

# Raising the Bar: A Bench-Bar Symposium on Professionalism

NOTE: These remarks are being reprinted with the permission of The Hon. Elizabeth A. Bozzuto, Chief Court Administrator, from the December 1, 2023 event, *Raising the Bar: A Bench-Bar Symposium on Professionalism*. Thank you Judge Bozzuto for your leadership and words!

—CBA President Maggie Castinado

*Maggie Castinado is the 100th president of the Connecticut Bar Association and first Hispanic leader of the association. She is a past president of the Connecticut Hispanic Bar Association and a senior assistant public defender at the Office of the Public Defender in New Haven; she has defended thousands of clients with criminal matters since 1999.*



DECEMBER 1, 2023

**G**ood afternoon. Today's Bench-Bar symposium has been convened each year at one of the judicial districts around the state for at least the past 20 years, by some accounts for 40 years! And I have no doubt that this symposium will continue to convene annually to engage in thoughtful discussions about this topic that is very important to our profession.

So here we are, at least 20 years after the first symposium. Professional in 2023—it's still about you. and i use the word *you* singularly and collectively. The success of our profession, the success of us raising the bar is about you, it's about me, it's about all the judges in the room, it's about us collectively and how we conduct and carry ourselves in our shared profession.

So, I want to spend the next few minutes talking about professionalism, share with you some real-life Connecticut examples of what isn't professional, some common and preventable errors we make, some

data as to how we are doing as a profession, and what we can do individually and collectively to raise the bar.

I want to thank the Connecticut Bar Association's Professionalism Committee for organizing this event in collaboration with the New London County Bar Association. Specifically, Johanna McCormick, President of the New London County Bar Association.

Thanks also to our New London Judicial District judges: Judge Josephine Graff, Judge Ken Shluger, Judge Ed O'Hanlan, and Probate Judge Charles Norris. And for today's speakers: Attorney Mark Dubois, Attorney Dana Hrelac, Attorney Michael Blanchard, Attorney Dado Coric, Attorney Shelly Graves, and Attorney Jonathan Lane. And special thanks to our current CBA President Maggie Castinado and Past President Dan Horgan for being here and participating in today's program.

This topic is not only important to us as individual lawyers and judges wanting to do the right thing day in and day out. But it is equally important to us as members of a shared, time-honored profession. And the reason why it is so uniquely and vitally important to us as a collective profession is because *we are our own keepers*. We are one of the few remaining professions that is self-regulated and self-governed. From oath to admission, from conduct to discipline, from education to good standing, we as lawyers are our own keepers. We make our own rules of professional conduct. We decide who we will admit to the bar. We review the complaints made against us. We recommend sanctions. In serious cases, judges impose the sanction. So, professionalism is not just about us as lawyers making sure we do the right thing every day, but it is about taking care of our profession collectively, so no one else does. The current and the future health of the legal profession is in the hands of the lawyers who

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Professionalism encompasses the full embrace that being an attorney has been, and so long as we live up to its ideal, it always will be a noble, time-honored profession. And let’s not take for granted nor forget that we don’t have a right to do the work we do. We are the few who have been granted a license to do the work we do. With that comes the responsibility to always carry ourselves with dignity and to act with integrity and good intentions in any situation, even when it is most challenging to do so. It is about being mindful and serious about the Rules of Professional Conduct and exemplifying the expectations that the bench, bar, and entire community have of us.

When in court, professionalism is exemplified by everything we say and do.

Some of the most telling signs of professionalism are fundamental.... How do you address the court? How do you address opposing counsel? How do you address and interact with staff? How do you react to an adverse ruling on an objection? At the end of a hearing or trial, the conclusion should end courteously and with respect for the process. You don’t have to part as friends, but you do have an obligation to part respectfully, as professionals.

Speaking of respect, that’s a big piece of what professionalism is all about. What we as judges and you as officers of the court must always remember is that *to respect one another, to respect the process, is to respect the profession*. We are on a much bigger stage than that courtroom. The impact of how we conduct ourselves has a wide range of influence. At its best, it demonstrates to members of the public and litigants that even the most grievous

actions can be resolved within the parameters of an open and fair court proceeding. At its worst, it can lead to grievances and disciplinary action for attorneys, unpleasant reappointment hearings for judges and most unfortunate, the erosion of public trust and confidence in our judicial system.

Let me give you a few examples of what unprofessional conduct looks like.... these are all from Connecticut cases.

An attorney representing the ex-husband in a post-dissolution conference was sanctioned for humming “The Twilight Zone” theme song under his breath while looking at the ex-wife. After the conference, he proceeded to hum the same song as he passed the ex-wife in the courthouse hallway. The attorney was reprimanded. That kind of behavior benefits no one and is an embarrassment to our profession.

Or how about the attorney who got so angry after a settlement conference that he trapped opposing counsel in the revolving door leading out of the courthouse. That behavior also led to a reprimand.

Then there was the pretrial conference where an attorney showed up with alcohol on his breath. He proceeded to rudely interrupt opposing counsel and made an obscene hand gesture mimicking a sexual act during opposing counsel’s presentation. That behavior led to a reprimand as well.

Or the attorney who flew into a rage during a deposition and physically threatened people in the room by waving around his fists. His conduct was all caught on video because the attorney had hired a videographer for the deposition. The attorney was disbarred for five years before being reinstated.

You might be surprised to hear that several complaints each year involve attorneys who have made inappropriate comments and actual threats toward opposing attorneys or their clients. There also seems to have been an increase in the number of complaints that the Chief Disciplinary Counsel handles involving attorneys who have made inappropriate and false claims against Superior Court judges. These matters have resulted in severe license suspensions.

These are some egregious examples, and thankfully they are rare. But each unprofessional act works to degrade and undermine the integrity and honor of our beloved profession.

What can we do? *We must all* pay attention to and avoid the most common lawyer pitfalls.

The most common violation of the Rules of Professional Conduct is Rule 1.4—Communications—the bedrock of our profession.

Poor communication or no communication at all between the attorney and the client is often the subject of a grievance. Your business, your practice, your reputation, your brand is greatly enhanced by regular and relevant conversations with your client, no matter how painful those conversations might be. Pick up the phone, write the letter, send the email, keep in touch. That is professionalism.

There is also a new trend among younger attorneys that involves the use of texting when communicating important legal information to a client. The problem, of course, is that the text is usually brief, incomplete, and something often gets lost in translation. And poor communication, which often signals the beginning of a declining lawyer client relationship, leads to

## PRESIDENT'S MESSAGE

other claims, including the lawyer's timeliness in addressing concerns, diligence, and issues regarding billing.

By far, however, the most serious violation involves the use of client funds from the IOLTA account. This could be a lawyer using the funds of one client to meet obligations of the lawyer or a different client, or the outright misappropriation of client funds. These issues usually arise when the lawyer is the subject of a random audit by the Statewide Grievance Committee or if a check is returned for insufficient funds. As you can imagine, the penalties are swift and severe, resulting in suspension and disbarment.

Another not so uncommon issue involves grievances where an attorney fails to respond to the complaint in the first place. Reasons may vary—failure to update the registration, anger that the grievance was filed in the first place, or simply putting their head in the sand, hoping that the situation will disappear. Rest assured, the grievance will not go away and failing to respond makes the situation worse and may result in a suspension.

But there is some good news. The number of grievances filed annually is down from where it was 15-20 years ago, when there were approximately 1,200 grievances filed annually. In 2022 there were approximately 700 grievances and year-to-date for 2023 there have been 515 grievances filed.

Although as a practitioner, one grievance is one too many, when you put these numbers in the context of the hundreds of thousands of appearances on file at any given time, and the fact that we have 18,370 active attorneys with Connecticut addresses, these grievance numbers aren't too bad.

What else can we do?

Well aside from participating in symposiums like today, how about mentoring one young lawyer. How many of us are here today? 80? If we each mentored one

new lawyer, what would our profession look like in the years to come? I think it can only lead to a positive outcome and I further think it is our responsibility to do this kind of work. Bring them along with you when you go to court, or when you take a deposition or engage in a mediation. Have them shadow you for a couple of hours in the office. Have them sit in on a pretrial. I know my colleagues on the bench would not have a problem with that.

To the young lawyers in the audience, let me take this opportunity to offer 5 simple tips regarding what judges expect and appreciate when you appear before them.

- 1) **Stand up when you address the court.** And I say this not because the judge demands that respect, but because the institution does. You are in a courtroom, a sacred place where arguments are made, issues are joined, and justice is served. You show that respect as a member of the bar, of the institution, by standing when you address the court.
- 2) **Don't argue with opposing counsel.** When in front of the court always address your remarks to the court, never to counsel.
- 3) **BE PREPARED.** There is no substitute for preparation. A judge knows when you are prepared and when you aren't. You can't fake it. Know your case and your opponent's case thoroughly. It will pay dividends in any number of ways...you'll be a better representative of your client, you'll impress the court, and you'll likely cause your opponent to be better prepared as well.
- 4) **Be reasonable.** If someone is asking for a reasonable continuance or gives you 5 dates when they will be available for a deposition and you say "no" to all suggestions, your ability to be reasonable will be called into question. And that kind of reputation will follow you.
- 5) **Dress appropriately.** We are a very old institution and probably one of the last that still requires men to wear

ties. It distinguishes us from all the rest and I for one am ok with that.

If you do these five things, I am sure those you appear before will be impressed with your appearance before the court. And therein the seeds to a good reputation as a professional will be laid.

Education of course is fundamental to our profession and professionalism. The CBA is very active in providing programs designed to enhance professionalism, and the Judicial Branch is so grateful for its innovative programs and initiatives. Besides today's program, they offer several programs committed to professionalism:

- They have a Professionalism Boot Camp designed so that newly admitted lawyers could master the skills needed to practice more effectively and ethically.
- The CBA Standing Committee on Professional Ethics has scheduled a program entitled, "Ethics: How to Avoid Disciplinary Problems."
- In March of next year, the Rule of Law Committee will present The Rule of Law Conference, the topic of which is how the deterioration of civility and civics education is eroding the rule of law.

Clearly, for attorneys and judges committed to doing the right thing, a blueprint to raise the bar is out there, and every bar association contributing to the cause makes a difference. And to all of you in this room involved with these initiatives, I speak on behalf of all our judges when I say, "thank you." Your efforts have a direct and positive impact on our profession.

Finally, we must recognize and accept that our beloved profession carries a lot of stress and pressure, unlike any other vocation. We enhance the stature of our profession when we pay attention and are mindful of our own well-being and that of our brothers and sisters.

Many of us here today may have known that colleague or friend who at one time

was at the top of his game. Then, one day, they were angry after court and showed it; wear and tear started creeping in. Family issues mounted, they drank more, a divorce occurred, and the practice started slipping—nothing big at first, but one omission after another piled on, until this good and decent attorney was emotionally and physically depleted as the number of grievances increased. This individual was never a bully, threatening, or uncivil, but was nearly at the end of the rope.

The legal community has a professional obligation to look out for our own, particularly for those attorneys who are experiencing mental health issues and/or substance abuse problems.

We are lucky to have Lawyers Concerned for Lawyers. LCL is committed to helping members of the Connecticut legal community overcome personal, mental and addiction problems. LCL understands and explains that “lawyers as accom-

plished and self-reliant professionals often wait until they are in crisis before they seek help.”

One of our very own was brave enough to share his experience. He said: “There came a time several years ago that I found myself in a desperate state of utter despair. My 40 years of substance use was affecting my wife, my children/grandchildren, my clients, and my business. I had not been called on the carpet professionally, but that was not far off. At court one day, I saw a lawyer that I grew up with who had found sobriety. During a pause in proceedings, I asked him how he turned it around. He put his arm around my shoulder and said, ‘I’ve been waiting for you.’ It seems that I was not the closet drunk I fancied myself to be. He gave me the number and email for Lawyers Concerned for Lawyers ... LCL was the first step in my recovery journey. It has resulted in several years of contented sobriety and incredible camaraderie with my fellow

lawyers in LCL. I am a better husband, father, grandfather, friend, and lawyer.”

The attorney who wrote of his journey deserves our congratulations. But so does the attorney who was there for him that day when he finally turned to someone for help. LCL services are free and completely confidential, so please, if you or someone you know needs help, reach out because this program works.

So, professionalism in 2023—it’s still about you, it’s still about me, it’s still about us. Our beloved and honorable profession is entrusted to us for its care and success.

Your presence here today, the commitment of the organizers and participants, the conversations we had today bode well for our profession.

And I will end as Attorney Mark DuBois did—“Let’s shoot for the stars...”

Thank you. ■



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