WILL TECHNOLOGY REDEFINE PROFESSIONALISM?

By: Tim Chinaris, Chair, Standing Committee on Professionalism

The explosive growth of technology in our society has led to many changes in our daily lives. We can now buy whatever we need – from car seats to cars – online, no longer having to worry about hunting for a parking space, getting to the store before it closes, or finding out that the item is out of stock. We go to the movies or get on an airplane without tickets, simply showing an image on a phone for admission. Writing paper-and-ink letters has become a lost art. In recent years, we have begun to see lawyers face disciplinary sanctions in technology-related scenarios. See, e.g., Florida Bar v. Norkin, 183 So. 3d 1018 (Fla. 2015) (lawyer disciplined for sending offensive and threatening emails); Florida Bar v. Picon, 205 So. 3d 759 (Fla. 2016) (lawyer disciplined for neglect that included failing to get voicemail messages “because her inbox was routinely full”); Belkova v. Russo, 181 So. 3d 1241 (Fla. 5th DCA 2015) (lawyer who argued that email service violated due process referred to Bar). Lawyers have to advise clients how to deal with the impression made by the clients’ social media presence. See Florida Ethics Opinion 14-1 (addressing ethical propriety of advising client to “clean up” social media pages).

With these changes and more to come, we must ask: Is it likely that the growth of technology will redefine what it means to exercise professionalism? That certainly is a possibility. Part of learning how to be a professional is grounded in a sense of community norms, but tight-knit local communities are not as prevalent today in an age of instantaneous, worldwide digital communication. Another historical key to professional development has been working with a mentor who is a good role model. With evolving generational attitudes and the decline of stable, long-term law firm culture, traditional one-on-one mentoring may be on the decline, as well.

See “Chair’s Report,” next page
Despite all of this, I remain confident that we will not see a technology related decline in lawyer professionalism. No doubt, professional development can be helped by a strong sense of local community and active mentoring. But lawyers’ spirit of professionalism is rooted in at least three things that go even deeper:

• First, law is a helping profession. Technology may change how we deliver legal services, but it can never affect why we provide them: to solve problems for our clients and, in doing so, to benefit society.

• Second, professionalism is rooted in the core ideals of the legal profession. Fiduciary duty, sensitivity to conflicts of interest, and protection of confidences are timeless and unchanging values.

• Finally, acting professionally gives us a true sense of worth. No technological tools can replace the feeling of a job that is done well and in a manner that brings honor to the lawyer and the legal profession.

In short, we have nothing to fear from technology – professionalism is alive and well in the digital age!

Rebecca Bandy named Assistant Director of the Henry Latimer Center for Professionalism

Rebecca Bandy joined The Florida Bar as the Assistant Director of the Henry Latimer Center for Professionalism in March 2017.

Prior to joining The Florida Bar, Ms. Bandy was an associate attorney at the Law Offices of Thomas L. Powell, PA in Tallahassee, where she litigated in the areas of family and criminal law. She most recently taught college-level courses at Lawton Chiles High School, where she helped co-found the school’s award-winning mock trial team along with The Honorable Mark Walker and attorneys David Frank and David Grimes.

Ms. Bandy previously served as the Director of Alumni Relations at the Florida State University College of Business and as the Assistant Director of Alumni and Development at the Florida State University College of Law.

She earned her juris doctor from the Florida State University College of Law. A native of Nassau County, Florida, she earned her bachelor’s in communications with honors from Jacksonville University.
“Respond” to Emails, Do Not Just “Reply” to Them

By: The Honorable John L. Badalamenti, Second District Court of Appeal, and Member, Standing Committee on Professionalism

With the advent of email and mobile devices to instantaneously receive emails, the legal profession has become an “always-on” profession. We check our email the first thing in the morning and right before we go to bed. Despite the 24/7 demands, we keep plugging away because our clients deserve zealous representation, litigants deserve both fair and expeditious administration of justice, and the financial demands of the business of law require it. The bottom line is that we want to be accessible to our clients and coworkers.

With such motivations, what could possibly go wrong by quickly and tersely replying to an email during a bar luncheon? Most times, quick replies are received well by the email recipients. But, it only takes one gaffe while answering an email to blemish a stellar professional reputation.

We have all read email exchanges from attorneys who, a few weeks after the fact, probably would not be proud to show that email to their child or parent. Rarely does one chide another in writing and not come to regret it.

Against this backdrop, I pose a few simple tips before sending an email:

Envision every email you draft as a letter inscribed onto your firm’s letterhead.

Although we seem to be exchanging information more frequently in emails and text messages, we seem to be saying less in our communications than ever before; the informalities of text message-type communications seem to be spilling over to professional email exchanges. Emojis should not be substituted for careful wording. Fragmented sentences suggest you just could not be bothered to proofread what you wrote because the recipients of the email are not worth the time. Professional emails are not tweets or text messages. We are professionals and must remain so. In sum, we can resist the temptation to be informal and inadvertently unprofessional if we conceptualize our email responses as being inscribed on your firm’s letterhead.

Wait until you are able to “respond” to emails. Do not just “reply” to them.

If you quickly reply to an email while multitasking, you are not providing a meaningful response to that email. Quick replies to emails can lead to an incomplete and potentially ill-received message to the sender.

For example, does the senior partner and the law firm’s client she sent an email about deserve a fragmented, abrupt reply while you’re holding a bunch of bananas in the grocery store checkout line? That image sounds comical, but I urge you to pose this question before you pull the trigger on an email that may make that partner wonder why you replied to the email in the unprofessional manner you did, even if it was unintentional. Most email responses can wait a few more minutes until you can give them the full attention they deserve.

Be deliberate and reflective in your responses. Learn to love the “save as draft” function on your email server.

Saving an email as a draft is an incredible tool, not just for productivity purposes but also for professionalism purposes. It staves off an unintended, terse, or otherwise reactive email reply. I urge you to take a short break before clicking “send” on an email you drafted quickly and, perhaps, with some frustration. Call your spouse or a friend, take a walk around your office, or simply shift tasks.

When you save an email as a draft, it requires you to reflect upon what you have written and refine your response. Often, it may well be that you never send that draft email at all because, upon reflection, the email was unneeded or otherwise unprofessional.

Respond to an email in person when possible.

Interpersonal communications are essential to maintaining the civility of the practice of law. An in-person response will, in my judgment, beat an email response every time. It demonstrates that you truly want to respond to the person’s inquiry, that you recognize its importance, and that the person who sent the email is worth more than a quick reply by virtue of the click of a mouse.

Judge John L. Badalamenti serves on Florida’s Second District Court of Appeal. He previously served as a law clerk for Judges Paul H. Roney and Frank M. Hull of the U.S. Court of Appeals for the Eleventh Circuit, an Honors Attorney with the U.S. Department of Justice Honors Program, an Assistant Federal Public Defender, and as an associate at Carlton Fields, P.A.
From an early age, my grandma, like many, encouraged a handwritten note for most life events - to show gratitude, sympathy, thoughtfulness, celebration, and a host of additional emotions and occasions. At her encouragement, this art form was used to connect with family and friends, both locally and across the miles.

As an attorney, this practice continued. Cards and tokens of remembrance were sent in celebration of bar passages, trial victories and partnerships, to lift up mentees struggling with the profession, and to remind others that they brighten this world by the positive change they effect every day. They were sent out of genuine concern and love for others. An unintended consequence is that they made my practice of law successful. The following is why.

Social media and electronic communications are powerful tools for broadening communications and superficially learning about others, an alternative news source. They are not effective ways to deepen worthwhile relationships. In-person meals, phone calls, handwritten notes, and other actions that allow meaningful one-on-one interaction are the gateway to the soul, what is required to truly bond with another.

Beyond enriched relationships, the influence of more deeply connecting with others is evidenced by a colleague who religiously sends five handwritten notes per day to empower and inspire others. She is the #1 salesperson in her region at her company, a title held for four consecutive years.

To experience how letter writing can enrich your life and practice, consider the following:

**Keep a Stash:** Letter writing is easiest when you have a supply on hand. Stock up on a core group of “occasion” cards, including birthday, sympathy, congratulations, wedding, baby, and thinking of you. Expense is not necessary; bulk rate and 99-cent cards work just as well as bedazzled messages. The focus is outreach to inform the recipient of your care and appreciation.

**Make an Appointment & Fill the Crevices:** Extracurricular tasks fall by the wayside when treated as such. Like client work, connecting with others is critical to a thriving law practice. To integrate both, a colleague calendared a two-hour appointment each Friday during which marketing activities were completed. The appointment was valued like an important client meeting and only missed in case of an actual emergency. Also, strategically fill small gaps of time – instead of logging onto social media when you have a few extra minutes, use that time to complete a note or two.

**Strategically Use Social Media:** Like human connection, an online presence contributes to a successful law practice; it simply is not a replacement. To achieve balance, determine the appropriate amount of time to use social media and limit your online participation to that daily period. When online, analyze your contacts’ lives and what offline follow-up communication is appropriate. For example, an online posting regarding a promotion is a wonderful opportunity to send a hand-written congratulatory note celebrating that achievement.

**Include Your Call to Action:** If the purpose of the note is to further your relationship with the recipient, inform the recipient that you will follow-up in the coming weeks regarding connecting for breakfast/lunch/etc. If the recipient reaches out to you first, great! If the recipient simply receives your card, you can follow-up regarding a subsequent meeting without feeling awkward.

**Avoid Using “I:”** The recipient is the cornerstone of your communication, not you. “Meeting with you was fabulous,” is more genuine and impactful than “I enjoyed our meeting.” Both sentences attempt to convey the same message; the former achieves celebration of the recipient, your true intention. “I” is rarely needed and should be used sparingly.

Happy letter writing and best wishes spreading your sunshine through authentic connections with others!
The Practice Resource Institute

*The Florida Bar’s most comprehensive resource for running your law practice.*

The Florida Bar’s Practice Resource Institute is designed to help Florida lawyers with law office operations and to assist members’ use of technology. This new digital resource is available on The Florida Bar’s website, where members can:

- Live chat with PRI practice management advisors and receive answers in real time.
- Explore comprehensive lists of law office technology, tools, and resources.
- Check out new providers and services in the Bar’s Member Benefits program.
- Access shareable electronic tools, web-based archives of articles, blog posts, and podcasts.
- Sign up to be notified of the latest updates.

[www.floridabar.org/PRI](http://www.floridabar.org/PRI)
CIRCUIT PROFESSIONALISM REPORT
SUMMARIES

FIRST CIRCUIT

The First Judicial Circuit Bench and Bar Professionalism Committee sponsored a CLE cruise from New Orleans to Cozumel, on February 11-15, 2016. This year’s cruise included CLE sessions on Ethics for Attorneys with Paralegals and “A View from the Bench,” presented by Judge Terry Terrell. The Committee also adopted the Joint Lawyer Civility Resolution in partnership with the Northwest Florida Voluntary Bar Associations and Inns of Court to raise awareness about Professionalism Expectations and Local Professionalism Panels (LPPs). A series of socials and lunches hosted by the Committee brought attorneys and judges together, providing the opportunity to discuss professionalism issues in an informal setting. The Committee has also partnered with the University of West Florida and Studer Higher Education to organize focus groups in order to develop future goals and programs. Each focus group aims to identify and address professionalism issues affecting members of the First Circuit. In the coming year, the Committee plans to reenergize efforts to solicit nominations for its Random Acts of Professionalism recognition Award.

SECOND CIRCUIT

The Second Circuit Professionalism Panel hosted a Professionalism Summit at the Florida Supreme Court on September 25, 2015. The event was well-attended and provided CLE credits to participants. The Panel works in conjunction with the Tallahassee Bar Association and other voluntary bar associations to provide information about professionalism to the legal community. The Panel plans to implement its Professionalism Power Lunch Series with local judges in the year ahead.

THIRD CIRCUIT

The Third Judicial Circuit Professionalism and Panel Committee continued to work in conjunction with the Third Circuit Bar Association and Young Lawyer’s Division to organize events promoting professionalism and comradery among attorneys and judges. The Committee additionally focused on making members of the Bar and judiciary aware of the purpose and goals of the LPP, requesting input to ensure the Committee reaches its full potential. The Committee will continue to further its culture of informal mentorship in the coming year.

FOURTH CIRCUIT

The Fourth Circuit is home to the Jacksonville Bar Professionalism Committee. In the last year, the Committee has hosted several judicial receptions and training seminars focusing on professionalism issues. The Committee also presented the Jacksonville Bar Association Professionalism Award to Courtney Grimm at its Annual Law Day Luncheon in May 2016. The Committee encourages members to become part of the mentoring program it offers in conjunction with the Fourth Judicial Circuit, aiming to heighten the degree of civility, professionalism, and competence in the circuit. In the months ahead, the Committee will prepare for its professionalism conference at the Players Championship, to be held on May 10, 2017.

FIFTH CIRCUIT

The Fifth Circuit Professionalism Committee has hosted numerous professionalism seminars during the reporting period, including a professionalism conference attended by approximately 200 lawyers and judges throughout the state. The Committee Chair, Judge S. Sue Robbins, spoke to the Marion County Bar Association on the topic of mentoring, and Judge Rick Howard also gave a presentation to local bar associations on stress management in the practice of law. The Committee has established two active mentoring programs: one involves a traditional mentoring continued...
relationship, while the other is a reverse mentoring program where a younger lawyer helps an older lawyer with issues relating to technology. The Committee is currently in the planning stages for the 2018 Professionalism Conference and is also developing a 2017 Diversity Education Program for judges and other court staff. An educational program based on the reverse mentoring program is also slated for summer 2017. The Fifth Circuit Professionalism Committee presented its 2016 Professionalism Award to the Honorable Thomas D. Sawaya of the Fifth District Court of Appeal.

SIXTH CIRCUIT
The Sixth Judicial Circuit Professionalism Committee participated in several professionalism programs hosted by local bars, including the Clearwater Bar Association’s 2016 Professionalism Symposium and the Wild Wild West Bench and Barbeque presented by the Clearwater Bar Association and the St. Petersburg Bar Association. The Committee additionally helped draft the Professionalism Expectations and Professionalism Implementation Procedures of the Sixth Judicial Circuit. The Committee is currently working with local bar associations to produce more professionalism programs within the circuit.

SEVENTH CIRCUIT
The Seventh Circuit Professionalism Committee is presently planning a May 2017 Professionalism Symposium in conjunction with the Volusia County Bar Association. The Symposium will feature a guest speaker and two breakout sessions focusing on professionalism in specific areas of law. Two professionalism awards will also be presented at the Symposium: one will be given to a local attorney practicing for less than five years, while another will recognize an attorney with five or more years of experience in the profession. The Committee will also continue to encourage its members to participate in the mentoring programs offered by the Volusia County Young Lawyers Section and the Dunn-Blount Inn of Court.

EIGHTH CIRCUIT
The Eighth Judicial Circuit Professionalism Committee hosts the Judicial Mentoring Program, which pairs new judges with mentor judges to help them transition from practicing law to serving on the bench. The Committee has received positive feedback from mentors and new judges alike and frequently finds judges volunteering for mentor training because they found the process to be rewarding. The Committee also hosted its annual professionalism seminar, which was attended by 100-125 local judges, lawyers, and law students. The seminar included a keynote speech on professionalism issues and breakout small group discussions. At its annual dinner, the Committee presented its James L. Tomlinson Professionalism Award to a local attorney exemplifying the highest ideals of professionalism, ethics, and competence. The Committee will continue to work closely with the Eighth Judicial Circuit Law School Association to implement a mentoring program in the coming year.

NINTH CIRCUIT
The Ninth Judicial Circuit Professionalism Committee hosted four professionalism events during the reporting period, including a “Fireside Chat” with John Berry and Paul Lipton, and seminars focusing on civility, professionalism in a diverse world, and professionalism in everyday legal practice. The Committee also gave presentations on professionalism at two local law schools, Barry University Dwayne O. Andreas School of Law and Florida A&M University College of Law. These presentations were offered as part of the Pizza and Professionalism series. The Committee also presented its three professionalism awards: Honorable David A. Baker received the James G. Glazebrook Memorial Bar Service Award, Emery H. Rosenbluth, Jr. received the William Trickel, Jr. Professionalism Award and Kristopher J. Kest received the Lawrence G. Matthews, Jr. Young Lawyer Professionalism Award. In the year ahead, the Committee plans to expand its Pizza and Professionalism program and will continue to contribute monthly articles to the Orange County Bar Association’s newsletter.

TENTH CIRCUIT
The Tenth Judicial Circuit Professionalism Committee hosted its annual Professionalism Dinner, where it presented the Professionalism Award to Don Wilson. The Committee also honored Anne Weeks as the recipient of its Justice Achievement Award, which is presented to a non-lawyer working in the court system who has made a significant impact on the improvement of the administration of justice in the circuit. Chief Judge Donald Jacobsen of the Committee also developed a series of six seminars focusing on various aspects of professionalism and trial skills. The Committee is currently preparing to host its continued...
New Lawyer Orientation event in conjunction with the American Inn of Court, and several members are working to develop presentations on issues in professionalism.

**ELEVENTH CIRCUIT**

The Professionalism Committee in the Eleventh Circuit is comprised of four subcommittees: Summit, New Attorney Breakfast, Local Professionalism Panel, and Mentorship Program. The Committee created the Eleventh Judicial Circuit Professionalism Committee Excellence in Professionalism Award which recognizes an individual for his or her service either on the Professionalism Committee or the Local Professionalism Panels; the inaugural award was presented this year. The Committee held its Third Annual Professionalism and Civility Summit in October 2015. The event focused on the judiciary and the role it plays in the professionalism effort, explaining appropriate methods for handling instances of unprofessionalism inside and outside of the courtroom. The Committee also sponsored the Third Annual New Attorney Breakfast in October 2015, which featured speakers discussing professionalism and civility. LPPs have been in place and running smoothly within the circuit. Additionally, members of the Committee are actively promoting professionalism and civility by participating in many projects in the circuit, including mentoring programs, panel discussions, meetings of the Joint Civility Task Force and the Third District Court of Appeals Bar Induction Ceremony. The Committee plans to continue to work on its mentoring program and develop a series of lunch seminars throughout the court system.

**TWELFTH CIRCUIT**

The Twelfth Circuit Local Professionalism Panel Committee is responsible for reviewing complaints filed in the circuit. The chair of the LPP screens complaints and refers them to subpanels of three members if further investigation and action are warranted. The chair also serves as a liaison to the existing LPPs and attends teleconferences of LPP participants. Though the Twelfth Circuit does not have a professionalism committee, it carries out professionalism activities through local bar associations, including the Manatee County Bar Association, the Sarasota County Bar Association (SCBA) and the SCBA’s South County Division. Each has engaged in several lunches, seminars, and meetings, which actively promote ethics, civility, and professionalism efforts. Each year, the judges of the Twelfth Judicial Circuit award the Jim Slater Award for Professionalism in the Practice of Law, recognizing a criminal law attorney who demonstrates courtesy to opposing counsel, victims, defendants, witnesses, and candor to the court, among other qualities. The Judge John M. Scheb American Inn of Court also presents a Professionalism Award at its annual gala. This year, the Inn debuted a documentary film entitled, *Legacy of Professionalism: John M. Scheb and our Inn of Court*, chronicling the life and career of Judge Scheb. The April/May 2016 issue of the MCBA’s newsletter, *Inter Alia*, featured an article entitled, *The Tao of Bill and Ted: Going Beyond Professionalism to ‘Be Excellent to Each Other’*, encouraged members to go beyond mere civility and professionalism to offer sincerity, empathy, and kindness to one another.

**THIRTEENTH CIRCUIT**

The Thirteenth Judicial Circuit Professionalism Committee is comprised of five subcommittees. The Promotions Subcommittee aims to promote awareness of the circuit’s LPP, primarily by distributing the brochure explaining the LPP and the process for making a complaint. The CLE & Events Subcommittee aims to educate the circuit about professionalism. Committee Member Thomas Newcombe Hyde created a presentation promoting professionalism which has received ongoing CLE accreditation and has been presented at events throughout the state. The Professionalism Awards Subcommittee honored David Rowland as its recipient of the Thirteenth Judicial Circuit Professionalism Award at the Hillsborough County Bar Association Annual Bench Bar Conference Membership Luncheon. The Medical/Legal Subcommittee has engaged in various professionalism activities through its chair, Circuit Judge Gregory P. Holder, who has spoken at law schools, seminars, and meetings. Finally, the LPP Subcommittee, which is actively receiving complaints, has resolved a total of 11 cases during the reporting period.

**FOURTEENTH CIRCUIT**

The Fourteenth Judicial Circuit Bench-Bar and Professionalism Committee established the Larry G. Smith Professionalism Award, named for a longtime Bay County attorney, circuit judge, and judge on the First District Court of Appeals. The attorney selected for the inaugural award was Henry M. Sims, who was honored at an award presentation on May 20, 2016. Additionally, the Committee has focused its efforts on its LPP, which receives, reviews and investigates complaints involving unprofessional conduct. When appropriate, the LPP meets with the subject of the complaint and works to informally resolve the issues giving rise to the complaint. The Committee will continue to solicit nominations for its award in the coming year.

**FIFTEENTH CIRCUIT**

The Fifteenth Circuit is home to the Palm Beach County Bar Professionalism Committee...
Committee. The Committee is split into six subcommittees which work on different projects and programs throughout the year. The New Attorneys subcommittee hosted its Fourth Annual New Attorney Breakfast in October 2015, attended by 98 attorneys along with judges and representatives from other voluntary bar associations. The Committee hosted three CLE presentations geared towards new attorneys and attorneys new to the area. The Professionalism Outreach subcommittee focused its efforts on contacting judges, committee chairs of the Palm Beach County Bar, and other voluntary bars to promote awareness of its LPP referral form. The Professionalism Expectations subcommittee revised a professionalism PowerPoint for a CLE that was previously presented throughout the circuit and is planning to develop new presentations. The Screening Subcommittee assists with reviewing new LPP complaints, while the liaison to The Florida Bar Standing Committee on Professionalism is assisting with the Standing Committee’s first ever symposium, Putting the “Pro” in Professionalism, to be held April 21, 2017. The Committee recently voted to create a Mentoring subcommittee, which will improve services offered by the Palm Beach County Bar Association’s Mentoring Program. The Sidney A. Stubbs, Jr. Professionalism Award was presented this year to Amy Singer Borman. The award seeks to recognize an attorney that demonstrates exemplary ethical conduct, character and integrity, respect for the legal system and all of its participants, commitment to maintaining the highest levels of professional competence, courtesy and civility, and commitment to serving clients, the community, and the public good.

SIXTEENTH CIRCUIT

The Sixteenth Judicial Circuit Local Professionalism Panel is chaired by County Judge William R. Ptoeay, Jr. and includes membership of two additional county judges and six local attorneys appointed by the chief judge. Complaints are routed to the Chair and quarterly meetings are scheduled to discuss complaints with additional meetings held as necessary. Members of the Panel frequently participate in events focused on professionalism: Judge Ptoeay discussed the Panel as a guest speaker at the Monroe County Bar Association luncheon, while County Judge Ruth Becker hosted a luncheon to continue discussion on procedural and ethical e-filing issues. The Panel will continue to participate in events such as CLE seminars, judges’ luncheons, and receptions at the Third District Court of Appeal in the year ahead.

SEVENTEENTH CIRCUIT

The Seventeenth Circuit is home to the Broward County Bar Association Professionalism Committee. The Committee assisted with CLEs during the reporting period, including a Got Civility? seminar which garnered nearly 200 attendees and included a post-event reception with judges. The Committee also presented a CLE on...
procedural and substantive issues at the Seventeenth Circuit Professionalism Panel in May 2016. The Committee participates in a mentoring program, in which the Committee pairs a new attorney with a more seasoned attorney to serve as a mentor. The Committee also recognized the recipients of two professionalism awards at the Broward County Bar Association Annual Dinner. John C. Primeau received the Lynn Futch Professionalism Award and Alison Smith received the Joseph J. Carter Professionalism Award. In the year ahead, the Committee will continue to work with local bar associations to plan additional CLEs.

EIGHTEENTH CIRCUIT

The Eighteenth Judicial Circuit Professionalism Committee participated in numerous professionalism events hosted by the Brevard County Bar Association and the Seminole County Bar Association. The Brevard County Bar Association hosted its Professionalism Awards Dinner on March 10, 2016, at the Hilton Cocoa Beach Oceanfront. Norman R. Wolfinger was posthumously awarded the Judge Clarence T. Johnson Lifetime Achievement Award, while Amy M. Romaine received the Private Lawyer Award and Greg Koniecza received the Government Award. The Seminole County Bar Association also presented professionalism awards: Judge Donna McIntosh was recognized as Judge of the Year, Delton Chen received the Gray Whigham Professionalism Award and Randolph Kramer received the Lifetime Achievement Award. In March 2016, the Seminole County Bar Association hosted Marvin Rooks, Assistant Professor of Law at Barry University Dwayne O. Andreas School of Law; Professor Rooks spoke about professionalism and civility in the practice of law, using his own experiences to demonstrate the importance of ethics within the profession.

NINETEENTH CIRCUIT

The Nineteenth Circuit Professionalism Panel held its annual meeting on October 6, 2015. The Panel also met informally throughout the year to discuss matters before it and determined how to promote ideals of professionalism within the circuit. The Panel participated in the Bar Bench Liaison Conference within its circuit, and individual Panel members have also made efforts to promote professionalism within their local bar associations. Panel members also solicited nominations for the William M. Hoeveler Judicial Professionalism Award, presented annually by the Henry Latimer Center for Professionalism.

TWENTIETH CIRCUIT

The Twentieth Judicial Circuit Professionalism Committee is made up of judges, representatives from local bar associations and representatives from the State Attorney’s Office, the Public Defender’s Office and the Office of Regional Counsel. On November 20, 2015, the Committee hosted its Annual Professionalism Education Seminar for the Office of Criminal Conflict and Civil Regional Counsel. Committee members gave presentations on Professionalism Expectations for Florida lawyers and professionalism in Florida courts. The Committee participated in the Twentieth Judicial Circuit Mock Trial Competition in February 2016 and hosted the Second District Court of Appeal Oral Arguments, including a question and answer session with the judges, in May 2016. Committee members also participated in seminars, CLEs, and luncheons focused on issues in professionalism though local bar associations. The Circuit reports active substantive legal education programs throughout the jurisdiction, along with mentoring activities offered by the individual county bar associations and the Michael R.N. McDonnell Inn of Court. The bar associations representing each of the counties sponsored specific professionalism-focused educational meetings including annual ethics seminars and presentation of leaders in professionalism activities, such as a session led by former president of The Florida Bar, Ray Abedin.
Members of the Young Lawyers Division at the Fifteenth Judicial Circuit’s Fourth Annual New Attorney Breakfast

David Prather and Greg Coleman at the Fourth Annual New Attorney Breakfast

Fifteenth Judicial Circuit’s Fourth Annual New Attorney Breakfast

First Judicial Circuit Bench and Bar Professionalism CLE Cruise Attendees
AVE MARIA SCHOOL OF LAW

Ave Maria School of Law begins teaching professionalism during new student orientation, where the president, dean, and associate dean for academic affairs discuss its importance to the legal profession. Representatives from the Florida Board of Bar Examiners also give a presentation to help students understand the character and fitness process. After orientation, faculty members incorporate professionalism into their courses by awarding or subtracting points from a student’s grade based on the quality of his or her professional behavior. Students learn about professionalism from an attorney through the school’s mentor program, and experience professionalism in practice as a Certified Legal Intern in the externship program. Guest speakers invited by the law school throughout the year often focus on professionalism and ethics in their discussions. Additionally, Ave Maria holds an annual Honor Code Ceremony, where students promise to hold themselves to the highest standards of professional conduct.

BARRY UNIVERSITY DWAYNE O. ANDREAS SCHOOL OF LAW

Barry University Dwayne O. Andreas School of Law seeks to create a culture of professionalism by introducing law students to the concepts and ideals of professionalism from the first day they set foot on the Barry Law campus. Over the course of orientation, the law school teaches students about the various aspects of professionalism, how professionalism affects their role as a law student, and how professionalism skills are essential for a member of the legal profession. Students are further required to obtain six hours of professionalism enhancement credits before graduating, including one hour of a cultural competency program for those matriculating after fall 2015. During the 2015-16 year, such professionalism enhancement programs focused on ethical dilemmas in specific areas of law, methods for demonstrating professionalism at trial, and the importance of professionalism for young attorneys, among many others. Professionalism is also discussed in a series of alumni lunches, which bring alumni to campus to have a conversation with students. Students are additionally counseled in professionalism by the faculty mentor each is assigned during enrollment. Barry Law further incorporates professionalism into many of its upper level courses and externship opportunities. Additionally, the law school provides chances to demonstrate professionalism through community service by participating in one of the service-based projects offered by over 35 student organizations.

FLORIDA A&M UNIVERSITY COLLEGE OF LAW

Florida A&M University College of Law implements professionalism in its new student orientation by including a Professionalism Day. Students first hear a presentation from the Florida Board of Bar Examiners to learn of the character and fitness requirements. A plenary session with members of the local bench and bar is then held to impart information about the importance of professionalism in the practice of law. Students finally attend small group breakout sessions with faculty members to discuss professionalism through a series of video vignettes demonstrating the importance of ethics and civility both within and beyond law school. After orientation, students are introduced to a curriculum which incorporates professionalism: faculty members teaching doctrinal courses discuss professionalism issues which arise in their subject areas; professionalism is also taught in clinics and simulation skills courses. FAMU Law faculty members on the Ad Hoc Committee on Professional Skills Training also work to help students understand that professional, civil behavior is necessary to become a successful and practice-ready attorney. Outside of the classroom, FAMU Law worked with the Orange County Bar Association Professionalism Committee to host an event about professionalism in the context of litigation.

FLORIDA COASTAL SCHOOL OF LAW

All first-year students attend a professionalism session during new student orientation at Florida Coastal School of Law. The presentation centers on professionalism in the classroom, on campus, and in the community. Students also take a professionalism oath during their orientation. In the classroom, each professor at Florida Coastal aims to incorporate relevant aspects of professionalism in his or her course. The school’s shadow program additionally offers students a unique opportunity to shadow attorneys at trial, hearings, and depositions to view practical application of the professionalism skills they are learning. In order to further promote professionalism, Florida Coastal has developed a Professionalism Committee to oversee the school’s programs for preparing students to conduct themselves with dignity, integrity, and professionalism. The Committee focuses on curriculum, communication, interpersonal skills, internships, and programs designed to bridge the gap from law school to practice. Further, the Committee monitors graduates’ employment outcomes and makes recommendations to the faculty regarding methods to improve such outcomes. During the academic year, the chair of the Professionalism Committee, along with the assistant director of student affairs, addresses the students regarding issues in professionalism. The Committee also sponsors a Professionalism Student of the Month Award, and a Professionalism Graduate of the Month Award, which recognize an individual who has exhibited sound professionalism principles.

FLORIDA INTERNATIONAL UNIVERSITY COLLEGE OF LAW

Florida International University College of Law offers several programs in its new student orientation which demonstrate the importance of professionalism. A panel discussion with faculty members focuses on the first-year experience and students’ responsibilities as legal professionals, and a guest speaker is invited to speak about current issues in professionalism and ethics. Associate Deans Fridman and Anshah also give a presentation on academic requirements, the Student Code of Conduct, and continued...
application amendments. FIU Law incorporates professionalism in its curriculum by offering courses on legal ethics and providing professional skills training in its practice clinics. The school additionally hosts events focused on issues in professionalism, including a, Civility Matters Symposium and a seminar on trial advocacy titled, Great Legal Storytellers. The Career Services department and Experiential Learning Program offer similar events, workshops, and lectures throughout the academic year. Approximately 40 student organizations offer events focusing on professionalism and professional identity, and the school’s mentoring program provides students the opportunity to learn about the legal profession from peer and alumni mentors. Finally, the Center for Professionalism and Ethics works to provide students with the practical skills and professional training necessary to become successful lawyers.

FLORIDA STATE UNIVERSITY COLLEGE OF LAW

During new student orientation, Florida State University College of Law includes discussions of professionalism from the varied perspectives of a practitioner, a judge, and a faculty member. Students also participate in small group sessions, discussing appropriate professional behavior in a series of hypothetical discussions provided by the Henry Latimer Center for Professionalism. In the classroom, professors strive to incorporate ethics components, work to promote discussions of professionalism, and require students to behave civilly. FSU Law also offers several programs focusing on professionalism; the Placement and Professional Development Center held a series of workshops on professionalism, focusing specifically on maintaining professionalism when networking and interviewing for jobs. The longstanding Jurist-in-Residence program brings respected judges to campus who often discuss professional values and expectations. FSU Law has also included a professionalism program in its summer program for undergraduate students interested in attending law school. Professionalism is a component of FSU Law’s student organizations—members of Women’s Law Symposium learn professional values from a mentor attorney and students participating in moot court often examine and resolve ethical issues arising in appellate settings. FSU Law Students attend events hosted by local bar associations and inns of court, providing further opportunities to learn about the importance of ethics from members of the legal profession.

NOVA SOUTHEASTERN UNIVERSITY SHEPARD BROAD COLLEGE OF LAW

Faculty and staff begin incorporating professionalism from day one of new student orientation, which is designated “Professionalism Day” and is hosted by the Critical Skills Program. On this day, students attend a professionalism workshop and participate in programs focusing on professionalism. Last year, Alan Paschal, Chief Branch Discipline Counsel of the Ft. Lauderdale Branch of The Florida Bar served as a guest speaker. During the workshop, Nova faculty members help students analyze scenarios that address professionalism issues law students and legal practitioners can face. Nova also strives to incorporate relevant aspects of professionalism in each course; in 2016, the faculty voted to adopt learning outcomes addressing professionalism issues throughout the curriculum. In the required Legal Research and Writing courses, these goals are achieved by assigning students theoretical problems about an attorney’s behavior and asking them to determine the proper course of professional conduct. Nova also incorporates professionalism skills into its various workshops, clinics, and courses to accommodate students who are interested in working in litigation, transactional, or regulatory settings. The law school further offers a Career Learning Series, featuring speakers who are practitioners with varied legal backgrounds and careers. During their presentations, speakers discuss ethical and professional issues that are common to their practice. Students were also invited to attend a judicial round table discussion titled, The Importance of Professionalism in Adversarial Legal Writing, which aimed to teach the legal processes and procedures of local and federal courts. Finally, the law school works to recognize students who exemplify professional character traits by awarding the Dean’s Certificate of Professionalism to a student each year.

ST. THOMAS UNIVERSITY SCHOOL OF LAW

St. Thomas University School of Law has adopted three programs that include aspects of professionalism and the responsibilities imposed upon law students and lawyers. During orientation, the dean speaks to students about the professional endeavor they are embarking upon and provides insight into the expectations and obligations imposed upon them as they enter the legal profession. The assistant dean for student affairs also reviews the Law Student Handbook which sets out the Honor Code and includes a discussion of appropriate, professional behavior. After orientation, St. Thomas held a Professionalism Day, which included additional remarks from the dean, a speech from an attorney, and a presentation by the Honorable Adalberto Jordan, Judge for the United States Court of Appeals for the Eleventh Circuit, on professionalism and civility. At an additional program titled, Orientation 2.0, alumni and faculty members spoke about the importance of professionalism in the practice of law. In the classroom, St. Thomas works to ensure that virtually every course touches on the professionalism aspects relevant to that substantive area. The law school also works with local organizations, such as the Peter T. Fay Inns of Court in Miami-Dade County, to instill professionalism. Students and faculty regularly participate in the Stephen R. Booher Inns of Court in Broward County, Florida, where students work with professionals to complete exercises regarding proper ethical and civil behavior. In addition, St. Thomas hosts attorneys, judges, and other professionals as part of a lunch educational programs which focus on professionalism in career development. Professionalism is also discussed in meetings of student organizations, which often include legal practitioners as guest speakers.

STETSON UNIVERSITY COLLEGE OF LAW

During orientation, Stetson University College of Law includes a lecture on
professionalism and requires students to recite the Oath of Admission to The Florida Bar. In recognition that cultural competence is an essential part of professionalism, Stetson also offers a presentation on the significance of implicit bias in the practice of law. The law school further includes a definition of professionalism in its Code of Student Professionalism and Conduct and incorporates discussion of the Model Rules of Professional Conduct in its first-year Legal Writing and Research courses. Clinical and externship opportunities allow students to gain vital practical knowledge and see the importance of professionalism in practice—cultural competence is incorporated in these programs as well as in other upper level courses. Beyond the classroom, Stetson promotes professionalism by hosting an Etiquette Dinner to demonstrate professional behavior when networking and by approving reimbursement requests for students to attend professional development conferences and events. Finally, Stetson Law teaches the ethical rules of the profession in its award winning mock trial and moot court teams.

THOMAS M. COOLEY LAW SCHOOL

Thomas M. Cooley Law School incorporates four components of professionalism in its new student orientation. The Professionalism in Action program brings attorneys to campus to discuss why ethics matter in law school and in practice, and students are given guidance on professional behavior during a presentation titled, Professionalism in Decorum, Attire, and Correspondence. Students are additionally introduced to the Honor Code and Disciplinary Procedures and then pledge their commitment in an oath administered by a robed judge. In the classroom, Cooley has worked to incorporate substantive issues of ethics and professionalism into the course curriculum. Procedurally, students are required to attend class, be on time, and conduct themselves professionally. Cooley also teaches professionalism in seminars and programs, including a roundtable event called, Professionalism in Legal Research and Writing, and a presentation titled, Professionalism Personified. Additionally, the law school offers an Ethics and Professionalism Library which maintains over 3,000 titles. The Career and Professional Development Office hosts a variety of programs which allow students to further their professional development and extracurricular activities, such as mock trial and moot court competitions. Finally, faculty members promote competence and ethics in the practice of law by participating in organizations such as the Thirteenth Judicial Circuit’s Pro Bono and Professionalism Committees.

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

University of Florida Levin College of Law seeks to show students that their professional career begins as soon as they are law students, not graduates. The law school puts a high emphasis on professionalism, ensuring that all students understand its importance from the first day of orientation by requiring their participation in a program titled, “Professionalism in the Law School Community and the Profession.” At the conclusion of orientation, students take the Oath of Professionalism. First-year students are then required to take a course called Introduction to Lawyering, which acquaints them with the defining attributes of the legal profession, including a code of ethics and assumption of duties to clients, the justice system, and society as a whole. Taught through lectures, problems, discussions, and participatory exercises, the Introduction to Lawyering course is designed to introduce the concept of professionalism and familiarize students with problem-solving techniques that can be used to address the ethical issues lawyers will undoubtedly face. The law school also incorporates a variety of programming geared towards professional development; such programs include Professionalism Week, hosted in conjunction with the John Marshall Bar Association, which addresses several topics related to professionalism and ethics, and the NaviGators Program, which allows students to meet with alumni and participate in panel presentations on how to navigate their professional careers.

The law school also offers a professional development fund, which reimburses students who attend conferences, bar events, job fairs, and CLE programs to reach their professional goals.

UNIVERSITY OF MIAMI SCHOOL OF LAW

From the first remarks given by the dean to incoming students during orientation, the University of Miami School of Law emphasizes the importance of professionalism. The School of Law also holds a mentoring lunch for new and transfer students during orientation. Each student is seated at a table with an attorney or sitting judge, providing an opportunity to discuss professional development with a current practitioner. Students further receive a copy of the Honor Code and Standards of Conduct to provide guidelines for ethical behavior. In the classroom, topic of ethics, civility, and professionalism are integrated in all offered courses. Students who participate in the many clinical experiences offered by the School of Law receive daily, hands-on experience involving issues of professionalism, while skills courses in alternative dispute resolution and negotiation have components dealing with professionalism in practice. The School of Law also hosts the Center for Ethics and Public Service, an interdisciplinary program devoted to training students on the values of ethical judgment, professional responsibility, and public service in law and society. Professor Scott Rogers leads the Mindfulness in Law Program, which incorporates the practice of mindfulness into the School of Law’s core curriculum. Students who take such courses report an ability to relate more effectively to challenging situations, personally and professionally. The School of Law also hosts the Partnership for Professionalism Program, a biannual meeting and dinner where approximately 100 judges, attorneys, and law students gather for informal roundtable discussions. The program, now in its 27th year, has been heralded by local judges and attorneys as an excellent training program for students seeking to enter the profession.
PROFESSIONALISM TIPS

A CONTRIBUTION FROM MEMBERS OF THE FLORIDA BAR

WHAT’S WRONG WITH DIGITAL MESSAGING?

“Digital messaging” (email, texts, and tweets) provides a fertile field for unprofessional conduct, and the reasons lie in basic principles of communication. Digital messaging is a rudimentary form of communication—stripped of many of the subtleties and nodal signposts of speech: tone, pitch, pause, facial expression, modifiers, body language, situational context, and immediate feedback. We lose immediacy of interaction with the listener and the opportunity to respond to facial cues. We are lulled by the ease of digital messaging into hitting the “send” button before we have carefully contemplated the consequences of the message. It is, therefore, easy to understand why digital messages so often breed misunderstanding and retaliation. As the chain-gang boss says in Cool Hand Luke, “What we have here is a failure to communicate.” It may sound counterintuitive; however, more thought is required to draft a digital message than to speak to the recipient. The following suggestions may prove helpful.

Avoid composing digital messages when upset or angry; the message will be exacerbated by its basic nature and will most likely draw a negative response. Do not send a digital message without considering how it might be interpreted or construed by the recipient. Consider with caution the tone of our message; terse communication can appear to the listener, even in face-to-face speech, as curt or offensive. Eliminate retaliatory messages; it only escalates conflict, and we may misconstrue the sender’s intent. Sensitive or potentially offensive communications are best conveyed face-to-face or in a carefully considered and drafted letter (preferably with a time lapse between drafting and mailing).

Remember that genuine communication is difficult without situational context. If the message requires us to establish context, or set the stage, then a digital message may be the inappropriate mode of transmission. The same is true where detail, subtlety or nuanced communication is required.

In summary, we need to understand the inherent limitations of digital messaging. It may be fine for scheduling, coordination or some procedural matters—things that lend themselves to abbreviated expression—but more substantive matters are better handled by face-to-face, telephone, or letter communication. The nature of digital messaging makes it a dangerous tool for nuanced communication.

Howard R. Marsee is a mediator, arbitrator, and special magistrate with the Florida ADR group of Upchurch Watson White and Max. He has a background in linguistics and communication and is a frequent lecturer on language as a tool of conflict resolution.

DO MORE.

The Rules of Professional Conduct guide an attorney’s responsibilities to, and interactions with, clients, courts, and other attorneys. While these rules set only the minimum standards for our professional conduct, they do not limit the courtesy that we can – and should – show our professional colleagues.

Law is, by its very nature, an adversarial industry. Money, livelihood, and lives themselves are at stake in any given case. While every attorney has an obligation to advocate for his or her client, attorneys should also prioritize civility and consideration. In other words, attorneys should do more.

Nearly every day presents an opportunity to do more. Agree to an extension request if your client will not be adversely affected (and clients usually are not). Let opposing counsel know when he or she has made an inadvertent filing error. Quickly provide documents to counsel when you know they are needed to file a brief or other pleading. These are just a few small ways to do more for your opposing counsel. They require little effort and will positively impact your relationship with colleagues and improve the combative culture of the legal profession.

Although some level of conflict is inherent in the practice of law, it does not have to be the dominant feature. Remember that a fellow attorney may be the opposition in your case, but when we do a little extra for one another, everybody wins. So do more, not because you have to, but because you should.

Dawn A. Tiffin is an Assistant Attorney General practicing criminal appellate law in Tampa, Florida. She is an AV-rated attorney and has been a member of The Florida Bar since 2006.
SELECTED RECENT PUBLICATIONS AND CASES

CASES

Bedoya v. Aventura Limousine & Transp. Serv., 861 F. Supp. 2d 1346 (S.D. Fla. 2012). Plaintiff’s counsel violated Rule 4-8.4 (d) (conduct that is prejudicial to the administration of justice) multiple times where, inter alia, plaintiff’s counsel disparaged defendant’s counsel in emails, stated that plaintiff would not entertain a settlement as long as defendant’s counsel represented the defendant and engaged in deplorable behavior in a related action.

Domville v. State, 103 So. 3d 184 (Fla. 4th DCA 2012). A criminal defendant moved to disqualify the presiding trial judge because the trial judge was Facebook friends with the prosecutor handling the case. The defendant argued this relationship would prevent the judge from being “fair and impartial.” The judge denied the motion, finding it the defendant’s argument to be “legally insufficient.” On appeal, the Fourth DCA reversed, holding the defendant had alleged facts that would create, in a reasonably prudent person, a well-founded fear of not receiving a fair and impartial trial. The court recognized that, “a judge’s activity on a social networking site may undermine confidence in the judge’s neutrality.”

The Florida Bar v. Conway, 996 So.2d 213 (Fla. 2013). A lawyer received a public reprimand after disparaging a judge in a public post online. In the post, the lawyer referred to the judge as an “evil unfair witch,” suggested she was “clearly unfit for her position”, did not know “what it means to be a neutral arbiter,” had an “ugly, condescending attitude,” and was “seemingly mentally ill.” The lawyer was found to be in violation of Rules 3-4.3, 4.82 (a) (false statements concerning the integrity and qualifications of a judge), and 4.84(d).

The Florida Bar v. Norkin, 132 So. 3d 77 (Fla. 2013). A lawyer was suspended for two years for multiple instances of disrupting the courtroom by shouting at judges, disparaging opposing counsel in e-mails (copying others), shouting at opposing counsel in the courthouse, and disparaging and shouting at Bar counsel in the hearing. The Court found violations of Rules 4-3.1 (meritorious claims and contentions), 4-4.4 (conduct intended to embarrass, delay, or burden a third person), and 4-8.4(d).

Tenev v. Thurston, 198 So. 3d 798 (Fla. 2d DCA 2016). On the day of jury selection, the trial judge ordered members of the jury not to “do any electronic research on the Internet or any other electronic devices.” The next day, the lawyer requested one juror be dismissed for cause because the juror was Facebook friends with an employee of the lawyer’s client. When the judge asked the attorney how she learned the information, the attorney gave three different answers, none of which involved communication with the juror. The plaintiff moved for a mistrial and the judge granted the motion, additionally leveling sanctions against the lawyer. On appeal, the Second DCA reversed the sanctions. It found that the lawyer had violated her obligation to be honest before a tribunal, but noted the dishonest answers did not prevent the plaintiff from having a fair trial. It further found that the judge’s instructions regarding electronic research where limited to members of the jury, because “[t]here is no prohibition in Florida law against an attorney researching jurors before, during, and throughout a trial so long as the research does not lead to contact with a juror.”

HENRY LATIMER CENTER FOR PROFESSIONALISM
651 East Jefferson Street
Tallahassee, FL 32399-2300
Phone: 850/561-5747, Fax: 850/561-9428
Email: cfp@floridabar.org
Website: www.floridabar.org/professionalism
Director: Jacina Haston
Assistant Director: Rebecca Bandy
Program Coordinator: Elizabeth “Leisa” Davis

Words to the Wise

“Being the richest man in the cemetery doesn’t matter to me. Going to bed at night saying we’ve done something wonderful, that’s what matters to me.”

-Steve Jobs, Co-Founder of Apple

“The biggest risk is not taking any risk. In a world that’s changing really quickly, the only strategy that is guaranteed to fail is not taking risks.”

-Mark Zuckerberg, Co-Founder and CEO of Facebook

“Timing, perseverance and ten years of trying will eventually make you look like an overnight success.”

- Biz Stone, Co-Founder of Twitter