BE IT RESOLVED, That the American Bar Association authorizes the dissemination to the profession of the following "Lawyers' Pledge of Professionalism."

**LAWYERS' PLEDGE OF PROFESSIONALISM**

1. I will remember that the practice of law is first and foremost a profession, and I will subordinate business concerns to professionalism concerns.

2. I will encourage respect for the law and our legal system through my words and actions.

3. I will remember my responsibilities to serve as an officer of the court and protector of individual rights.

4. I will contribute time and resources to public service, public education, charitable, and pro bono activities in my community.

5. I will work with the other participants in the legal system, including judges, opposing counsel and those whose practices are different from mine, to make our legal system more accessible and responsive.

6. I will resolve matters expeditiously and without unnecessary expense.

7. I will resolve disputes through negotiation whenever possible.

8. I will keep my clients well-informed and involved in making the decisions that affect them.

9. I will continue to expand my knowledge of the law.
10. I will achieve and maintain proficiency in my practice.

11. I will be courteous to those with whom I come into contact during the course of my work.

12. I will honor the spirit and intent, as well as the requirements, of the applicable rules or code of professional conduct for my jurisdiction, and I will encourage others to do the same.

REPORT

I. Background and Purpose

There has been much discussion both within and outside the profession in recent years about whether, or the extent to which, lawyers are paying less attention to the obligations of professionalism than in times past. The Report of the Commission on Professionalism raised many important issues and pointed the direction that the Association and its component entities should take to achieve the goal of improving both the reality and the public perception of lawyer professionalism.

In addition to various substantive programs being undertaken by the Young Lawyers Division and other Association entities to achieve that goal, the Division believes that it is important for all lawyers to be reminded frequently (and in different ways) of our professional obligations; that the ethical rules studied in law school are all too easily relegated to the back of our minds as we go about our practices. The Division also believes that all lawyers should be encouraged to abide by a higher standard of conduct than is required by the Code of Professional Responsibility or the Model Rules of Professional Conduct.

To that end, the Division believes that this short and simple statement of the concept of professionalism in the form of a pledge, applicable to all attorneys regardless of their primary area of practice, will be a useful way of reminding all lawyers, and especially new admittees to the bar, of the meaning of professionalism and their obligation to incorporate that concept as they go about their daily work. It is hoped that this pledge will be communicated to the Association's membership through the ABA Journal and other appropriate publications and that the various state and local bars will find it appropriate to include this pledge as part of their swearing-in ceremonies.
II. Commentary

A. Title.

This document is entitled a "Model Pledge" to make clear its aspirational nature and to eliminate the possibility of any confusion between this voluntary "pledge" and the existing "Model Rules of Professional Conduct" or the "Code of Professional Responsibility." The Model Pledge of Professionalism is not meant to supplant the Model Rules of Professional Conduct or the Code of Professional Responsibility.

In entitling and drafting this pledge, the Division also has heeded concerns about having in it language which might cause it to be mistaken for a "negligence standard" in malpractice cases. The pledge which this report favors is aspirational and voluntary in all respects. It is not to be cited or used as a standard in malpractice actions or disciplinary cases.

B. Content.

While professionalism in the practice of law is difficult to define, it includes at least three elements: (a) the exercise of skill and competence in a specialized body of knowledge, (b) a willingness to sacrifice personal self-interest for the public good and (c) adherence to an ethical code. This pledge addresses all of these elements.

Point 1: I will remember that the practice of law is first and foremost a profession, and I will subordinate business concerns to professionalism concerns.

Much of the discussion that has arisen recently regarding the issue of lawyers' professionalism flows directly from the perceived increased emphasis within law firms on their financial bottom line. As stated in the Report of the ABA Commission on Professionalism, "any realistic understanding of the pressures faced by lawyers today must take account of certain economic realities." It then goes on to cite lawyer salaries, high overhead costs, and intense competition as being factors creating an environment which makes professional behavior less likely, while clearly stating that "economic pressure cannot justify unprofessional behavior."

This point recognizes that business interests are present and will always be present in the practice of law, but reminds lawyers that such interests can never be allowed to be predominant and that the practice of law is first and foremost a profession.

Point 2: I will encourage respect for the law and our legal system through my words and actions.

Unfortunately, much of the public's attitude about the legal system is a direct reflection of the words and actions of many lawyers. Lawyers are often sharply critical or disparaging of opposing counsel or judges in front of their clients and act in ways which indicate that they have little respect for the system. While not lessening their protection of
their clients' interests, lawyers should refrain from gratuitous remarks and actions which would tend to cause clients and other members of the public to have less respect for the law and our legal system. Not only should lawyers refrain from such negative conduct, but, through their words and deeds, they should breed increased respect for the law and our legal system by following the other points made in this pledge.

Point 3: I will remember my responsibilities to serve as an officer of the court and protector of individual rights.

As officers of the court, lawyers must at all times remember that, while they must honestly and effectively represent the interests of their clients, lawyers also have a duty not to abuse the system or otherwise obstruct the process of the court as it searches for justice. Lawyers have the broader duty of protecting the system of justice. As stated by the Report of the Commission on Professionalism, "lawyers should exercise independent judgment" regarding the handling of their clients' cases. If the client's wishes conflict with the lawyer's independent judgment of what is ethical or professional, the lawyer should communicate this conflict to the client.

As officers of the court, lawyers have the obligation to protect the rights of all individuals because the protection of those rights is basic to our system of justice. Thus, even if it involves the advocacy of unpopular positions, lawyers have the obligation to act as advocates for the rights of an individual or an organization.

Point 4: I will contribute time and resources to public service, public education, charitable, and pro bono activities in my community.

The need for lawyers' services to the poor and disadvantaged has increased greatly during the past decade. There have been major cutbacks in Legal Services Corporation funding and in the types of cases it can handle. The organized bar, in accord with Rule 6.1 of the Model Rules of Professional Conduct, has countered this cutback with increased emphasis on the involvement of the private bar in pro bono. As a result, pro bono programs exist now in many communities where none existed previously. The number of lawyers participating in such programs, however, is still too low.

The need for lawyers to serve those in need, however, goes beyond providing direct legal services. The poor, the elderly, the disabled, and other individuals in need are usually functionally without any knowledge about the law; perhaps more dangerous is the fact that the knowledge that they think they have is often wrong. Under such circumstances, these individuals cannot protect themselves and, indeed, are unlikely to even seek legal assistance because of their basic assumption that the law protect others, not them. Thus, lawyers must take an active role in educating the public about their legal rights.

Lawyers also have an important role to play in their communities in directly combatting the problems of those in need. As members of the legal profession, lawyers should play leadership roles in their
communities and be involved in addressing the broad problems facing those communities.

Finally, the need for lawyers to be involved in bar association activities that seek to improve the law, the legal system, and the legal profession, as recognized by Rule 6.1, is critical. Even though those served by such activities may not be "in need" as the term is normally understood, society as a whole benefits from improvements in our legal system that make it more efficient and responsive, and such work should be considered a lawyer's public service responsibility.

Point 5: I will work with the other participants in the legal system, including judges, opposing counsel and those whose practices are different from mine, to make our legal system more accessible and responsive.

As a partial result of our adversarial system, lawyers all too often tend to associate solely with lawyers who have similar practices. Even within bar associations, contact with other lawyers is frequently within sections or committees with similar interests and perspectives. Such segmentation of the bar reduces the ability to have a broader perspective of the system of justice by truly understanding the other side's position. That also holds true for relations between the bench and the bar. If we are to fulfill our obligation to improve the system of justice, we must begin by broadening at least our bar-related working relationships. By doing so, lawyers will not be criticized for "fraternizing with the enemy" or otherwise neglecting their clients' interest, but rather will be seen and be able to make major steps in making the system more accessible and responsive.

Points 6 - 8: I will resolve matters expeditiously and without unnecessary expense. I will resolve disputes through negotiation whenever possible. I will keep my clients well-informed and involved in making the decisions that affect them.

Too many lawyers are trained, by the public image of lawyers as portrayed in television and the movies, by their law school experiences, and by their peers, to think that a lawyer best protects the interests of his or her client by "going to the wall" for the client on every issue, by being extremely adversarial, by dragging matters out in the hope that the other party will weaken, and, if the matter involves a disagreement, suing. Such a vision, however, is often far from the truth.

A client comes into a lawyer's office with a legal matter. The client, whether an individual or a corporation, is usually not a lawyer and is not familiar with the many options available for proceeding with a matter. Indeed, many lawyers, by virtue of their training, are not really aware that there are certain options. Further, the client may make a statement as to the end he or she wishes to achieve by coming to the lawyer. The client, however, when given a thorough analysis of the various options and their costs/benefits may well decide to accept a compromise in return for greatly reduced costs and less delay.
Nowhere is the need for a change in lawyers' reflexes more necessary than in the frequent reaction of the litigator to file suit. The general feeling among many lawyers has been that by negotiating, one was demonstrating weakness and not protecting the client's interests. Often, however, what is in the client's best interest is a more complex question. Over the course of the past decade, there has been an increasing realization within the profession that many legal disputes are good prospects for negotiation. Indeed, at least one major firm has developed a negotiation department that reviews certain types of cases for their negotiation potential. In order to best serve the interests of the client, a lawyer should carefully examine the possibility of direct negotiation between the parties as well as the use of alternate dispute resolution mechanisms such as mediation or arbitration.

A lawyer has an obligation both to the client as well as to the system of justice, as an officer of the system, to make the system as responsive as possible, to keep both costs and passage of time down to the minimum while representing the interests of the client. All lawyers and clients are affected by the costs, delays, and uncertainties that result from the modern practice of law. Whether the issue is accepting an offer of settlement, proceeding with protected discovery, or, indeed, filing suit to begin with, the lawyer must make sure that he or she is truly proceeding in the best interest of the client and that can only be done if the client is aware of the options and their related costs/benefits in order to provide knowledgeable direction to the lawyer.

Point 9: I will continue to expand my knowledge of the law.

No lawyer should fail to recognize the need to constantly expand his or her knowledge of the law, both to further the lawyer's own career as well as to protect the interests of clients. Unfortunately, many lawyers do not take advantage of the many excellent continuing legal education courses offered by various CLE providers throughout the country. In recognition of this problem, the Association has gone beyond earlier statements made by it and contained in the Model Rules of Professional Conduct by adopting a resolution urging the various states that have not already adopted mandatory continuing legal education requirements for all active lawyers to do so.

Point 10: I will achieve and maintain proficiency in my practice.

This point is intended to remind us that lawyers should strive for excellence, not just competence, in our practice. Further, proficiency requires excellence not just in what is normally referred to as lawyering skills, but also in the operation of our law practice. Law office management is largely overlooked in the formal legal education process. Yet proficiency in this area is critical to the improved delivery of legal services to the client while at the same time increasing profitability to the firm. The more efficient a lawyer is in delivering services, the lower the cost, the more responsive he or she can be to the client, and the greater the service which can be provided. The Commission on Professionalism recognized this when it
stated that "perhaps many years ago it might have been expected that lawyers could run their offices inefficiently, but still successfully. That is no longer true." With each passing year, more materials and technological innovations are being made available to the profession to improve law office management. Lawyers have but to recognize the importance of this issue to their practice and tap the available information.

Point 11: I will be courteous to those with whom I come into contact during the course of my work.

This is a matter that should not be overlooked or forgotten in even the busiest practice. Civility and courtesy cost nothing, yet they make the practice of law easier, less stressful, and more enjoyable for everyone involved, whether it be colleagues in one's firm, employees, clients, or opposing counsel.

Point 12: I will honor the spirit and intent, as well as the requirements, of the applicable rules or code of professional conduct for my jurisdiction, and I will encourage others to do the same.

This is a another reminder that we can and should do better than the minimum standards required of us by the Model Rules of Professional Conduct. The same reminder was given by the Commission of Professionalism in its Recommendation D-2.

III. Conclusion

All lawyers can use an ever-present reminder of their professional obligations. The dissemination of this pledge to the profession, whether through Association publications, through state bar swearing-in ceremonies, or through wall plaques for the lawyer's office, will serve as a direct and useful reminder of the high ideals of the legal profession.

Respectfully submitted,

William C. Hubbard
Chairperson
Young Lawyers Division

August, 1988
GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

No. __________________________
(Leave Blank)

Submitting Entity: Young Lawyers Division

Submitted By: William C. Hubbard, Chairperson

1. Summary of Recommendation(s).

Urges approval of a Model Pledge of Professionalism to be broadly disseminated.

2. Approval by Submitting Entity.

Passed by the YLD Executive Council on May 12, 1988.

3. Previous submission to the House or relevant Association position.

This pledge is purely aspirational, and while it relates to the Model Rules of Professional Conduct, it does not supplant it.

4. Need for Action at This Meeting.

NA

5. Status of Legislation. (If applicable.)

NA

6. Financial Information. (Estimate of funds required, if any.)

NA

7. Disclosure of Interest. (If applicable.)

NA

8. Referrals.

This matter is being referred to all sections and committees of the Association.
9. **Contact Person.** (Prior to meeting.)

William C. Hubbard  
P. O. Box 11070  
Columbia, SC 29211  
803/799-2000

10. **Contact Person.** (Who will present the report to the House.)

Gregory A. Long  
48th Floor  
333 S. Hope St.  
Los Angeles, CA 90071  
213/620-1780