

SUPREME COURT OF GEORGIA

Atlanta February 3, 2005

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Part IX Professionalism of the Rules and Regulations for the Organization and Government of the State Bar of Georgia, establishing the Chief Justice's Commission on Professionalism, be amended to read as follows:

_____ Rule 9-101. Purpose.

This Part of the State Bar Rules is adopted in recognition of the importance of professionalism as the ultimate hallmark of the practice of law. The purpose of this Part is to create within the State Bar a Commission to identify, enunciate and encourage adherence to non-mandatory standards of professional conduct. These standards should involve aspirations higher than those required by the Georgia Rules of Professional Conduct in Part IV.

_____ Rule 9-102. Chief Justice's Commission on Professionalism.

(A) Membership, Appointment and Terms

There is established a permanent Commission of the State Bar of Georgia known as the Chief Justice's Commission on Professionalism. The Commission shall consist of twenty-one (21) members as follows: (1) the Chief Justice of the Supreme Court of Georgia or his or her designee, who shall serve as Chair of the Commission; (2) The Chief Judge of the Court of Appeals or his or her designee; (3) one superior court judge designated by the Council of Superior Court Judges; (4) one state court judge designated by the Council of State Court Judges; (5) four law school faculty members designated by the deans of the accredited law schools in the State of Georgia, one of whom must be a member of the State Bar Committee on Professionalism; provided, however, such faculty members shall not be from the same law school; (6) one non-lawyer former member of the State Disciplinary Board; (7) one non-lawyer citizen from the public at large; (8) the President of the State Bar of Georgia; (9) the President of the Young Lawyers Division of the State Bar of Georgia; (10) one Federal District Judge; and (11) eight members of the State Bar of Georgia actively engaged in the practice of law, one of whom must be employed by a unit of federal

state, or local government, one must be engaged primarily in criminal defense practice, one must be a federal or state prosecutor, and one must be in-house counsel.

Three of the practicing lawyers and the non-lawyer former Disciplinary Board member shall be appointed by the Board of Governors of the State Bar of Georgia. The remaining members of the Commission, with the exception of the President of the State Bar of Georgia, the President of the Young Lawyers Division of the State Bar of Georgia, the superior court judge, and the state court judge, shall be appointed by the Supreme Court. The terms of the members of the Commission shall be staggered and that shall be accomplished by the initial appointments being as follows: two of the practicing lawyer members appointed by the Board of Governors shall serve until the conclusion of the State Bar Annual Meeting in 1990; the non-lawyer general public member shall serve until the conclusion of the State Bar Annual Meeting in 1990; the superior court judge member, one practicing lawyer member appointed by the Board of Governors and one law faculty member shall serve until the conclusion of the State Bar Annual Meeting in 1991. The remaining members of the Commission shall serve until the conclusion of the Annual Meeting of the State Bar in 1992. Thereafter, the superior court judge member shall serve for a two year term as designated by the Council of Superior Court Judges, the state court judge member shall serve for a two year term as designated by the Council of State Court Judges, and all other members of the Commission shall serve for three (3) year terms, and no member (except the Chief Justice, that member appointed by the Court of Appeals, and the law school representatives) may serve more than two (2) terms on the Commission.

(B) Powers and Duties of the Commission:

The Commission's major responsibilities shall be:

- (1) To consider efforts by lawyers and judges to improve the administration of justice;
- (2) To examine ways of making the system of justice more accessible to the public;
- (3) To monitor and coordinate Georgia's professionalism efforts in such institutional settings as its bar, courts, law schools and law firms;
- (4) To monitor professionalism efforts in jurisdictions outside Georgia;
- (5) To conduct a study and issue a report on the present state of professionalism within Georgia;
- (6) To plan the yearly Convocation on Professionalism;

- (7) To promote various regional convocations on professionalism;
- (8) To provide guidance and support to the Commission on Continuing Lawyer Competency in its implementation and execution of the continuing legal education professionalism requirement;
- (9) To help implement a professionalism component in the Bridge-the-Gap program;
- (10) To make recommendations to the Supreme Court and the State Bar concerning additional means by which professionalism can be enhanced;
- (11) To receive and administer gifts and grants; and
- (12) The Commission shall have no authority to impose sanctions of any kind upon any member of the State Bar of Georgia.

(C) Finances

Funding for the Chief Justice's Commission on Professionalism shall be provided by an additional surcharge for each active State Bar member who attends a course in professionalism sponsored by the Institute of Continuing Legal Education (ICLE) or by any other sponsor approved by the Commission. The rate shall be set annually by the Chief Justice's Commission on Professionalism, and the surcharge shall be remitted directly to it by ICLE, by any other such sponsor, or, in an appropriate case, by the individual State Bar member who attended a course in professionalism approved by the Commission.

It is further ordered that *A Lawyer's Creed* of the Rules be amended as follows:

A LAWYER'S CREED

To my clients, I offer faithfulness, competence, diligence, and good judgment. 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.

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.

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;
 - (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.
- (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.

