

### O. Measuring Professionalism

The Georgia Commission has met many of its goals in terms of education, recommendations to the bar and bringing sustained attention to the professionalism effort. If the goal was to create more awareness of these issues and build some sensitivity among practitioners to how they behave and how they are perceived, the Commission has succeeded.

In fact, awareness has been achieved to the extent that money has flowed into the professionalism effort through a consent order entered by a federal judge in settlement of a protracted discovery dispute. In late 1998, Judge Hugh Lawson's order required the defendant to pay to each of the four ABA-accredited law schools in Georgia the sum of \$2.5 million to endow at each school a chair of Ethics and Professionalism in the Practice of Law. This act lent immediate credibility to this area of the curriculum. The order further required the defendant to pay \$1 million to set up a fund to endow an annual Symposium on Ethics and Professionalism in the Practice of Law, to be hosted on a rotating basis by each of the law schools. Additionally, the sum of \$250,000 was required by the order to be paid to the Chief Justice's Commission on Professionalism to be used to further its mission.

Fundamentally, the professionalism effort in Georgia has assisted in rebuilding the community of the bar. Scores of lawyers throughout the state have volunteered to participate as speakers, panelists, and facilitators at CLE events and the law school programs, as mentors, and as authors of published articles and columns on professionalism. Being associated with the professionalism movement in Georgia is seen as an honor. Membership on the Commission, the State Bar Committee on Professionalism, serving as a mentor, speaking on Professionalism at CLE programs are highly sought after designations.

Professionalism has become a shorthand way of communicating the values of competence, civility, character, and commitment to the public good. The professionalism movement has led the Georgia lawyers and judges to develop a common vocabulary, making the values of professionalism the coin of the realm for high standing in the legal community.

However, if the goal is to bring about change (both personal and systemic) it is very difficult to measure. The Commission would have more empirical data if, at the time of the creation of the Commission, a survey had been done of Georgia lawyers' and judges' attitudes about professionalism in the practice of law. This would have established a baseline for comparison. The University of Georgia School of Law undertook an empirical survey in 2002 on the frequency with which Georgia lawyers encounter various types of unprofessional conduct in discovery and their responses to it. The results of this survey will provide a basis for assessing the state of professionalism in pre-trial discovery since 2002.

Those state supreme courts and bars considering a statewide professionalism effort would be well-advised to include at the outset an empirical study of the current state of professionalism to provide a benchmark for later studies seeking to assess the effectiveness of the effort.

Although Georgia lacks scientific measurement, numerous examples can be cited of the attention drawn to professionalism among the lawyers, judges, and legal educators of Georgia. Many of these are local bar professionalism initiatives.

Creative uses of professionalism creeds and pledges. In the litigation context, the courts are making it easier for the professional lawyer to show clients that professionalism is expected

in the legal profession when the clients seek litigation tactics that traverse the unprofessional road. The Atlanta Bar's Lawyers' Pledge is one example. Printed copies of the concise pledge are displayed on counsel tables in the courtrooms in Atlanta, in Bar publications, and repeated at all Atlanta Bar functions. Some judges announce the pledge at calendar calls, at the beginning of each motion, trial, or hearing, and as part of juror orientations. Some judges are reminding counsel of the pledge orally or in writing if instances of questionable conduct occur in the course of a case. The Macon Bar Association created Assurances of Professionalism to Opposing Counsel sent with the initial complaint or responsive pleading. The Assurances have two key features:

- (1) They are voluntarily accepted by counsel at the start of the case, rather than imposed by a court; and
- (2) They are unilateral, not conditional upon the opponent's agreement to adhere to them, though they are designed to encourage reciprocity.

Innovative programs to bridge the chasm between opposing counsel, such as the Atlanta Bar Association's "Take Your Adversary to Lunch," the Macon Bar's "In-House Ethics Seminars: Invite Your Opponent," the trial and defense lawyers' associations' joint sponsorship of a seminar on "Resolving Litigation's Civil Wars." These efforts seek to bring collegiality back to the practice of law.

The Law School Orientations on Professionalism for entering students at each of the state's law schools and the growing number and variety of courses on professionalism in law school curricula. For instance, Professor Patrick Longan of Mercer created a course called The Legal Profession which was approved as a required first year course by the faculty. The Legal Profession is taken in addition to the required course on Professional Responsibility which focuses on the Model Rules of Professional Conduct and the Georgia variations. In contrast, The Legal Profession course is designed to introduce new law students to broader topics such as the role of lawyers in society and the concept of the law as a noble profession.

Some local bar associations have initiated Law Related Education efforts, providing LRE materials to public schools and assigning a lawyer to each school to assist teachers in law related education. Some State and superior court judges are working with elementary school fifth graders on a mock trial of "The Three Little Pigs and the Big Bad Wolf."

The addition of a score for professionalism for Mock Trial Competitions in Georgia.

The increasing number and variety of courses on professionalism in CLE and law school curricula, such as Angst and the Billable Hour, Beyond Law School.

The expansion of mentoring programs in the law schools and local bar associations.

The growing numbers of lawyers and judges participating in community service through the Great Day of Service, Law Day service programs, and the like.

The proliferation of articles on professionalism in bar journals, section and local bar newsletters, and other publications in the legal community.

In Illinois, a statewide Survey on Professionalism was conducted in 2007 shortly after the Commission was established. The purpose of the survey was to provide a record of the prevailing attitudes of lawyers and judges and a baseline of the prevalence of unprofessional conduct in order to both guide the nature of the Commission's initiatives and projects and, in the future, measure their effect. A report of the survey results is posted on the website, [www.ilsccp.org](http://www.ilsccp.org). The Commission developed a strategic plan that calls for another survey in 2013.