

The State Bar of Georgia Access to Justice Committee presents:

THE PRO BONO ROADSHOW

~ a 1-hour professionalism CLE ~

Professionalism is the ultimate hallmark of the practice of law. And although the Georgia Rules of Professional Conduct are the most well-known of the professional conduct standards, those Rules should be viewed as the floor, not the ceiling.

This program explores the application, in the pro bono setting, of the two central statements on professionalism developed by the Chief Justice's Commission on Professionalism and approved by the Supreme Court of Georgia: the Lawyer's Creed and the General Aspirational Ideals (both included below). The program does so through a short film (6min), followed by an in-depth discussion moderated by a member of the State Bar Access to Justice Committee (49min), and a short description of local pro bono opportunities (5min).

The discussion is the primary focus of and will constitute the overwhelming majority of the CLE. The discussion will explore the following foundations of professionalism:

- Why is service to the public and our systems of justice important? How has your pro bono practice been a part of that service? *See Creed at 18; associated Specific Aspirational Ideals.*
- What is the societal role played by making the law and our legal system available to all? Has your pro bono practice played that role? *See Creed at 19-20; associated Specific Aspirational Ideals.*
- Why are equality and fairness important social goals? How do they manifest in your pro bono practice? *See Creed at 18-20; General Aspirational Ideals at (c); Creed at Lines 54-57.*
- How does pro bono work fulfill a lawyer's responsibility to help shape public policy and use our legal skills and knowledge for the benefit of society? *See Creed at 18-20; associated Specific Aspirational Ideals, Creed at Lines 170, 174-175*
- How does professionalism in pro bono work differ, if at all, from professionalism in fee-paying work? *See General Aspirational Ideals at (h), (i), Creed at Lines 67 - 71.*
- How does a pro bono practice interface with a fee-paying practice? *Creed at Lines 71*
- What is meant by "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"? *Creed at Lines 29 - 31.* Does pro bono work do this in a

way that fee-paying work does not? *See Creed* at 15-16; associated *Specific Aspirational Ideals*.

- What does a commitment to diversity look like in pro bono work versus fee-paying work? *See General Aspirational Ideals* at (c). *See Creed* at Lines 54-57
- To the judges: do lawyers appear to be less diligent in their pro bono matters than in their fee-paying matters? If so, what might be done to combat that tendency? *See Creed* at Lines 49-50 and Lines 71

A LAWYER'S CREED



2 **To my clients**, I offer faithfulness, competence,
3 diligence, and good judgment. I will strive to represent you
4 as I would want to be represented and to be worthy of your
5 trust.

6 **To the opposing parties and their counsel**, I offer
7 fairness, integrity, and civility. I will seek reconciliation
8 and, if we fail, I will strive to make our dispute a dignified
9 one.

10 **To the courts**, and other tribunals, and to those who
11 assist them, I offer respect, candor, and courtesy. I will
12 strive to do honor to the search for justice.

13 **To my colleagues in the practice of law**, I offer
14 concern for your welfare. I will strive to make our
15 association a professional friendship.

16 **To the profession**, I offer assistance. I will strive to
17 keep our business a profession and our profession a calling
18 in the spirit of public service.

19 **To the public** and our systems of justice, I offer
20 service. I will strive to improve the law and our legal
21 system, to make the law and our legal system available to
22 all, and to seek the common good through the
23 representation of my clients.

ASPIRATIONAL STATEMENT ON PROFESSIONALISM

25 The Court believes there are unfortunate trends of commercialization and loss of professional
26 community in the current practice of law. These trends are manifested in an undue emphasis on the
27 financial rewards of practice, a lack of courtesy and civility among members of our profession, a lack
28 of respect for the judiciary and for our systems of justice, and a lack of regard for others and for the
29 common good. As a community of professionals, we should strive to make the internal rewards of
30 service, craft, and character, and not the external reward of financial gain, the primary rewards of the
31 practice of law. In our practices we should remember that the primary justification for who we are
32 and what we do is the common good we can achieve through the faithful representation of people
33 who desire to resolve their disputes in a peaceful manner and to prevent future disputes. We should
34 remember, and we should help our clients remember, that the way in which our clients resolve their
35 disputes defines part of the character of our society and we should act accordingly.

36 As professionals, we need aspirational ideals to help bind us together in a professional
37 community. Accordingly, the Court issues the following Aspirational Statement setting forth general
38 and specific aspirational ideals of our profession. This statement is a beginning list of the ideals of
39 our profession. It is primarily illustrative. Our purpose is not to regulate, and certainly not to
40 provide a basis for discipline, but rather to assist the Bar's efforts to maintain a professionalism that
41 can stand against the negative trends of commercialization and loss of community. It is the Court's
42 hope that Georgia's lawyers, judges, and legal educators will use the following aspirational ideals
43 to reexamine the justifications of the practice of law in our society and to consider the implications
44 of those justifications for their conduct. The Court feels that enhancement of professionalism can
45 be best brought about by the cooperative efforts of the organized bar, the courts, and the law schools
46 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 cancelled 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

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Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

143 their assistance offered to me.

144 **As to our profession**, I will aspire:

145 (a) To improve the practice of law. As a professional, I should:

- 146 (1) Assist in continuing legal education efforts;
147 (2) Assist in organized bar activities; and,
148 (3) Assist law schools in the education of our future lawyers.

149 (b) To protect the public from incompetent or other wrongful lawyering. As a
150 professional, I should:

- 151 (1) Assist in bar admissions activities;
152 (2) Report violations of ethical regulations by fellow lawyers; and,
153 (3) Assist in the enforcement of the legal and ethical standards imposed upon all
154 lawyers.

155 **As to the public and our systems of justice**, I will aspire:

156 (a) To counsel clients about the moral and social consequences of their conduct.

157 (b) To consider the effect of my conduct on the image of our systems of justice including the
158 social effect of advertising methods. As a professional, I should ensure that any
159 advertisement of my services:

- 160 (1) is consistent with the dignity of the justice system and a learned profession;
161 (2) provides a beneficial service to the public by providing accurate information
162 about the availability of legal services;
163 (3) educates the public about the law and legal system;
164 (4) provides completely honest and straightforward information about my
165 qualifications, fees, and costs; and
166 (5) does not imply that clients' legal needs can be met only through aggressive tactics.

167 (c) To provide the pro bono representation that is necessary to make our system of
168 justice available to all.

169 (d) To support organizations that provide pro bono representation to indigent clients.

170 (e) To improve our laws and legal system by, for example:

- 171 (1) Serving as a public official;
172 (2) Assisting in the education of the public concerning our laws and legal system;
173 (3) Commenting publicly upon our laws; and,
174 (4) Using other appropriate methods of effecting positive change in our laws and
175 legal system.

GEORGIA RULE OF PROFESSIONAL CONDUCT 6.5:
Nonprofit & Court-Annexed Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client, normally through a one-time consultation, without expectation by either lawyer or the client that the lawyer will provide continuing representation in the matter and without expectation that the lawyer will receive a fee from the client for the services provided:

1. is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
2. is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided by paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(c) The recipient of the consultation authorized under paragraph (a) is, for purposes of Rule 1.9, a former client of the lawyer providing the service, but that lawyer's disqualification is not imputed to lawyers associated with the lawyer for purposes of Rule 1.10.

The maximum penalty for a violation of this Rule is a public reprimand.

PRO BONO FAQS

How many hours of pro bono work should I provide each year?

Rule 6.1 of the Georgia Rules of Professional Conduct suggests that attorneys should aspire to provide 50 hours of pro bono service each year. If you cannot provide 50 hours due to work, family, or other personal commitments, commit to a smaller number of hours each year.

I don't have time to provide pro bono work. How do I get my hours?

Providing pro bono service can be as simple as answering a question or two at <http://georgia.freelegalanswers.org>. If you have a free Saturday morning, you can also look into volunteering for a low-commitment local pro bono opportunity with a Saturday Lawyer Program or other legal clinic. Once you get started, you may surprise yourself!

I don't think I can do pro bono work because my job conflicts me out of most cases.

Your current employment may conflict you out of providing pro bono services in certain types of cases, but beware that there is a special professional conduct rule that addresses conflicts when participating in nonprofit and court-annexed limited legal services programs: Rule 6.5. Further, there are numerous types of pro bono opportunities that you can sign up for and chances are there is at least one opportunity that will not cause a conflict. Your local Legal Services Provider likely provides opportunities to represent pro bono clients in different settings such as TPO hearings, family law cases, probate cases, bankruptcies, and landlord-tenant cases. You can also answer legal questions at georgia.freelegalanswers.org.

What benefits will I receive from providing pro bono services?

Most of us went to law school because we want to help others. Providing pro bono services is an easy way to do just that. It also helps fulfil the Lawyer's Creed and the Aspirational Ideals developed by the Chief Justice's Commission on Professionalism and approved by the Supreme Court of Georgia. But those are not the only benefits for attorneys who provide pro bono services. For younger lawyers, providing pro bono services offers may provide opportunities to hone their court—and civility—skills at TPO hearings, develop their client management skills, refine their legal writing skills. It can even lead to paid cases.

Am I covered by malpractice insurance when I take on a pro bono case?

Usually, yes! If you take on a case or volunteer with a legal aid organization, you usually will be covered under their malpractice insurance.