

YLD... In Brief

The Official Newsletter of the Young Lawyers Division of the State Bar of New Mexico

February 2002

The Creed of Professionalism

by Judge Carol J. Vigil, First Judicial District Court



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The Creed of Professionalism has been bandied about as of late and you must be wondering what effect it has on you and your new practice. As an old timer, I am here to tell you they are crucial to your effectiveness as a lawyer and your reputation in the community. In the last decade, our profession has been under attack by public opinion and perceptions by the public. We are presently mandated to follow the Rules of Conduct, but we are not required to follow the creed. Then why am I writing about professionalism?

In a recent hearing involving two seasoned lawyers, I ended up ordering the lawyers to read the creed and report back to me about their professional responsibilities to each other and their clients. This case involved a divorce proceeding on a motion to compel in which one lawyer began by telling the court the opposing counsel had violated one rule after another and impugning their integrity. During this diatribe, the opposing counsel began to interrupt because of the scurrilous nature of counsel's presentation. After 10 or so minutes, I stopped the lawyers and took a recess to review the pleadings as I had

completely forgotten what the issues were that I was expected to resolve. This behavior continued into the next hearing, and I saw the conflict had nothing to do with the substance of the case but had evolved into the attorney's battle to show the other in very bad light.

Technically neither lawyer violated any ethical rules of conduct, but are either of them unprofessional?

"Professionalism is conduct consistent with the tenets of the legal profession as demonstrated by a lawyer's civility, honesty, integrity, character, fairness, competence, ethical conduct, public service and respect for the rule of law, the courts, clients, persons who work within the profession, witnesses and unrepresented parties."¹

The above scenario, I hope, illustrates that the two attorneys had forgotten that in representing their client "... civility and courtesy are not weaknesses;" and they should understand that these tactics only "... delay resolution, harass or drain the financial resources ..." of the client and the other party. I know when I went to law school I wanted to help people resolve problems. I believe that is what a judicial system ought to achieve. However, there seems to have evolved a mind set in some lawyers that only "Rambo" tactics show that you are a good lawyer, while in effect the only accomplishment is that you cost your client more money and you lose credibility with other lawyers. That

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Message from the Young Lawyers Division of the State Bar of New Mexico Chair . . .

by Trent Howell



I hope this newsletter finds each of you keeping resolutions and pursuing a healthy, prosperous new year. As for myself, I have not started running, and left-over

chocolates still litter the house. But there is always tomorrow, right?

To back up a bit, I should introduce myself as the 2002 chair of the Young Lawyer Division of the State Bar of New Mexico. And for newcomers to the bar, the division or *In Brief*, I also should explain that YLD comprises all New Mexico licensed attorneys who *either* have practiced less than five years *or* are under 36 years of age. Any attorney meeting either criteria is a member of YLD – without submitting application or paying dues.

With the introductions out of the way, you may ask, who cares? Some of you may not. Some view “young lawyer” as a label to outgrow as soon as possible, while downplaying, not flagging, youth in the profession. After a few years in practice, I feel that way less than I did before. Though certainly different, new lawyers’ strengths (such as recency of education and freedom from ingrained expectations) serve us in practice just as well as experience serves seasoned attorneys. Older members of the bar and bench agree. Still, I understand you who would as soon chew a pacifier as publicly identify yourself as a “young lawyer.”

However, any lawyer getting past its label in 2002 will find YLD paying great benefits, both personally and professionally. For attorneys wanting to take a break from normal practice, YLD offers public service opportunities (such as the Homeless Legal Clinic and Call-In Programs, where attorneys provide the public with

legal information and resources) or law school interaction (through Mock Interviews and the Law Student Mentorship Program). Those wanting professional development might hone speaking skills by lecturing at “Today’s Law School,” learn some law at the “Bridge the Gap CLE,” apply to the State Bar Leadership Training Institute or build a publication list by submitting articles for *In Brief* or YLD’s section in the *Bar Journal*. Attorneys interested in networking also may attend the various “brown bag lunch” programs held around the state, where young lawyers meet local judges and discuss just about anything they want, or pursue one of the vacant spots for YLD liaisons to sections of the State Bar.

Overall, the YLD Board invites every one of you to join a committee, organize a program or log a spare hour in whatever interests you. Your involvement could be as little as spending one-half hour at the law school, listening to a student apply for a mock job. You could take more initiative, helping coordinate programs with Arizona’s young lawyers for the upcoming State Bar Annual Convention in Sedona, Ariz. You could join the YLD committees overseeing membership services, law school programs, publications or technology. Or you even could use New Mexico YLD to access events hosted around the country by the American Bar Association’s YLD organization. (By the way, being involved with the ABA or locally does not mean producing bulk-mails or traveling to exotic places at your own expense; both organizations offer resources, typically including the assistance of staff and the reimbursement of necessary expenses, such as for travel.)

If you have not already put down this article, and if your resolution list is not already full, I encourage you to make one more. Resolve to take a look. Take a look inside this

newsletter. Or take a look at—
www.nmbar.org/divisions/younglawyers/yld.htm or
www.abanet.org/yld/home.html.

Even if you do nothing more, just consider how you might grow through YLD this year. If you do, I assure you that there will be something worthwhile, something you may have overlooked before, and something that will make 2002 more rewarding for you as a young lawyer.

Trent Howell can be reached at Holland & Hart, LLP and Campbell & Carr, P.O. Box 2208, Santa Fe, NM 87504-2208; telephone (505) 998-4421; or email thowell@hollandhart.com



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If you missed . . .

2001

BRIDGE THE GAP

LEGAL PRACTICE AND PROCEDURE

IN NEW MEXICO

OR . . .

IF I ONLY KNEW THEN WHAT I KNOW NOW.

**LEARN PRACTICE TIPS & TRAPS, AND PRACTICAL TOOLS
FROM NEW MEXICO JUDGES AND LAWYERS**

. . . we can give it to you on audio tape
and you can receive

4 GENERAL AND 1 ETHICS AND



For More Information Contact:
Rhonda Dahl at 797-6061

"Renaissance Lawyer"

One Lawyer's Experience with the Leadership Training Institute

by Carol Dominguez

I am a labor and employment attorney — most of my days are busy and predictable as I help employers avoid the wrath of disgruntled employees. But for a few shining days in the fall of 2001, I entered a world where professionals of every kind gathered as a team to build me into a "Renaissance Lawyer." They strapped me into a climbing harness, they gave me psychological tests, they asked to think of a mission statement for my life, they taught me how to give a press conference, they showed me how to read a judicial budget, and they taught me how to lead a nonprofit organization's board of directors. Yes, they even (attempted) to help me organize my day planner. What kind of team could possibly have taught me so much? Could this be the same team that equipped James Bond with all those fancy gadgets? Did my metamorphosis occur deep underground at the facility housing Dick Cheney?

Believe it or not, my personal and professional transformation cost under \$300 and occurred mainly at the State Bar Center of New Mexico. You see, I am a proud graduate of the first Leadership Training Institute ("LTI"). Kraft, former State Bar president, lead the group of about 25 LTI participants. Kraft inspired us and encouraged us to envision ourselves as more than just ordinary lawyers. He motivated us to become leaders in our profession and community.

LTI participants gathered one weekend per month from September through December 2001 to take part in various seminars targeted toward building competence in areas other than our chosen legal fields. The ultimate goal of this approach was to emphasize ethics, professionalism, civility and teamwork to help participants become well-rounded leaders. To this end, LTI brought in

professionals to discuss decision-making methods and workplace communication styles. During one weekend, we took a questionnaire to determine what influence our personality had on our leadership style. We also discussed strategic planning and goal setting, and learned how to influence and motivate individuals in volunteer positions. During one weekend, we were joined by local celebrities (e.g., Conroy Chino) to discuss effective interactions with the media. Intermittently, lawyers from the community who had organized LTI, joined us to observe their hard work in action.

Perhaps more inspiring than any other aspect of the program was the willingness of the judiciary to become involved. Supreme Court Justice Pamela Minzner participated at every session. One LTI graduate commented that Justice Minzner's interaction with the group was the best part of the entire process. During one session on the judiciary, we were privileged to meet several other members of the New Mexico Supreme Court, including Chief Justice Patricio Serna. Arizona Supreme Court Chief Justice Thomas Zlaket also delivered an inspiration keynote address on "Quality of Life Issues" for judges and lawyers. In addition, several federal and state court judges spoke on different panels and ate lunch with the LTI participants. It was refreshing and exciting to watch the men and women who sculpt the laws of New Mexico eat sandwiches.



On the last day of LTI, the participants volunteered at Casa Esperanza, a short-term residence for people seeking cancer treatment in Albuquerque. While we were working together to paint some of the facilities at Casa Esperanza, I realized a very powerful thing. I had learned a great deal from the various professionals who discussed their trades, and the jurists who had taken time to discuss issues important to the judiciary and New Mexico lawyers. However, I believe that I learned more about being a lawyer from my fellow LTI participants than from any other source. It was very inspiring to know that lawyers from all sized firms and from every practice area had decided that they wanted to be something more than mere practitioners—they wanted to be professionals and leaders. Knowing that most of my fellow attorneys have this noble ambition makes it easier to tolerate the bad times with opposing counsel.

For me, LTI training was an excellent way to move beyond learning legal skills and sharpening my practice area. I hope and believe it will help me become a Renaissance Lawyer who will proudly represent our profession. For those of you that aspire to do more than practice law, LTI is for you.

Carol Dominguez is an attorney with the Albuquerque law firm of Gilkey & Stephenson, P.A.



Submit an Article!
on a young lawyer who should be highlighted in our newsletter for the Young Lawyer of the Quarter.

Contact Bryan Biedscheid at bbiedscheid@catronlaw.com or (505) 982-1947

A Creed of Professionalism of

***Judge's Preamble:** As a judge, I will strive to ensure that judicial proceedings are fair; efficient and conducive to the ascertainment of the truth. In order to carry out that responsibility, I will comply with the letter and spirit of the Code of Judicial Conduct, and I will ensure that judicial proceedings are conducted with fitting dignity and decorum.*

A. With respect to parties, lawyers, jurors and witnesses:

- I will be courteous, respectful and civil to parties, lawyers, jurors and witnesses. I will maintain control in the courtroom to ensure that all proceedings are conducted in a civil manner;
 - I will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications;
 - I will be punctual in convening all hearings, meetings and conferences;
 - I will be mindful of time schedules of lawyers, parties and witnesses;
 - I will make all reasonable efforts to decide cases promptly;
 - I will give all cases deliberate, impartial and studied analysis and consideration;
 - I will be considerate of the time constraints and pressures imposed on lawyers by the demands of trial practice;
 - Within practical time limits, I will allow lawyers to present proper arguments and to make a complete and accurate record;
 - I will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents;
 - I will do my best to ensure that court personnel act civilly and professionally;
 - I will not adopt procedures that needlessly increase litigation expense;
 - I will be open to constructive criticism and make such changes as are consistent with this creed and the Code of Judicial Conduct when appropriate.
- B. With respect to other judges:**
- I will be courteous, respectful and civil in my opinions;

- In all written and oral communications, I will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge;
- I will endeavor to work with other judges to foster a spirit of cooperation and collegiality.

***Lawyer's Preamble:** As a lawyer, I will strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers, and I will also conduct myself in accordance with the following Creed of Professionalism when dealing with my client, opposing parties, their counsel, the courts, and any other person involved in the legal system, including the general public.*

A. In all matters: "My Word is My Bond."

B. With respect to my clients:

- I will be loyal and committed to my client's cause, and I will provide my client with objective and independent advice;
- I will work to achieve lawful objectives in all other matters, as expeditiously and economically as possible;
- In appropriate cases, I will counsel my client regarding options for mediation, arbitration and other alternative methods of resolving disputes;
- I will advise my client against pursuing matters that have no merit;
- I will advise my client against tactics that will delay resolution or which harass or drain the financial resources of the opposing party;
- I will advise my client that civility and courtesy are not weaknesses;
- I will counsel my client that initiating or engaging in settlement discussions is consistent with zealous and effective representation;
- I will keep my client informed about the progress of the work for which I have been engaged or retained, including the costs and fees;
- I will charge only a reasonable attorney's fee for services rendered;

the New Mexico Bench and Bar

- I will be courteous to and considerate of my client at all times.

C. With respect to opposing parties and their counsel:

- I will be courteous and civil, both in oral and in written communications;
- I will not make improper statements of fact or of law;
- I will agree to reasonable requests for extensions of time or waivers of formalities when legitimate interests of my client will not be adversely affected;
- I will consult with opposing counsel before scheduling depositions and meetings or before rescheduling hearings;
- I will cooperate with opposing counsel's requests for scheduling changes;
- I will not use litigation, delay tactics, or other courses of conduct to harass the opposing party or their counsel;
- I will refrain from excessive and abusive discovery, and I will comply with reasonable discovery requests;
- In depositions, negotiations and other proceedings, I will conduct myself with dignity, avoiding groundless objections and other actions that are disrupting and disrespectful;
- I will not serve motions and pleadings that will unfairly limit the other party's opportunity to respond;
- In the preparation of documents and in negotiations, I will concentrate on substance and content;
- I will clearly identify, for other counsel or parties, all changes that I have made in all documents.

D. With respect to the courts and other tribunals:

- I will be a vigorous and zealous advocate on behalf of my client, but I will remember that excessive zeal may be detrimental to my client's interests or the proper functioning of our justice system;
- I will communicate with opposing counsel in an effort to avoid litigation or to resolve litigation;
- I will voluntarily withdraw claims or defenses when they are superfluous or do not have merit;

- I will refrain from filing frivolous motions;
- I will voluntarily exchange information and work on a plan for discovery as early as possible;
- I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;
- When hearings or depositions are cancelled, I will notify opposing counsel, necessary parties, and the court (or other tribunal) as early as possible;
- Before dates for hearings or trials are set, or immediately after dates have been set, I will verify the availability of participants and witnesses, and I will also notify the court (or other tribunal) and opposing counsel of any problems;
- In civil matters, I will stipulate to facts when there is no genuine dispute;
- I will be punctual for court hearings, conferences and depositions;
- I will be respectful toward and candid with the court;
- I will avoid the appearance of impropriety at all times.

E. With respect to the public and to other persons involved in the legal system:

- I will be mindful of my commitment to the public good;
- I will keep current in my practice areas, and, when necessary, will associate with or refer my client to other more knowledgeable or experienced counsel;
- I will willingly participate in the disciplinary process;
- I will strive to set a high standard of professional conduct for others to follow;
- I will respect and protect the image of the legal profession, and will be respectful of the content of my advertisements or other public communications;
- I will commit to the goals of the legal profession and to my responsibilities to public service, improvement of administration of justice, civic influence, and my contribution of voluntary and uncompensated time for those persons who cannot afford adequate legal assistance.

R

eports from Around the State



David M. Overstreet
Region 4 Director

The judges in the Twelfth Judicial District continue to provide overwhelming support to the brownbag lunch program. All levels of the bench were represented at the December 18, 2001 brownbag lunch in Alamogordo, including 100 percent of the district judges! Muchas Gracias to the judges for their support. The free pizza brought in some first-time attendees, but there are still several young lawyers in the area who are missing out on a great program.

Our next brownbag program, which will follow the FREE PIZZA format, will be in the Commission Room in the Otero County Courthouse in Alamogordo at noon on February 26, 2002. Please RSVP to Beth, (505) 437-5800, by February 25, 2002.

Melanie Patten, an at large member of the Young Lawyers' Board and law clerk to New Mexico Court of Appeals Judge Cecilia Foy Castillo, has been a tremendous asset for the young lawyers in Region Four. Last year she was part of the hard-working team that helped Judge Castillo put together an incredible Law Day Program. Special

thanks to Richard Jacques, Randy Castellano, and Mike Thomas for their willingness to work with the local high schools. In case you missed it, there is an excellent discussion of that program in the Fall 2001 *Bar Journal* (Vol. 7, No. 3, p. 43). Patten continues to help the young lawyers in Region Four by working on YLD projects including coordinating the brown bag programs in Las Cruces.

David M. Overstreet is an attorney with the Alamogordo firm of Overstreet & Associates PC. He can be reached by e-mail at sto@tularosa.net.

Creed of Professionalism (continued from page 1)

results in fewer referrals from other lawyers. As you become less effective, your clients will spread the word to friends and relatives. Voila! There goes your practice.

What happens to the tribunal faced with this behavior? I try to talk to lawyers who have some problems in my chambers. However, in the above case I was forced to intervene at the hearing and in front of the clients. I do not relish being put in a position of stopping the fight but someone must step in. I do not forget this type of behavior and in the future I am on guard, looking for the errant acts. I am cautious in the future when that lawyer files other similar motions and may be giving less weight to the errant lawyer's position.

I hope this little article will help you. I have asked that the Creed be published with this article (See pages 4-5). I ask you to read it, discuss it and abide by it. The lawyers who do have sterling reputations. They garner better business, but we too as a profession garner a great deal of credibility from their behavior. It is all of our duty to answer the call for professionalism.

Judge Carol J. Vigil
January 11, 2002

Endnote

¹New Mexico Commission on Professionalism's definition of professionalism.



Where to Find It?

**You tell us.
Please give us
your ideas
and articles for
In Brief's
Where to
Find It Section.**

**Contact: Bryan Biedscheid
at
bbiedscheid@catronlaw.com
or 982-1947**

Happy with your practice or ready for a change?

Part 2 of a 2 part series

Ben Stein, Socrates and Me

by Jon Miller



I'd hit a crossroads in my life, only one man could show me the way — Ben Stein of the Comedy Central game show “Win Ben Stein’s Money.” It was a choice between writing and lawyering. I preferred ebbs and flows of writing, but faced the looming iceberg of the writer’s strike. My time learning the Socratic method in law school seemed a siren call for a steady stream of law firm paychecks. I had also recently injured my leg playing basketball, and faced expensive surgery without adequate insurance. I had sacrificed my heart and soul for Hollywood, but I had to draw the line at sacrificing my knee.

So when I got the call to be a contestant on Ben’s game show, I figured that I would let Ben Stein himself decide whether I’d continue to pursue the dream of writing, or bail back into law. If I won, I would keep writing. If I lost, the only writing I’d do would be “Comes Now the defendant...”

I got to the taping promptly at 11:30 in studio building in Hollywood. In the green room, I sized up the other contestants — my two opponents were a bar owner and a receptionist. On the set moments later, I shook Ben’s hand before the taping began. He asked me a little about “what I did for a living.” I was a little vague about the details of my dilemma, and before I could finish, a make-up person dabbed some powder on my face. When I wiped some flakes out my eyes, the “On air” light came on...

They introduced me as a lawyer and a writer. On my right was a receptionist and a writer as well. Since she was considerably more telegenic than me, Ben spent more time giving career advice to her. When it came to me the other host told the embarrassing story I had reluctantly put on my entry form, instead of plugging my novel. Momentarily peeved, I almost replied in a mock Sean Connery accent from the Saturday

Night Live parodies of Celebrity Jeopardy.

But I wisely refrained as the competition began in earnest. My future was at stake here, this was not a time for humor even here on Comedy Central.

As the round began, my Socratic training at memorization and recitation helped me breeze through the 50-dollar questions. Then came something about a panda used this to build tools. Like a thunderball, I buzzed in and I answered “What is a thumb?”

Silence...Even the paid audience members gave a soft hiss...I realized I had broken the cardinal rule of Win Ben Stein’s Money.

Ben sang. “Unlike that other show...” he said with a whimper. “If you answer questions here in the ‘form of a question,’ we have a special punishment for you...” He handed me a long, pointy cardboard dunce cap. But dunce or not, I still got the 50 dollars, and my writing career was that much closer...

But after a commercial break, the pressure mounted and law threatened to take back the advantage...according to the rules of show, Ben with his White House background and Ivy league education joined us and became a “humble contestant.” And I still had to face this advisor to Presidents wearing a cardboard dunce cap.

Yet as the lights came on, this dunce somehow knew about Quasars, Mt. Shasta and only failed when Ben beat me to the buzzer on “Ms. Malaprop.”

When the dust cleared for the final round, the receptionist/writer had now become receptionist/writer/failed contestant. It would be me against Ben for the \$5,000, or was it Jon Miller the writer vs. Jon Miller the lawyer?

My future would be determined in a small box and 10 questions about anything in the world. I decided to go first.

My 60-second ordeal began with a question that was about the Encyclopedia Britannica. Easy. I then got a lucky break in question two — I

knew that Paul Newman ate eggs in “Cool Hand Luke” because the script had been written by one of my teachers at AFI. But then I blew it with something about the Mystery of Edwin Drood; English instead of Spanish as the second most spoken language in the world and somehow confused Abigail Adams with Dolly Madison...the tramp.

Then the final question...with my life on the line...fittingly it was “who defended Socrates at his trial?”

My mind went blank...then I guessed Socrates himself. I figured he had to be cocky after that Socratic method and all. Right answer!

I had seven right. Good but not great. It could go either way. I then had to sit tight for 60 seconds while Ben took his turn. My heart sank as he knew about Abigail Adams, Edwin Drood, and the second most spoken language.

But then Socrates came to the plate.

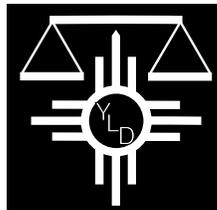
Ben guessed Aristotle...but I had lost count...how many did Ben miss along the way? He missed three. His seven answers made it a tie! That meant I received a total of \$2,550. Ben called me his “intellectual equal.” But there was one question, I still didn’t know the answer to Socrates or no Socrates, Ben Stein or no Ben Stein — what do I do with my life?

Editor’s note: The Young Lawyers Division of the State Bar of New Mexico and the editorial staff of In Brief strive to bring you, the reader, the full breadth of anecdotal information on the career decision-making process. Neither the YLD nor the editorial staff encourages participation in cable television game shows as the means for determining career goals or strategies nor do they, in fact, encourage participation in cable television game shows, period. If nothing else, the above-mentioned organizations hope that you might take solace in the fact that even Ben Stein’s intellectual equal struggled to find the appropriate career path.

In Brief

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Young Lawyers Division
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WHERE CAN I VOLUNTEER AND WHOM DO I CONTACT?

- **“Ask-a-Lawyer” Call-in Program** - Takes place in cities throughout New Mexico in which lawyers answer telephone calls from the public and provide legal information. (Lisa Chavez, 768-7396)
- **Bar Exam Program** - YLD and a member of the Board of Bar Examiners speak to persons taking the bar exam to provide information about what to expect. (Melanie Patten, 346-2700)
- **Bar Journal** - Places articles in the YLD section of the quarterly State Bar publication. (Morris Chavez, 471-1133; Melanie Patten, 523-8261)
- **Bridge the Gap CLE Program** - Aids lawyers in their new profession. (Melanie Patten, 523-8261)
- **FEMA Program** - Volunteer attorneys to be contacted in case of a disaster. (Ann M. Utterback, 299-6481)
- **Homeless Legal Clinic** - On-site clinic located in Albuquerque that provides legal information and advice to homeless persons. (Sean Olivas, 346-9140)
- **Today’s Law School** - Monthly seminars that provide legal information on a variety of legal topics to the public (Kimberly Middlebrooks, 247-0751)
- **UNM Mock Interview Program** - Links law students with young lawyers who conduct mock interviews. (Jeff Albright, 247-2315)