

THE NECESSITY OF UNPARALLELED UNITY



PANELIST PREPARED RESPONSES TO CLE QUESTIONS

Responses Prepared
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About the “Unparalleled Unity” CLE

In these times of unparalleled political division and social unrest, how can we create a sense of unparalleled unity among lawyers and encourage lawyers to lead efforts to help bridge the divisions in America despite our differences? That is the central question that we seek to address in our upcoming CLE program *The Necessity of Unparalleled Unity*. As lawyers, we hold as a shared value a respect for the rule of law. Moreover, as a function of our professionalism as lawyers, we strive to offer service “[t]o the public and our systems of justice . . . and to seek the common good.” As lawyers, we perhaps have a special role in safeguarding the rule of law and we unquestionably have a responsibility to comport ourselves with professionalism. Therefore, perhaps there is a way for us to serve the public and the common good by using the tools of professionalism to draw us closer to a sense of unparalleled unity with one another and to lead our fellow Americans in bridging our divisions despite our differences.

With this framework in mind, our moderator and panelists will explore these questions during *The Necessity of Unparalleled Unity* CLE.

Program Chair: **Ms. Dawn Jones**, President of the State Bar of Georgia

Special Guest: **Chief Justice Harold D. Melton**, Supreme Court of Georgia

Moderator: **Professor Tanya M. Washington**, Georgia State University College of Law, Center for Access to Justice

Panelists: **Honorable Carla Wong McMillian**, Justice, Supreme Court of Georgia; **Honorable Nina Markette Baker**, Judge of Superior Court Coweta Judicial Circuit; **Mr. Ashley Bell**, Partner, Dentons US LLP; **Mr. Jake Evans**, Partner, Holland & Knight LLP; **Honorable Dax E. López**, Judge, State Court of DeKalb County; and **Ms. Patrise Perkins-Hooker**, Past President, State Bar of Georgia and Administrative Partner, Johnson & Freeman LLC.

Special Acknowledgment: **Mr. Kevin C. Wilson**, Staff Attorney, Supreme Court of Georgia, for assistance in program planning.

This course has been approved in Georgia for 2 hours of general CLE credit, including 2 hours of professionalism credit. For more information about the CLE, visit <http://cjcpga.org/unity-cle/>.



Professor Tanya Washington Hicks
MODERATOR

Justice, Justice Shall *WE* Pursue!: Practicing Unity as a Professional Imperative

In recognition of the historic moment in which we find ourselves and in the context of the unique role of the legal profession in rising to the occasion the moment presents, the Chief Justice's Commission on Professionalism ("the Commission"), which is chaired by Chief Justice Harold D. Melton, assumed the courageous and timely responsibility of highlighting the necessity of unparalleled unity as a response to unprecedented challenges. This CLE is designed to model respectful discourse around issues, about which people hold divergent views, and to probe, explore and engage differences in perspective, experience, and opinion in intentional and constructive ways that inform a shared commitment to our common professional duties as jurists and legal practitioners and educators. To that end, an organizing committee for the Commission selected a diverse group of accomplished members of Georgia's legal community and invited them to think about and respond to carefully crafted questions interrogating the role of professionalism in ensuring unparalleled unity. These esteemed panelists will be sharing their thoughts about how to *practice* unparalleled unity in ways that promote the principles of professionalism that undergird the institution of law and direct those called to preserve and protect it.

The Commission explains its origins and purpose as follows,

the Chief Justice's Commission on Professionalism, the first body of its kind in the nation, was created in 1989 by the Supreme Court of Georgia with the primary charge to enhance professionalism among Georgia's lawyers. In carrying out its charge, the Commission provides ongoing attention and assistance to the task of assuring that the practice of law remains a high calling, enlisted in the service of clients and the public good.

The closing line of the lawyer's creed offers to the public and to our systems of justice a commitment to "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." The introduction

to the Commission's Aspirational Statement on Professionalism emphasizes, "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." These established goals can only be made manifest through the practice of unparalleled unity. This call-to-action is not self-executing, nor is it merely aspirational. Ensuring that the legal profession and its adherents serve a shared vision centered on the public good requires stewardship and leadership. As legal practitioners, we are professionally bound to canons of conduct that serve a shared vision of justice for all.

Democracy has been described as a "messy" endeavor and yet our nation remains unified around democratic principles, norms, and practices. We appreciate and understand that inviting the cacophony of voices that express different and often conflicting ideas and opinions is a quintessential aspect of the unity inherent in democracy. Unity speaks to a shared vision and a collective good. However, it neither demands sameness nor eschews difference. Voices, often expressing discordant views about the common good and how to realize it, is what democracy sounds like. The synergy inherent in unity reflects the wisdom and reality that collaboration yields a greater, better outcome than any individual effort can obtain *and* that individuals' commitment to the public good is essential to achieving unity. We have all witnessed rhetorical and visceral challenges to the Rule of Law, which grounds our democracy and our profession. We must devise, practice, and exemplify ways to engage these challenges without replicating or amplifying divisiveness. Our ends must match, not merely justify, the ends we pursue.

Jay Weatherhill reminds us, "You don't get unity by ignoring the questions that have to be faced." The moment in which we find ourselves marked by seismic, paradigmatic shifts; the surfacing of structural and systemic realities that frustrate equal access to that which serves the public good, and fundamental changes to the practice of law demand that we engage the questions that face us. Our legal system can only be as just as our shared commitment to engage in the legal system as lawyers, jurists,

legal educators, and law students in ways that reflect and represent the unified pursuit of justice. Law and justice are often, but not necessarily, synonymous. It is possible to achieve legal outcomes without dispensing or administering justice. The link between law and justice is the legal professionals called and entrusted to act in concert to protect and promote the public good.

Engaging with respect, integrity and candor are quintessential aspects of the practice of law. Fairness, access, and inclusion are inherent in the conception of justice, which our profession is designed to promote. Our esteemed profession requires unity as both a means and an end. As practitioners, jurists and educators, we are in the unique position of providing an example for how to bridge the political, racial, and social divides that are surfacing in the midst of a syndemic. We cannot avoid this responsibility simply because it is difficult. We have both the tools and the charge to practice and pursue unity as a professional imperative.



Judge Nina Markette Baker

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

Lawyers are in appreciable positions to achieve “unparalleled unity.” One of the hallmarks of an outstanding lawyer is being able to navigate disputes with respect for all other parties involved. A strenuous disagreement on a legal issue is not a warrant to treat the opposing party and the court with less than the highest standards of professionalism: courtesy, respect, and integrity.

2. As a function of professionalism, what would “unparalleled unity” look like to you?

Unparalleled unity is as simple as all parties showing respect to one another and to the court. The courtroom is a place where *integrity is the currency*. It should be worn like a badge of honor.

a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?

Lawyers can, and should, be the outstanding example of being able to disagree in matters and still show “unparalleled unity.” Unity does not necessarily mean we share an opinion, it means we can practice our noble profession with courtesy to all while still being fierce advocates.

b. How do we achieve unity with those who hold views that are diametrically opposed to our own?

If we have opposing views with others, we should start by having conversations around sensitive topics. The COURAGEOUS CONVERSATIONS series being sponsored by the Seeking Equal Justice and Addressing Racism and Racial Bias Committee highlights the need to have those discussions. That series has already held several events, and more are scheduled for this year.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

There are times when behavior must be addressed by the court but it can be done in a way that appeals to our highest calling as lawyers. We all must recognize our duties to the ideals of integrity, fairness, civility, respect and courtesy. We should demand nothing less from our colleagues, and from the court.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

Honest divisions exist when people do not understand each other, often a result of not having listened in good faith to others’ perspectives. We use tools every day in our profession that can benefit our communities’ divisions. When disunity run deep, lawyers are the ones who can offer a path forward. I admire my fellow lawyers. Our profession rights past wrongs, changes bad laws, and champions the underrepresented. A better future depends on us, as professionals, being better than we were yesterday and showing our own communities the way forward. I’m learning every day.



Ashley D. Bell

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

Lawyers, like any organization that strives to adhere to principles and purpose, will always find its greatest proximity to those goals when inspired by great leadership. Leadership does not have to come with a title but can more importantly come through the illumination of one’s values in action during times of conflict and discourse.

2. As a function of professionalism, what would “unparalleled unity” look like to you?

a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?

Yes, I believe so. Lawyers are distinct in that most of our dealings with our peers comes in the process of settling different views of the same facts.

b. How do we achieve unity with those who hold views that are diametrically opposed to our own?

It begins with stepping into someone else’s shoes. Not to gain sympathy necessarily, but to understand how and why they may come to the conclusions that differ from yours. If at all possible, finding a way to respect the person separate from their views on a particular topic can be a starting point to civil discourse.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

No, silence is rarely the best option. When to lend your voice and the manner to lend it can make the difference in how well someone is willing to receive your contribution to the discussion.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

If it was possible to take the emotion out of our politics this would be absolutely possible. But more realistically it can be a tool for leaders to use when trying to find a compromise or expand a conversation in these areas. In the end, society is best served with a market place of ideas. Many of the best ideas don’t make it to the market because of who said them. The tools of professionalism we adhere to as lawyers can help create that necessary space for ideas to be debated and sifted through via the grinding of platitudes and rhetoric against the hard stones of facts, history and truth. If we all strive to create and protect this market place our best efforts would achieve many ideas, many opposing, but all worthy of good people of good will to choose their way forward in a great society.



Jake Evans

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

Yes, it is absolutely possible. If there is any profession able to stand above our differences and focus on our similarities, it is the practice of law. Lawyers are trained to hold themselves to the highest standards of ethics, professionalism, and excellence. Lawyers are also trained to zealously advocate for their clients. Achieving these two goals can be difficult. But lawyers, in my experience, regularly achieve it. Lawyers understand that we disagree, but do so civilly and respectfully. Lawyers also understand that there are creative ways to see above differences to achieve common goals. These understandings can and should be extrapolated, and lawyers should lead the way in teaching others to focus on commonalities, not differences, and the importance of unifying behind common goals.

2. As a function of professionalism, what would “unparalleled unity” look like to you?

a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?

There are certain principles we can almost all agree on. We just choose to focus on the dissimilarities. And what is more interesting is that dissimilarities depend on the context. If we are in a foreign country, any American, even if they have very different views than us, seems similar and we unconsciously relate to them. As Americans and especially as lawyers, we share common life experiences and challenges. We all need to focus on breaching our comfort zones; learning about cultures and viewpoints that are different than ours; and expanding our horizons. This should be a goal for everyone, and, if it is, we will make great strides.

b. How do we achieve unity with those who hold views that are diametrically opposed to our own?

Seek first to understand and then to be understood. If both sides do this exercise, then we will come to understand that we share more in common than we think and we will respect the opinion of the other, even if it is different than our own.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

It depends on the circumstances. Sometimes silence in listening is the best method to learn; sometimes speaking out to voice your passions and beliefs is the best way to achieve a positive result. Each person has difference styles, circumstances, and comforts. We should not judge them, but believe they are doing what is right until they show otherwise.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

Yes, absolutely. I believe lawyers based upon their training, education and communication ability are in the best position to effectuate unity within the profession and beyond. Lawyers have many leadership positions, and they should use these positions to spread the message of seeking first to understand, focus on commonalities, and give others the benefit of the doubt. If everyone did these items, we would make major in-roads in achieving unity within our profession and beyond.



Judge Dax López

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

In a word, yes. Unparalleled unity among lawyers is possible. As lawyers, we work in a system that is often adversarial and confrontational. However, as members of the bar and of this noble profession, we can all agree and choose to be united in dedicating ourselves to the professional values of our profession, values that commend us to act with “fairness, integrity, and civility.” (A Lawyer’s Creed). In adopting these values, and recognizing them in one another, will allow us to not only navigate through our disputes and differences, but will also bring about greater unity and understanding.

2. As a function of professionalism, what would “unparalleled unity” look like to you?

a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?

b. How do we achieve unity with those who hold views that are diametrically opposed to our own?

The concept of unity does not require everyone to always agree on all things or to hold the same views. The concept of unity can be achieved if we are unified in adopting a set of values that emphasize fairness, truth, mutual respect, and civility, and if we agree to govern ourselves by such values. If we can all agree to be civil to one another and respect each other’s views, we will have achieved some level of unity in at least how we deal with one another.

One thing that stands in the way of us achieving such unity is the culture of misinformation that has arisen in recent times. As individuals, we are entitled to hold our own opinions, but not our own facts. As lawyers, we operate in an evidence-based world wherein typically one must back up any legal argument with a citation to the evidentiary record. It is much harder to reach unity when some choose to base their beliefs and views on misinformation while simultaneously rejecting any fact-based evidence that contradicts their beliefs. If nothing else, we should all agree that facts still matter, and that we should all stand together united as champions for the truth.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

There are two seemingly diametrically opposed maxims I choose to follow. The first is, if you do not have anything nice to say, do not say anything at all. And the second is, in the face of injustice, you have a duty to speak up and advocate for justice. In other words, there is a time and place to listen and be quiet, and there is a time and place to speak out. Learning to balance when to speak and when to listen is the key to reaching unity. Often times, we allow our differences to devolve into personal attacks. For example, as a judge, I have often witnessed lawyers during a legal argument lose sight of the facts and law and rather resort to personal attacks on the opposing lawyer. This method of argument is not effective. Unity is difficult to achieve when we attack others. Thus,

if you cannot say something nice about someone else, silence is preferable. But unity does not mean complicity with injustice. By focusing on the substance of an argument, rather than on personal insults, we can strive for unity by being able to disagree without being disagreeable.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

Part of the Lawyer’s Creed requires attorneys “to seek reconciliation and, if we fail, [we] will strive to make our dispute a dignified one.” If we are to begin to bridge the political, social, and racial divisions in our society, we must strive for reconciliation, and if that is not possible, we must at a minimum strive to make the process of working through our disagreements dignified. Overcoming these divisions is by no means easy. However, it has been my experience that overcoming these divisions starts with getting to know each other on a human level, i.e. learning about each other’s backgrounds, personal histories, families and values. This process tends to create mutual respect and desire to learn about the things that unite us before ever discussing the things that divide us. Once we understand and respect one another, it is much easier to start tackling the difficult topics of politics and race, and hopefully, when disagreements arise, we will strive to make them dignified ones.



Patrise M. Perkins-Hooker

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

I am not sure how unparalleled unity is even possible. The seeds of racism have been sown so deeply in our entire culture that I think that this cannot be achieved with regards to racial divisions. The latest divisions in political ideology have taken hold of our culture as well due to extremism, paranoia and deception. As professionals we need to treat each other civilly and treat each other as equals to try and address the racial divisions. We also need to learn to respect each other to address the political divisions.

2. As a function of professionalism, what would “unparalleled unity” look like to you?

a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?

I hope that lawyers will work together to mend the divisiveness that threatens the very fabric of democracy. We cannot assume a “winner take all” or “we cannot negotiate and talk to our adversaries” mentality. Lawyers are like other people, except we have more education and training than most. Frankly, I was very surprised and disappointed to see how many lawyers were engaged in fueling the fires of division by promoting misinformation and deceit during the last presidential election cycle.

We have demonstrated our ability to work through difficult negotiations and contentious litigation in a way that promotes justice and supports our legal system. These examples of professionalism are ways in which we should all work to address our different perspectives on various issues. If we do not set the standard, then who will?

b. How do we achieve unity with those who hold views that are diametrically opposed to our own?

Conversations based in truth and reality are the starting point. You can disagree about how to solve homelessness and poverty in America; however, you cannot have a discussion about solutions until you agree and acknowledge that homelessness and poverty even exist. The same thing exists about racism. If you cannot agree that racism exists and permeates all facets of an individual’s life in America, you cannot discuss ways to solve the problem.

Likewise, if you cannot agree upon the basic facts about other divisive issues, then we should work on a way to develop an approach to ascertain the facts that can be agreed upon. These facts should also serve as the basis for further discussions on solutions.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

No. Lawyers need to set the tenor of proactive discussions and approaches to resolving our country’s problems. If they remain silent, their silence may be deemed to be acquiescence to the status quo. We at least have an obligation to deal with facts and truth.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

I hope that we can find a way to address certain issues that lawyers can find common ground like election protection and other legal systemic problems like Criminal Justice Reforms. Attorneys like Harold Franklin and Dawn Jones have worked for decades on voter protection efforts. While at Fulton County, I personally reached out to Vincent Russo and Joshua Belinfante of the Federalist Society to help provide volunteers to work the polls during the January 5th elections. All of these attorneys are exceptional examples of professionals. Despite their political differences and ideologies, they responded to a common problem of ensuring the smooth operations and integrity of our elections. They were each motivated to help address an overwhelmed elections process and worked to ensure that constitutional rights of citizens were being protected.



Justice Carla Wong McMillian

1. Is “unparalleled unity” among lawyers possible as a function of professionalism as lawyers strive to improve the law and our legal system? Why or why not?

A sense of unparalleled unity can be encouraged among lawyers, even while individually holding divergent views and opinions, based upon what we do share - we are members of a long and storied profession. As members of this learned profession, we owe duties to clients, opposing counsel, the courts, and to the public and our justice system, which in Georgia is memorialized in the Rules of Professional Conduct. But practicing law is much more than complying with the minimum duties required under ethics rules, and so our Supreme Court adopted “A Lawyer’s Creed and Aspirational Statement on Professionalism” over thirty years ago in connection with efforts to support the professionalism of Georgia lawyers. The Aspirational Statement includes as goals that lawyers educate the public about the law and legal system and use our training and experience to improve our justice system. How that manifests can vary widely between lawyers. Some of us take our training and become judges or other public officials. Others may provide pro bono representation to underserved people who would otherwise not have access to the justice system. Some may advocate for changes in the law or provide public commentary on the law. These are just a few examples, but they share a common aspiration and goal that as lawyers, we have a duty to do what we can to improve our laws and legal system. In this way, we can achieve “unparalleled unity.”

2. As a function of professionalism, what would “unparalleled unity” look like to you?

- a. Can we fundamentally disagree and still be unified with one another, or can true unity only exist between people who already share the same views?**
- b. How do we achieve unity with those who hold views that are diametrically opposed to our own?**

Unparalleled unity as a function of professionalism can exist among lawyers who share different views if lawyers can at least agree that one of the aspirations of profession is for each of us to do what we can to improve the law and legal system with the recognition that lawyers may hold different views on how the law and legal system may be improved. Professionalism concepts can also provide the ground rules of engagement. I like to summarize these professionalism concepts as the “4 C’s”: competence, character, civility, and commitment to the public good. Lawyers should ask themselves whether they have the knowledge and basis to advocate for the position that they are supporting (“competence”). As they are engaging with others in improving the law and legal system, do they carefully avoid misrepresentations and are they honest, candid, and open in their advocacy (“character”)? Does the lawyer treat others with respect as they listen and speak (“civility”)? Is what the lawyer seeking for the common good (“commitment to the public good”)? If lawyers can agree on these professionalism concepts as a way to discuss, debate, and ultimately improve our laws and legal system, that can help with achieving unparalleled unity within our profession.

3. Is silence a valid professionalism option when striving for “unparalleled unity”?

Lawyers as leaders in their spheres of influence often have the opportunity and ability to speak up for those who cannot. Lawyers should not take that responsibility lightly. Also, lawyers should speak up in the face of invidious discrimination, bias, prejudice, or criminal conduct especially under circumstances where silence may be viewed as agreement with that behavior. That being said, not all situations present such stark choices. I fully agree with the view that just because one can say something, doesn't mean that one should, especially at a particular moment in time.

Professional judgment should be used to determine the most effective time, place, and manner in which to advocate and also to discern when listening rather than talking is the better course of action.

4. How can we use the tools of professionalism to create “unparalleled unity” in contexts beyond the law? For example, could the tools of professionalism be used to bridge political divisions, social divisions, or racial divisions in society at large?

The qualities of a lawyer - competence, civility, character, and commitment to the public good — are not unique to the legal profession. They can be boiled down to the Golden Rule: Do unto others as you would have them do to you. Before advocating for a particular position, consider how your words and tone may be received and how you would receive them if on the other side.

Even if divisions in society cannot be eliminated, candid, respectful, and knowledgeable discourse about divisive issues can go a long way to helping to bridge those divides or at least developing an understanding of the position of the other side. In that way, common ground can be discovered and perhaps some of the differences in opinion can be resolved.