and Reduce Your Stress: Be Pro Active and Create Balance, 62 La. B.J. 272 (January 2015).

Joe Dewey & Shawn Amual, Blockchain Technology Will Transform the Practice of Law, Bloomberg BNA, Legal Communities, Big Law Business, <https://bol.bna.com/blockchain-technology-will-transform-the-practice-of-law/>.

Jones Loflin, Millennials Don't Want Work Life Balance, Leadership & Management, <https://www.linkedin.com/pulse/millennials-dont-want-work-life-balance-jones-loflin>.



### DECISIONS

**The Florida Bar v. Rosenberg**, No. SC13-2067 (Fla. filed May 28, 2015). \* Lawyer represented several businesses that were being sued for breach of contract. During lengthy and contentious discovery, Lawyer raised objections that the court had already considered and ruled against. The trial court found that Lawyer violated multiple court orders, and sanctioned him for bad faith conduct. The Bar charged Lawyer with violating Rules 4-1.1 (competent representation), 4-3.4(d) (violating court orders), and 4-8.4(d) (conduct prejudicial to administration of justice). The referee found Lawyer guilty and recommended a 91-day suspension.

**Florida Bar v. Dupee**, No. SC13-921 (Fla. filed March 26, 2015). \* Lawyer represented Wife in a contested dissolution case. As a result of her conduct, the Bar charged Lawyer with numerous ethical violations. The referee found that Lawyer filed affidavits that knowingly failed to disclose \$480,000 that Wife had withdrawn from an account via a cashier's check made out to a non-existent charity. Lawyer provided interrogatory answers that she knew were false. Lawyer failed to produce items requested for production. When Wife testified falsely about the cashier's check during her deposition, Lawyer "failed to take any action to correct her client's false testimony so as to prevent the possibility of committing a fraud on the court." The referee recommended that Lawyer be found guilty of violating these rules: 3-4.3, 4-3.3(a)(1), 4-3.3(b), 4-3.4(a)-(d), 4-4.1, 4-8.4(a), 4-8.4(c), and 5-1.1(e)-(f). The referee recommended a 90-day suspension, but the Court instead suspended Lawyer for one year.

**McDonnell v. Sanford Airport Authority**, No. 5D13-3850 (Fla. 5th DCA filed May 14, 2015). \* Lawyer filed a motion for rehearing after the Fifth DCA issued a per curiam affirmance opinion. The court expressed its displeasure at the "29-page motion, the tone and tenor of which is, at best, disparaging, and at worst, contemptuous, rearguing the same points previously raised in his briefs and discussed at oral argument." The court felt "compelled to comment on conduct that common sense should dictate is inappropriate." The rehearing motion did not, as required by Fla.R.App.P. 9.330, call the court's attention to some fact, precedent, or rule of law overlooked in its opinion. Instead, "in open defiance of rule 9.330, it expresses displeasure with our ruling and, in the process, minces no words in attacking the trial judge, Appellee, opposing counsel, and this panel. Determining that such conduct "cannot be countenanced," the court had a copy of its opinion sent to the Florida Bar and ordered Lawyer to show cause why "monetary or other sanctions should not be imposed."

*\*As reported by sunEthics, a website that digests cases and articles regarding professionalism, legal ethics, judicial ethics in Florida and nationally, at <http://www.sunethics.com/>. SunEthics is maintained by Associate Dean of Academic Affairs and Professor of Law at Belmont University College of Law in Nashville, Timothy P. Chinaris, a member of The Florida Bar Standing Committee on Professionalism.*



THE FLORIDA BAR

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### Words to the Wise

*"We can each define ambition and progress for ourselves. The goal is to work toward a world where expectations are not set by the stereotypes that hold us back, but by our personal passion, talents and interests."*

– Sheryl Sandberg

\* \* \*

*"People grow through experience if they meet life honestly and courageously. This is how character is built.."*

– Eleanor Roosevelt

\* \* \*

*"There are three constants in life ... change, choice, and principles.."*

– Steven Covey