

# THE PROFESSIONAL

A PUBLICATION OF THE  
HENRY LATIMER CENTER FOR PROFESSIONALISM



Volume XI, No. 6

[www.floridabar.org/professionalism](http://www.floridabar.org/professionalism)

Winter 2013

## Upcoming Events:

- January 10, 2014**  
Practicing with Professionalism  
*Miami*
- January 23, 2014**  
Standing Committee on Professionalism Meeting  
*Orlando 1:00-3:00*
- January 30-31, 2014**  
Leadership Academy Joint Meeting  
*Tallahassee*
- February 1, 2014**  
Annual Circuit Professionalism Reports Deadline  
*Tallahassee*  
William M. Hoeveler Judicial Professionalism Award Nomination Deadline  
*Tallahassee*
- February 14, 2014**  
Practicing with Professionalism  
*Orlando*  
Group Professionalism Award Nomination Deadline  
*Tallahassee*  
Law Faculty/Administrator Professionalism Award Nomination Deadline  
*Tallahassee*
- February 20, 2014**  
Practicing with Professionalism  
*West Palm Beach*
- March 1, 2014**  
Annual Law School Reports Deadline  
*Tallahassee*
- March 7, 2014**  
Practicing with Professionalism  
*St. Petersburg*
- March 14-15, 2014**  
Leadership Academy Regional Meetings  
*Tampa and West Palm Beach*
- March 20, 2014**  
Practicing with Professionalism  
*Fort Lauderdale*
- March 28, 2014**  
Practicing with Professionalism  
*Jacksonville*
- April 4, 2014**  
5th Judicial Circuit - "Changing Legal Profession: Rooted in Principle, Evolving to Serve"  
*Ocala*
- April 10, 2014**  
Practicing with Professionalism  
*Miami*
- April 11, 2014**  
12th Judicial Circuit Bench Bar Conference  
*Sarasota*
- April 25, 2014**  
Practicing with Professionalism  
*West Palm Beach*

### Henry Latimer Center for Professionalism

Director:  
**Linda Calvert Hanson**  
Assistant Director:  
**Jacina Haston**  
Program Coordinator:  
**Christopher Hargrett**  
Law Clerk:  
**Kevin Joyce**

### Florida Supreme Court Commission on Professionalism

Chair:  
**Justice R. Fred Lewis**



### The Florida Bar Standing Committee on Professionalism

Chair:  
**David Hallman**  
Vice-Chairs:  
**Donise Brown**  
**Michael Schneider**  
Board Liaison:  
**Stephen Echsner**

## A MESSAGE FROM THE CHAIR

If you drive a car, I invite you to be a part of an experiment. The next time the traffic light changes from red to green and the car ahead of you does not move, instead of tapping your horn... do nothing. Take a deep breath, make a conscious decision to smile, and just wait. I challenge you now to decide that you will sit patiently and wait for as many cycles of the light as it takes the driver ahead to proceed, without a reaction from you. More about this experiment later.

Promoting civility in the practice of law is the responsibility of each attorney. Advancing civility is the responsibility of judges and our legal institutions and organizations as well. In and out of court, we must look for ways to demonstrate that not only do we value civility, but also that it is a characteristic that makes us more effective as lawyers. I suggest to you that by repaying rudeness with courtesy, you can obtain control of the interaction, **and** be more effective as an attorney.

Early in my career, I was a solo practitioner, doing lots of family law and civil trial work. I often found myself opposing lawyers who refused to timely respond to discovery, retain experts, or agree to depositions, hearings, and trial dates. I found this wrangling was making me miserable, and costing my clients increased legal fees. My solution:

I prepared proposals for pretrial orders for each type of case, and began a practice of asking courts for a scheduling conference as soon as my cases were at issue. I asked courts to set deadlines and spell out consequences for failure to follow procedural rules and court-imposed deadlines. I also requested the courts, early in my cases, to make all parties comply. This non-confrontational, reserved method of dealing with incivility brought me an inner peace that I cannot describe with words. In addition, it made me more effective as an attorney.

The sports of fencing and boxing, and the martial art jiu jitsu, teach the power of turning the force of an aggressor's attack into the basis for a response, requiring minimal disruption and effort on the part of the one who is attacked. An overly aggressive lunge, punch, or kick can spell disaster if the intended recipient is prepared to adeptly turn that attack. It can work that way in the practice of law, and specifically, in dealing with inappropriate behavior.

Recently, I asked an opposing attorney whether his client would consent to my client making a particular filing in a case, since the rule required that I ask first for consent. His response was an angry, attacking, and accusatory written rant, several paragraphs in length, which never answered the  
*See "Chair's Message" page 2*

## CHAIR'S MESSAGE

from page 1

question I had asked. My reply was, "I will represent to the court that your client does not consent." To no one's surprise, except maybe his, the court granted me leave to file, despite his client's opposition.

Judges have a huge responsibility when it comes to enforcing civility requirements. Lawyers must know that incivility will not be tolerated by judges and will be dealt with swiftly and severely. Irreparable damage is done if clients and juries come to believe that there are no rules, and that outrageous conduct, pleadings, and courtroom behavior are effective and unsanctioned. The damage caused by unsanctioned incivility transcends the one cause, case, or trial and degrades our entire profession. I once saw a judge politely excuse a jury

from the courtroom and chasten an attorney who had been making facial expressions of disbelief during the other side's witness examination. I think the judge's polite but firm question was something like, "Counsel, do you want to testify? Because if you do, then you cannot also be a lawyer in the case." Like this judge, all judges can and must step up and make clear that borderline conduct will not be tolerated.

We must, as a profession, find ways to make clear that incivility is ineffectual and counterproductive. The Florida Supreme Court has amended the Oath of Admission to make us pledge civility in all our communications. The Court has mandated that each circuit create a professionalism committee to enforce standards for civility and professionalism. Although an important component of our war on incivility, regulatory minimums are

not the strongest foundation of our commitment to civility. That strong foundation must be had in our individual, personal commitment to conduct ourselves in accordance with the highest ideals of our profession. That commitment requires of us that we respect the dignity of every man and woman, whether they be witness, party, lawyer or bystander.

Back to the traffic light, where you have been patiently waiting, with that smile on your face. It is my hope that those of you who try my little experiment with the traffic light will experience a feeling and sense of control over your surroundings that makes you want to replicate the experience in your practice of law.

**David Hallman** is the Nassau County Attorney and Chair of The Florida Bar's Standing Committee on Professionalism.

# Nominations for Professionalism Awards Are Being Accepted

The Florida Bar's Standing Committee on Professionalism is now accepting nominations for its William M. Hoeveler Judicial Professionalism Award; its Group Professionalism Award for bar associations, judicial organizations, inns of court, or law school organizations aimed at enhancing professionalism among lawyers and law students; and the Law Faculty/Administrator Professionalism Award.

The Hoeveler Judicial Award is for either a state or federal judge "who best exemplifies strength of character, service, and competence as a jurist, lawyer, and public servant. Nominees should be judges who have communicated their pledge to the ideals of justice and diligence in inspiring others to the mission of professionalism," according to the committee.

The purpose of the Group Professionalism Award is to find one organization that has an innovative program that can be implemented by other organizations to promote and

encourage professionalism within the legal community. Entrees are judged on their quality, how easy they are to replicate by another association, the number of lawyers participating or affected, the likelihood it will continue, and its success, among other factors. With the recognition comes a \$1,000 cash award.

The Law Faculty/Administrator Award is intended to honor a faculty member or administrator of one of Florida's law schools who through teaching, scholarship, and service to the profession best supports or exemplifies the mission of the Standing Committee on Professionalism: "To promote the fundamental ideals and values of professionalism within the legal system and to instill those ideals of character, competence, civility, and commitment in all those persons serving and seeking to serve therein."

Nomination forms can be found on the Bar's website.

The deadlines for nominations and

all supporting documents include:

- William M. Hoeveler Professionalism Judicial Award by February 1, 2014.
- Law Faculty/Administrator Professionalism Award by February 14, 2014
- Group Professionalism Award by February 14, 2014.

Nominations for the awards may be mailed or e-mailed to the Henry Latimer Center for Professionalism, The Florida Bar, 651 East Jefferson Street, Tallahassee 32399-2300 or [cfp@flabar.org](mailto:cfp@flabar.org).

All questions regarding the awards may be directed to Jacina Haston, Assistant Director for the Center for Professionalism, e-mail [JHaston@flabar.org](mailto:JHaston@flabar.org) or by phone at (850) 561-5747 or the chair of the Awards Working Group, Michael Schneider, at [mschneider@florida-jqc.com](mailto:mschneider@florida-jqc.com) or (850) 488-1581.

Winners will receive their awards at the Bar's Annual Convention next June in Orlando.

# Director's Report

As the holiday season approaches, the Henry Latimer Center for Professionalism remains busy with many ongoing and new projects on the horizon.

The inaugural William Reece Smith, Jr., Leadership Academy has held two additional meetings since my last report for which the Center for Professionalism continues to create the now totaling almost twenty modules of curriculum. In September, the fellows met jointly for two days in Tampa to focus on the theme of "Leading for Now & Tomorrow." Invited presenters treated the group to dynamic topics including, "Leading in an Uncertain Future" by Gerry Riskin, "Leading Lawyers in a Diverse Society: Cultural Competency and Beyond" by Wilhelmina Tribble, "Leader, Know Thyself! Putting Your Leadership Skills to Work" by Nora Riva Bergman, "Constructive Feedback and the 360 Process" by Alexa Sherr Hartley, and "Harnessing the Power of Relationships: Mentoring, Sponsoring and Networking" by Jacina Haston.

In November, the north fellows met in Atlantic Beach while the south fellows met in Miami to explore the theme of "Effective Interaction and Communication as Leaders." Presentations included "Communicating for Leaders," "Delivering your Message: Presentation Strategies for Leaders," "Maximizing Your Meetings," and "Social Media and Technology for Today's Leader." The program concluded with a panel discussion, "Leading in Public Roles: Running for Public Office, Getting on the Bench, and Seeking Endorsements." The panelists highlighted considerations when deciding whether to run for public office, the journey to the bench, and how to leverage one's professional network to gain support.

Throughout the fall, the goal of the Standing Committee on Professionalism (SCOP) to partner with the Young Lawyers Division (YLD) and the YLD Law Student Division to present a "Balancing Life and Law" panel discussion in all Florida law schools is coming to fruition. At this time, presentations have been delivered in nine of the twelve law schools

and the remaining programs are scheduled for the spring term. The purpose of the program is to impart knowledge and perspectives from seasoned attorneys, many who are SCOP members, to law students while they are yet still impressionable, on how to balance one's personal life and the practice of law. Appreciating the workaday demands on lawyers and learning to develop effective strategies is not a topic routinely taught or emphasized in most law schools, but these panelists have been able to provide law students with a first-hand account of beneficial techniques to best prepare students for life after law school, while helping the law students expand their professional network.

Further ways the Center reaches law students and lawyers newly admitted to The Florida Bar are training additional bar counsel presenters, actively developing new content, and delivering the 90-minute professionalism segment of YLD's "Practicing with Professionalism." This program, which explores professionalism, civility, and ethics, provides a snapshot of how professionalism is regulated through the disciplinary system (including the cases, rules and new Code for Resolving Unprofessionalism Complaints), the Attorney Consumer Assistance Program and the local peer review or local professionalism panels. It includes a segment with movie clips and small group interaction designed to help attendees gain practice identifying and resolving professionalism issues, including a consideration of what one can do when observing or becoming a party to unprofessional conduct. A new topic incorporated in 2013 regards respect for the judiciary with a discussion of how one respectfully disagrees with the judge before focusing on professionalism from a social media perspective and concluding with a reminder of why professionalism matters.

Apart from these highlighted activities and supporting the SCOP working groups, the Center is producing two new CLE presentations this spring. One CLE will focus on professionalism concerns in social

media and a second program entitled, "Professionalism: The Winning Edge," will supplement "Professionalism Matters."

In November, the Center was proud to welcome its new Program Coordinator, Christopher Hargrett, as Vicki Simmons accepted a new position with The Florida Bar. Chris is a Florida State alum, where he graduated with a degree in Hospitality Management. He has worked for The Florida Bar for over five years – the majority of that time in the Attorney Consumer Assistance Program. Chris is fluent in reading, writing, and speaking Spanish. He is a huge movie enthusiast, enjoys spending time with his lovely wife, Kendal, and serving in his church. We are excited to have him join the Center.



**Linda Calvert Hanson**  
Director of The Henry Latimer Center  
for Professionalism

## Professionalism CLE Credit

Visit the Center's website at <http://www.floridabar.org/professionalism> and check out the Historical Video Series. There are over 30 DVDs of interviews of prominent members of the legal profession in Florida, including Justices of the Supreme Court, that are available for only \$35 each, plus tax. **Each DVD is approved for 1 hour of Professionalism CLE credit!**



# Tis the Season to be Giving!

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

With all of the frenzy of the holidays, we often times forget about those that are less fortunate. It is easy to buy into the Black Friday ads, the Christmas music, and the scent of pumpkin spice being pumped throughout the stores. Take a moment and think about where you would be in your career today if there were no one to help show you the way or give you guidance. I use this simple analogy to drive home the point that there are many within our communities that need our time, talents, and treasures.

The holiday season is about giving back or paying it forward. We should make the most of what we have to offer by devoting our time to the homeless shelter, doing a case pro-bono, or making a monetary donation to a women's shelter. It states within the Creed of Professionalism, "I will further my profession's devotion to public service and to the public good." What better time to make those words ring true than the holiday season.

While working at the Public Defender's Office, I noticed that during the holiday season crime peaked tremendously because many were

hard pressed to assure that family members would receive gifts, therefore, they resorted to crime to assure that it would happen. In addition, as a Family Law attorney I observed many families being destroyed by dissolution of marriage and domestic violence injunctions because of all of the pressures and strains that the holiday season brought. We must be mindful in our day-to-day interactions



on how we may be able to change someone's unfortunate circumstance. Today's reality is that there are many people without employment, unable to provide for their family, and desperate for reprieve.

There are several options that we can do to give back over the holiday season. One does not need to look far as there will be organizations such as Toys for Tots, Salvation Army Angel

Tree, and the United Way. We may know someone who is without employment and decide to provide groceries as a form of giving back. Providing the homeless a blanket, jacket, or a meal may be our way of paying it forward. Volunteering our time at the local community center assisting the youth may be the way we show our generosity. Raising money with others in our communities and neighborhoods sharing the same passion and making a donation to a local organization may serve as our act of giving.

As a lawyer we wear many hats and one of those hats is as a public servant. We have been given the talents and privileges not to just seek justice, but to help those who are less fortunate. What we have to offer can make a tremendous difference in another person or family's life this holiday season, so I challenge us to be of good cheer and give.

*"He who has everything, has nothing, if he is not reaching back to help those in need." - Unknown*

## Developing a Mentoring Program?

Is your voluntary bar association interested in creating a mentoring program? The Henry Latimer Center for Professionalism has created a Mentoring Toolbox that has all the essentials to make your program a success. The Mentoring Toolbox consists of a mentoring handbook, resource guide, PowerPoint presentation, and all necessary training materials. The Mentoring Toolbox is available upon request. If you or your organization is interested, please contact the Center at [cfp@floridabar.org](mailto:cfp@floridabar.org).

# YLD Professionalism Panel: Balancing Life and the Law

By: **Melanie Kalmanson, 1L, Florida State University College of Law, and Sarah Niewold, 2L, Florida State University College of Law**

On October 23, 2013, the Florida Bar Young Lawyers Division (YLD) and the YLD's Law Student Division (LSD) Board of Governors at the Florida State University (FSU) College of Law hosted a professionalism panel that focused on the challenges of balancing life outside of the office and a career in law. The many law students that came to the event greatly appreciated the honesty and candor that the panelists offered. On the panel were Carrie Roane of Guilday Law, Jim Floyd from the City of Tallahassee, Charles Vanture of Smith & Vanture, County Court Judge Nina Ashenafi-Richardson, and Richard Lawson with the Attorney General's Office. The discussion was moderated

by former YLD President, Sean T. Desmond.

The diverse group of panelists provided different perspectives. Discussion topics ranged from hobbies outside of work, which included playing soccer and performing in a band, the journeys that led each panelist to law school, the challenges of being a new attorney, and the long hours that first jobs often require. Their professional experiences ranged from solo-practice to a mid-sized firm and to a large national firm, government jobs, and even being a member of the judiciary. Each panelist was eager to share his or her unique experience with the audience for every topic or question Mr. Desmond posed.

At the close of the event, the panelists spent time meeting and speaking further with students. The panelists offered plenty of advice and suggestions to students on topics like how to raise a family while having a career and how to stay sane amongst the stress of a career in law.

The FSU LSD Governors, as well as the panelists, have received great feedback expressing appreciation for the event. Students enjoyed a lunch catered by Chick-fil-A and provided by the FSU College of Law YLD LSD Board of Governors. Overall, the event successfully furthered the Standing Committee on Professionalism and YLD's goal of connecting law students with professionals.



Sean Desmond moderates the "Balancing Life and Law" panel.



Carrie Roane, of Guilday Law and a member of the Standing Committee on Professionalism, addressing law school students.



Jim Floyd, from the City Attorney's Office in Tallahassee, offers a law student advice.

# Winning Is Not Always Winning

By: Kevin Joyce, 3L, Florida State University College of Law

*“Show class, have pride, and display character. If you do, winning takes care of itself.”*

- Paul “Bear” Bryant

Whether in a courtroom, on an athletic field, or simply a scratch off lottery ticket at the nearest convenience store, people want to win. No one enters a competition with the goal of losing. What happens though when winning becomes so important that everything else is lost? What happens when you lose your values and character by breaking the rules in order to win? Is it really still winning?

As a young boy, I played multiple sports. While playing sports I was introduced to the concepts and teachings of legendary coaches, including Alabama football coach Paul “Bear” Bryant, who stressed character and class. Through my participation in sports, I learned to live by these teachings and began to admire professional athletes who followed them. My favorite athlete was Cal Ripken, Jr. I had his poster on my wall, and in every sport I played, my number was always 8. He was my role model. He was a positive influence who always displayed class and character. As shortstop for the Baltimore Orioles not only did he break the record for the most consecutive games played but also always played the game the right way.

While I had a positive role model growing up, unfortunately, that is not always the case today. The past few years have been cluttered with athletes who broke the rules of their sport and cheated in order to gain an advantage over opponents. Sprinter Marion Jones had her Olympic medals stripped by the International Olympic Committee for use of steroids. Cyclist Lance Armstrong had his yellow jerseys taken away after it was discovered that he had lied for years about doping. Ryan Braun of the Milwaukee Brewers was suspended for use of performance enhancing drugs after initially denying the allegations. The list goes on and on.

As one modified Braun jersey put it, each of these athletes is nothing but a “FRAUD.” The “win at all cost” athletes mentioned above made a choice to put winning in front of everything else including the rules governing their sport, their character, and their values. While these athletes may appear to have achieved initial success, they did not really win at all.

However, compromising your character and values is not only done on an athletic field. It can just as easily be done in a courtroom, at a deposition, or in the privacy of your office. In *Fagins v. State*, the judge noted that improper comments on the credibility of opposing counsel are occurring too often and that attorneys need to uphold professional and ethical obligations while practicing. 116 So. 3d 569 (Fla. Dist. Ct. App. 2013). Attorneys need to show class and display character just as Paul “Bear” Bryant stressed. Additionally, the court called for trial courts to be mindful on misconduct and respond where appropriate to help eliminate the problem. *Id.* Like how different professional sports leagues hold athletes to the rules, courts must strive to do so as well.

In *Benoit v. State*, the concurring opinion criticized the professionalism of the prosecutor. 113 So. 3d 939 (Fla. Dist. Ct. App. 2013). In her opening statement, the prosecutor referred to evidence that had previously been deemed inadmissible and then claimed she did not violate the previous ruling because her opening statement was not evidence. *Id.* The opinion stated that the explanation given by the prosecutor was deceitful and dishonest to the point that it would fail the “straight face” test. *Id.* The prosecutor needed to have pride in her work and play by the rules.



(Photo credit - @thefinalgun)

The values of an attorney emanates the type of character they have. An attorney may value health, humor, personal growth, happiness, independence, nature, or religion. They may see the most important thing in their life as being able to spend time with family and friends. Regardless of what their values are, in order to better their character, an attorney must be aware of their values and realize that they are

not situational.

I believe the most important characteristic an attorney can possess is their credibility. If an attorney is willing to do whatever it takes to win a case by either bending or breaking the rules, making improper comments, or not giving it 100 percent, all credibility is lost. With that loss, the attorney loses the respect of members on the bench, other attorneys, and clients. Not to mention playing into the all too well known negative public perception of attorneys. The attorney has created an image that is not positive. In this situation, just like Jones, Armstrong, and Braun, the attorney has not really won at all.

An attorney has certain obligations that must be upheld in the courtroom. Attorneys must approach clients, other attorneys, and judges with respect and professionalism. To maintain credibility, an attorney must show integrity and always play by the rules. If an attorney can do this, they will show class and character and not have to worry about the negative perception of the previously mentioned athletes and some attorneys. The attorney will be able to take pride in the fact that they have done things the right way, and in the end, just like Paul “Bear” Bryant said, “winning will take care of itself.”



**William E. Loucks**  
President, FLMIC



**Melanie Griffin**  
President, YLD



**Kevin Johnson**  
Chair, GPSSF



**Linda Calvert Hanson**  
Director, Henry Latimer Center  
for Professionalism



**Kevin Crews, Stetson**  
2013 Essay Winner

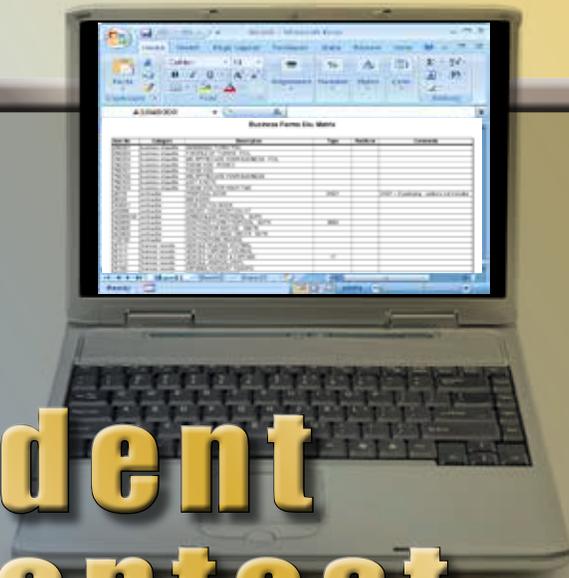


**Amber Scott, Barry**  
2013 Hon. Mention



**Danielle Kaye**  
President, YLD Law  
Student Division

# 2014 Florida Law Student Essay Contest



*Co-Sponsored by*  
*The Florida Bar Young Lawyers Division*  
*Florida Lawyers Mutual Insurance Company*  
*General Practice, Solo & Small Firm Section (GPSSF)*  
*The Henry Latimer Center for Professionalism*

**Topic: How Technology Can Lead To  
(Or Prevent) Malpractice and Bar  
Grievances in a Virtual Law Office**

**Deadline: April 1, 2014 by 5 p.m.**

- \$750 first prize and complimentary registration to 8th Annual Solo & Small Firm Conference and hotel accommodations
- \$350 honorable mention

*This contest is open to all Florida law students. For more information about contest rules and guidelines, speak with your school's Young Lawyers Division Law Student Division representative or visit a sponsors' website.*



[www.flmic.com](http://www.flmic.com)



[www.flayld.org](http://www.flayld.org)



[www.gpssf.org](http://www.gpssf.org)



Contest Rules

# Professionalism for Law Students

By: **Caroline Johnson Levine, Member of the Standing Committee on Professionalism, Office of the Attorney General, Tampa**

The Hillsborough County Bar Association (HCBA) held a professionalism event at the Chester H. Ferguson Law Center aimed at educating the attendees about the wonderful benefits of embracing professionalism and inclusion in the legal profession. Additionally, sponsors of the event provided law students with opportunities for future networking, internships, and employment.

The Florida Bar provided a diversity grant for this event in order to provide financial assistance to law students who wished to attend. Arnell Bryant-Willis, The Florida Bar Diversity Initiatives Manager was in attendance and stated that:

“This was the first networking event where there was a cross-section of presenters from all of the local voluntary bar associations, who were able to give the law students and lawyers a complete picture of how voluntary bar associations function. The panelists provided excellent summaries of the Association’s efforts to promote diversity in the legal community. This is important because everyone should be encouraged and allowed to participate in the creation of a more diverse profession. Also, it was exciting that The Florida Bar Past-President Gwynne Young was in attendance to promote The Florida Bar’s initiatives for diversity and inclusion . . . . So, we are really striving to develop, establish, and create a way to include all members of The Florida Bar.”

The Florida Bar approved a 1.0

hour continuing legal education ethics credit for a panel presentation where the speakers provided the attendees with an education about the importance of a diverse profession and the on-going professionalism efforts of the voluntary bar associations in the Tampa Bay Area. I was fortunate enough to moderate this event, whose panelists included Victoria Cruz-Garcia, President of the Tampa Bay Hispanic Bar Association; Cory Person, President of the George Edgecomb Bar Association; Jason Liu, President of the Asian Pacific American Bar Association; Christine Derr, Past President of the Hillsborough Association for Women Lawyers; Navin Pasem, President-Elect of the South Asian Bar Association; Kim Byrd, Past-President of the National LGBT Association; and Ric Asfar, who is working to create a bar association which will represent lawyers advancing diversity for those persons of Middle Eastern and North African descent.

Cory Person enthusiastically supported this event and stated that “this event was important because it gave minority law students a unique perspective on the practice of law and the continuing importance of racial and cultural understanding. We must keep the dialog going!” Victoria Cruz-Garcia expressed:

“I think it was a fantastic event! The opportunity to be able to present your thoughts and experiences to a group of law students is inspiring. I certainly hope that by all of us sitting before them and speaking about our different organizations, we gave them diversity and professionalism

through choice!”

Approximately two hundred people attended this event, which included eighty-four law school students, representing the Florida State University College of Law, University of Florida Levin College of Law, Stetson University College of Law, Thomas Cooley Law School, Florida A&M University College of Law, and Ave Maria School of Law. Three lucky law students, who entered raffles, received financial scholarships. The HCBA provided \$500 dollar scholarships to Florida State law student Meghan Highfield and University of Florida law student Joshua Coriveau. Additionally, BARBRI provided a \$1,500 scholarship for its bar review course to Stetson law student Nicola Larmond-Harmey.

Bianca Guerrier, a second year law student at Stetson, felt that “the HCBA diversity event was eye-opening. Learning about the different diversity associations in the legal community made me feel compelled to become familiar with the missions and issues of each of the groups in relation to the legal world, so as to effectively serve the diverse needs of those closest to me, as well as future clients.” Brandy Pikus, a first year law student at Stetson, stated that “it was wonderful to be able to interact with representatives from multiple firms all in one place, and the panel provided great insight on how getting involved can make a difference.”

It is clear that advancing professionalism in The Florida Bar requires a proactive approach and can begin by educating future attorneys about the benefits of civility, professionalism, and diversity.



Caroline Johnson Levine, of the Office of the Attorney General and a member of the Standing Committee on Professionalism, moderates panel.

# IN REVIEW

## The Florida Bar Ratiner Revisited: Recap of Referee Report

For those familiar with professionalism cases in Florida, Robert Ratiner is a name that has often been referenced. In 2010, Ratiner was publicly reprimanded and suspended for 60 days for unprofessional conduct at a videotaped deposition. The Florida Bar v. Ratiner, 46 So.3d 35 (Fla. 2010).

Ratiner was plaintiffs' counsel in a civil suit against E.I. DuPont de Nemours & Co., Inc. The Florida Bar sought discipline for alleged misconduct during a videotaped deposition that was held in Wilmington, Delaware in 2007. The referee made the following findings in support of his recommendation of guilt. During the course of the deposition, Ratiner was standing up and speaking forcefully towards opposing counsel. The opposing counsel attempted to place an exhibit sticker on Ratiner's laptop computer to which Ratiner responded by attempting to run around the table towards opposing counsel.

Ratiner then proceeded to forcefully lean over the deposition table, lambast opposing counsel in a tirade while proceeding to tear up the evidence sticker, wad it up, and toss it in the direction of opposing counsel.

Ratiner's own consultant attempted to calm Ratiner down by placing his hand on Ratiner's back and telling Ratiner to "calm down, take a Xanax."

The referee concluded that Ratiner's conduct during the deposition was "outrageous, disruptive, and intimidating to the witness, opposing

end of the road for Ratiner. Recently, the referee released the final report from actions taking place at a subsequent DuPont document review session in 2009. In the Final Report of the Referee entered November 13, 2013, the referee recommended Ratiner be suspended from the practice of law for three years followed by two years of probation.

The referee found that Ratiner created an atmosphere of intimidation, bullying, and abuse by his actions in which he completely ignored all aspects of civility, decorum, and professionalism. Therefore, the referee found Ratiner guilty of violating rule 3-4.3 (Misconduct

and Minor Misconduct), rule 4.4.4(a) (Respect for Rights of Third Parties), rule 4-8.4(a) (Misconduct), and rule 4-8.4(d) (Misconduct) of the Rules Regulating The Florida Bar. Based on these findings, the referee recommended a suspension from the practice of law for three years followed by two years of probation. This case waits a final disposition by the Florida Supreme Court.

**"Those who testified on Mr. Ratiner's behalf described him in part as what I would characterize as the person one would want with them in the proverbial foxhole. While that may be appropriate and valuable in a ground war in a military conflict, our justice system is not – and should never be – like that."**

counsel, and others present during the deposition and otherwise prejudicial to the administration of justice."

The referee "suggested and the Supreme Court agreed that members of the Bar and law students could view the video recording as a glaring example of how not to conduct oneself in a legal proceeding."

However, that public reprimand and 60-day suspension was not the

## The Florida Bar v. Jeffrey Alan Norkin

The Supreme Court of Florida recently disciplined an attorney for numerous instances of unprofessional conduct that occurred in exchanges with judges and other attorneys. After an initial recommendation by the referee that the attorney be found guilty of unprofessional misconduct and a 90-day suspension followed by an 18-month period of probation, the Court

ordered a two-year suspension, 18-month period of probation, and public reprimand before the Supreme Court for violation of rules 4-8.2(a), 4-8.4(a), 4-3.5(c), and 4-8.4(d) of the Rules Regulating The Florida Bar. Although the public reprimand before the Florida Supreme Court has been scheduled for February 6, 2014, subsequent pleading have been filed by the respondent.

# Article Review

## Redefining Professionalism? Florida's Code Mandating the Aspirational Raises Challenging Questions

By: Keith W. Rizzardi  
 The Florida Bar Journal, November 2013  
 Reviewed by: Kevin Joyce

In the November 2013 issue of the The Florida Bar Journal, Keith Rizzardi, an experienced environmental lawyer, litigator, and negotiator with Jones Foster Johnston & Stubbs, wrote a piece related to the recent Florida Supreme Court Order In Re: Code for Resolving Professionalism Complaints, 116 So.3d 280 (Fla. 2013), that questions the implementation process and how the difficulty defining “professionalism” may affect the enforcement of the new code.

Rizzardi notes that at one point professionalism was a shared aspiration of members of the bar, however, the passive, academic approach used to rectify issues has been insufficient to reverse the downward turn. Rizzardi questions how the new defini-

tion of “unprofessional conduct,” put forth by SC13-688, can solve professionalism issues when that definition was formed by measures that have been in existence and proved unsuccessful.

Rizzardi fears that while many local professionalism panels will seek to resolve complaints with meetings involving the respondent, some complaints may be resolved with the same passive approaches used in the past such as The Florida Bar’s ethics school, professionalism workshops, Law Office Management Assistance Service (LOMAS), anger management classes, stress management workshop, Florida Lawyers Assistance, Inc., or the trust accounting workshop.

Rizzardi also raises the issues of confidentiality and vagueness. Like others, Rizzardi is unsure how the panels will handle confidentiality as it is not provided in the code. Additionally, Rizzardi expresses concern about the vagueness of the order. He questions whether each circuit’s interpretation of the standards may create an issue in which an attorney practicing in multiple geographical areas is unaware of the different standards. Despite his concerns over vagueness, inconsistent enforcement, and confidentiality, Rizzardi notes that the new code is a statement by the Court that professionalism is mandatory and will be enforced but feels revisions to the code must occur.

### Summary of Florida Circuit Local Professionalism Panels as mandated by In re Code for Resolving Professionalism Complaints, 116 So. 3d 280 (Fla. 2013)

CIRCUIT	ADMINISTRATIVE ORDER LINK OR LOCATION
First	<a href="http://www.firstjudicialcircuit.org/document-library/ao-2013-46-local-professionalism-panel">http://www.firstjudicialcircuit.org/document-library/ao-2013-46-local-professionalism-panel</a>
Fourth	A copy of Administrative Order 2013-09 can be found in the Official Records of Duval County in Book 16497, pages 866-873.
Fifth	<a href="http://www.circuit5.org/c5/wp-admin/ao/A2013-45.pdf">http://www.circuit5.org/c5/wp-admin/ao/A2013-45.pdf</a>
Sixth	<a href="http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/2013PDFFiles/2013-075.pdf">http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/2013PDFFiles/2013-075.pdf</a>
Seventh	<a href="http://www.circuit7.org/Attorney%20Resources/professionalism.html">http://www.circuit7.org/Attorney%20Resources/professionalism.html</a>
Thirteenth	<a href="http://www.fljud13.org/Portals/0/AO/DOCS/S-2013-071.pdf">http://www.fljud13.org/Portals/0/AO/DOCS/S-2013-071.pdf</a>
Fifteenth	<a href="http://15thcircuit.co.palm-beach.fl.us:8080/c/document_library/get_file?uuid=9ce94e86-483b-4125-b3b7-5876d091f650&amp;groupId=10136">http://15thcircuit.co.palm-beach.fl.us:8080/c/document_library/get_file?uuid=9ce94e86-483b-4125-b3b7-5876d091f650&amp;groupId=10136</a>
Nineteenth	<a href="http://www.circuit19.org/documents/AO/2013/AO%202013-14.pdf">http://www.circuit19.org/documents/AO/2013/AO%202013-14.pdf</a>

# Book Review

## Choosing Civility: The Twenty-Five Rules of Considerate Conduct

By: P.M. Forni

St. Martin's Griffin Press, 2002

Reviewed by: Sara L. Alpert, Fellow, William Reece Smith, Jr. Leadership Academy, and Associate, Zuckerman Spaeder, LLP

P.M. Forni, a professor of Italian literature at The Johns Hopkins University, is on a crusade in the name of civility. In 1997, he co-founded the Johns Hopkins Civility Project, re-constituted as the Civility Initiative, to work on assessing the significance of civility, manners, and politeness in contemporary society. His first book on the subject, "Choosing Civility: Twenty-Five Rules of Considerate Conduct," is a beautiful expression of his passion for the civil life. Professor Forni argues (or more politely, articulates) that civility, however one defines it, is fundamental to creating a "good, successful, and serene life."

In "Choosing Civility," Professor Forni seeks to "make a persuasive case for making civility a central concern in our lives, and to present and discuss the twenty-five basic rules of civility for our times." One day, while lecturing on the Divine Comedy, he looked at his students and "realized that I wanted them to be kind human beings more than I wanted them to know about Dante. I told them that if they knew everything about Dante and then they went out and treated an elderly lady on the bus unkindly, I'd feel that I had failed as a teacher." Thus, Professor Forni asks the reader to agree on one premise: "that a crucial measure of our success in life is the way we treat one another every day of our lives." When we treat others well, we are treating them with civility.

But what is civility exactly? Professor Forni declines to give a precise definition. Rather, he articulates various meanings of civility elicited from participants during his civility workshops. For example, "civility" includes concern for others, maturity, fairness, decency, community service, manners, tact, honesty, awareness, respect, and kindness. However one defines it, Forni points out that "[c]ivility assists us in making choices

that increase the quality of our lives," because being civil enhances our ability to relate and connect with others. As a result of this relationship grease, we achieve successful outcomes. And this relational competence increases our own health and happiness. Professor Forni cites several studies demonstrating that positive social connections allow people to fight disease and live longer. In contrast, "[a] review of dozens of [other] studies has shown that hostility as a personality trait is a major risk factor in the development of coronary heart disease." I'd prefer to be civil, wouldn't you?

In the book's second part, Professor Forni sets forth the twenty-five basic rules of considerate conduct with examples for why each rule is necessary and how it should be applied. Recognizing that rules of civility have been around for a very long time and discussed in a number of ways by religious authorities, philosophers, and society columnists, and many others, Forni adds to that body of work by distilling this wisdom and rewriting it for our time. Many of the rules will be familiar to the reader, such as "Listen and Respect Other People's Time and Space," but nonetheless are worth being reminded of. Other rules, such as

"Be Inclusive," "Think Twice Before Asking for Favors," and "Don't Shift Responsibility and Blame," are not as elementary but are equally essential to a civil life. Professor Forni admits that following the rules "may not feel like a shortcut to a good life" because civility requires work and dedication but he assures the reader that the rules "do offer a path to serenity and contentment." I agree.

"Choosing Civility" is an excellent primer on considerate conduct. Unfortunately, the subject is one of those that end up only being preached to the choir, but "Choosing Civility" is certainly worth any Florida Bar member's read. It's a practical handbook for considerate behavior with examples the reader can relate to. English is Professor Forni's second language, but one would never know it. The prose is concise and elegant, making the book a quick, clear, and easy read. If everyone in America followed these rules of considerate conduct, at least 80% of the time, we would have a very civil society. Certainly, if every member of The Florida Bar made a daily effort to live by these twenty-five rules, the grievance committees (and the new professionalism panels) would have little to do.

### RECENT PUBLICATIONS & DECISIONS

Keith W. Rizzardi, "Redefining Professionalism? Florida's Code Mandating The Aspirational Raises Challenging Questions," The Florida Bar Journal, November 2013.

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Kirsten K. Davis, "Inspecting – Not Just Expecting – Professionalism: Florida Supreme Court Adopts Code for Resolving Professionalism Complaints," AALS Professional Responsibility Section Newsletter, Fall 2013.



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, including Justice Barbara Pariente discussing changes she has seen in the practice of law during the course of her career, and 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. The Historical Video Series is only \$35 per DVD. Each video covers a range of topics and is approved for one hour of Professionalism CLE. 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 Bar's website.

### ***A Word To The Wise***

***If you want to lift yourself up, lift up someone else.***

**– Booker T. Washington**

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***The only disability in life is a bad attitude.***

**– Scott Hamilton**

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***Keep your face to the sunshine and you cannot see the shadows.***

**– Helen Keller**



**THE FLORIDA BAR**

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