

**JOURNAL
OF THE
NEW YORK STATE
JUDICIAL INSTITUTE
ON PROFESSIONALISM
IN THE LAW**



**THE COMING CHANGES TO LEGAL EDUCATION:
ENSURING PROFESSIONAL VALUES**

A JOINT CONVOCATION CONVENED BY THE JUDICIAL
INSTITUTE ON PROFESSIONALISM IN THE LAW, THE NEW
YORK STATE BAR ASSOCIATION AND ITS COMMITTEE ON
LEGAL EDUCATION AND ADMISSION TO THE BAR

WHITE PLAINS, NEW YORK

MAY 22, 2014

RECORD OF PROCEEDINGS

Volume Six

Fall 2015

Number Six

**JOURNAL
OF THE
NEW YORK STATE
JUDICIAL INSTITUTE
ON PROFESSIONALISM
IN THE LAW**



**VOLUME SIX, NUMBER SIX
FALL 2015**

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25 Beaver Street, New York, New York 10004
Internet Address: <<http://www.courts.state.ny.us/jipl/>>
Cite the Journal of the New York State Judicial Institute on Professionalism in the Law as:
J.N.Y.S. JUD. INST. PROF. LAW

JUDGES OF THE
NEW YORK STATE COURT OF APPEALS

HON. JONATHAN LIPPMAN, CHIEF JUDGE

HON. VICTORIA A. GRAFFEO

HON. SUSAN P. READ

HON. ROBERT S. SMITH

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JOURNAL OF THE NEW YORK STATE JUDICIAL INSTITUTE ON PROFESSIONALISM IN THE LAW

Volume 6, No. 6

Fall 2015

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FOREWORD

What is the future of the legal profession? How will changes in the legal profession affect the inculcation of professional values for law students? What changes can be made to the traditional model of American legal education to better address the academic and economic needs of current students? What is “professionalism” and how can law schools distill professional values to law students and make them practice ready? These topics were the subject of consideration during the Joint Convocation between the New York State Judicial Institute on Professionalism in the Law and the New York State Bar Association reported in this Journal.

The organization of the Convocation grew out the New York State Judicial Institute on Professionalism in the Law and the New York State Bar Association’s renewed focus on issues in legal education following a three (3) year study on lawyer independence. The two entities joined forces to address these very important issues. Hence, the Joint Convocation, “The Coming Changes to Legal Education: Ensuring Professional Values,” was born.

The Chair of the New York State Judicial Institute on Professionalism in the Law, Paul C. Saunders, Esq., The New York State Bar Association President, David M. Schraver, Esq., and The American Bar Association President, James R. Silkent, Esq., welcomed Convocation attendees and addressed some of the current challenges facing legal education today. The speakers set the spark for the topics of the day to be discussed.

The Honorable Jonathan Lippman, the Chief Judge of the State of New York and Chief Judge of the Court of Appeals, kicked off the event by discussing the intersection between professional values and legal education. Judge Lippman discussed rethinking legal education due to declining enrollment, increased debt burdens and fewer job opportunities, as well as the “crisis” in access to justice across the country.

The keynote address by Justice Rebecca Love Kourlis, former Justice of the Colorado Supreme Court and present Executive Director of the Institute for the Advancement of the American Legal System (IAALS), focused on the problems that legal education is currently confronting and suggested possible solutions. Believing that practicing lawyers directly serve clients and society, and that law schools should serve law students, not their law professors, the university or the practicing Bar, she offered several solutions to allow law students to “begin with the end in mind.”

Two panels followed Justice Love Kourlis' keynote address, with a luncheon speaker in between. Panel One, moderated by Vincent E. Doyle, III, Esq., examined the changes to legal education. The panelists, Michael Cardozo, Esq., Professor John Burwell Garvey, Dr. Robert Lapiner, Diane F. Bosse, Esq. and Dean-Designate Luke Bierman, engaged in a lengthy discussion of a number of programs used in law school around the country. Also discussed were evolving issues changing the profession such as fiscal concerns, decreased enrollment, making lawyers profession-ready, law school structure, and theoretical versus practical learning in conjunction with the future of legal education. The luncheon speaker Fred Rooney, Esq., discussed the establishment of incubator programs. Panel Two, moderated by Paul C. Saunders, Esq., focused upon how the changes in legal education will affect the inculcation of professionalism among students. The panel, composed of Dean John T. Broderick, James M. Wicks, Esq., Associate Dean Myra Berman, Professor Patrick Longan and Dean Martin Katz, discussed the importance of professionalism and how professionalism is and can be taught in law schools today. Matthew Diller, Dean of Benjamin N. Cardozo School of Law provided concluding remarks on the days' program.

The inculcation of professional values in the legal profession is an important foundation for the practice of law. Adaption of professionalism to the coming changes of legal education is important for the success of the next generation lawyers. After all, a lawyer's primary duty is to serve the public; whether they litigate large class actions, represent corporations, defend those charged with crimes, or draft a simple will! Instilling this important value in law students is the responsibility of all members of the profession, the Bar, the Academy and the Judiciary.

In closing, we would like to extend deep appreciation to the Honorable Jonathan Lippman, the Chief Judge of the State of New York and Chief Judge of the Court of Appeals and the Court Administration for their support of the efforts of The New York State Judicial Institute on Professionalism in the Law and the New York State Bar Association in conducting this joint Convocation.

We also express our sincere gratitude to Kristi DiPaolo, Esq. of Ingerman Smith, LLP for her outstanding efforts in support of the Convocation and in the publication of this Journal. Also noted is the assistance of Rachel Lorig, Esq. and Mary-Ann Czak, Esq. of Ingerman Smith, LLP in the preparation of this Journal.

John H. Gross, Esq. of Ingerman Smith, LLP

James M. Wicks, Esq. of Farrell Fritz, P.C.

Christopher E. Chang, Esq.

Program Co-Chairs,

New York State Judicial Institute on Professionalism in the Law

New York State Bar Association and its Committee on Legal Education

and Admission to the Bar

CONVOCATION PROGRAM

WELCOME AND OPENING REMARKS

Paul C. Saunders, Esq.

Chair, New York State Judicial Institute on Professionalism in the Law; Cravath, Swaine & Moore LLP

David M. Schraver, Esq.

President, New York State Bar Association; Nixon Peabody LLP

James R. Silkenat, Esq.

President, American Bar Association; Sullivan & Worcester LLP

Hon. Jonathan Lippman

Chief Judge of the State of New York and Chief Judge of the Court of Appeals

KEYNOTE ADDRESS

Justice Rebecca Love Kourlis (Ret.)

Executive Director of LAALS, Institute for the Advancement of the American Legal System; Former Justice of the Colorado Supreme Court

PANEL I—EXAMINATION OF THE CHANGES TO LEGAL EDUCATION

MODERATOR:

Vincent E. Doyle, III, Esq.

Connors & Vilardo LLP; Past President, New York State Bar Association

PANELISTS:

Michael Cardozo, Esq., *Proskauer Rose, LLP*

Former Corporation Counsel for the City of New York

Prof. John Burwell Garvey

University of New Hampshire School of Law, Director, Daniel Webster Scholar Honors Program

Dr. Robert Lapiner

Professor, New York University; Former NYU Associate Vice Chancellor for Global Continuing Education; Former Dean, School of Continuing & Professional Studies

Diane F. Bosse, Esq.
Chair, New York State Board of Law Examiners

Dean-Designate Luke Bierman
Dean and Professor of Law, Elon University School of Law

LUNCHEON SPEAKER

INTRODUCTION OF LUNCHEON SPEAKER

Hon. Juanita Bing Newton
Dean, New York State Judicial Institute

LUNCHEON SPEAKER:

Fred Rooney, Esq.
*Director, International Justice Center for Post-Graduate Development, Touro College,
Jacob D. Fuchsberg Law Center*

PANEL II—EXAMINATION OF THE IMPACT ON PROFESSIONALISM ARISING FROM THE VARIOUS PROPOSALS FOR CHANGE IN LEGAL EDUCATION

MODERATOR:

Paul C. Saunders, Esq.
*Chair, New York State Judicial Institute on Professionalism in the Law; Cravath,
Swaine & Moore LLP*

PANELISTS:

Dean John T. Broderick, Jr.
*Dean, University of New Hampshire School of Law; Former Chief Justice,
New Hampshire Supreme Court*

James M. Wicks, Esq.
*Farrell Fritz, P.C.; Adjunct Professor, St. John's University School of Law; Member
Judicial Institute on Professionalism in the Law*

Associate Dean Myra Berman
*Associate Dean for Experiential Learning; Director of the Collaborative Court
Programs, Touro College, Jacob D. Fuchsberg Law Center*

Professor Patrick Longan
Mercer University Law School

Dean Martin Katz
Dean and Professor of Law, University of Denver, Sturm College of Law

CONCLUDING REMARKS

Dean Matthew Diller
Dean and Professor of Law, Benjamin N. Cardozo School of Law

THE COMING CHANGES TO LEGAL EDUCATION: ENSURING PROFESSIONAL VALUES

WELCOME AND OPENING REMARKS

PAUL C. SAUNDERS, ESQ.

CHAIR, NEW YORK STATE JUDICIAL INSTITUTE
ON PROFESSIONALISM IN THE LAW
OF COUNSEL, CRAVATH, SWAINE & MOORE LLP

Good morning. My name is Paul Saunders, and I'm the Chair of the New York State Judicial Institute on Professionalism in the Law. It is our distinct pleasure to collaborate with the New York State Bar Association and its Committee on Legal Education to conduct for you today a series of discussions that go to the heart of probably the most important topic being discussed in the legal profession today, and that is the future of legal education.

What we hope to do today is not only to discuss that topic in some depth, and in particular to discuss how changes in legal education will affect the inculcation of professional values in law students, but I also hope that we will come out of today's program with some concrete and specific recommendations or principles that ought to be taken into consideration by those who are thinking about how legal education ought to be changed and is being changed today.

We are very much aware that the debate that we are having today is a very longstanding debate. This discussion has been going on for, as far as I can tell, at least a hundred years and perhaps earlier, back into the latter part of the 19th century. The discussion concerns legal education, the proper role of law schools, and the inculcation of professional values, which is critically important to the survival of our profession. If we do not inculcate professional values in students, my belief is that our profession will not survive as a self-regulated profession. So the discussion that we are having today, in my view, goes to the heart of what it means to be a lawyer and to be a member of our profession.

So what I would like to do very quickly is to thank some people who were responsible for putting today's program together. First I would like to thank our hosts, President Stephen Friedman from Pace University, and Dean David Yassky from Pace University Law School for being our hosts today. I would like to thank Judge Juanita Bing Newton for letting us use this magnificent facility of which she is the dean. I would like to thank the various committees that worked together to put this program on, the Committee from the Judicial Institute, John Gross, Jim Wicks, and Chris Chang, in particular. And the Committees from the New York State Bar Association, in particular

Eileen Millet. I would like to thank her especially for all of the work that she has done in putting today's program on.

Having said that, it is my distinct pleasure now to introduce our collaborator in this program, the President of the New York State Bar Association who graces us with his presence today, David Schraver.

DAVID M. SCHRAVER, ESQ.

PRESIDENT, NEW YORK STATE BAR ASSOCIATION
NIXON PEABODY LLP

Good morning everybody. I think that's the first introduction where "grace" has been included in my introduction and I appreciate that Paul. I want to join in welcoming you to our program today, and I join in Paul's thanks to those who have put together the program and coordinated their efforts. In addition to Eileen Millet from the State Bar Committee, Eileen Kaufman is here, and Eileen was co-chair of our Committee when we came up with this plan and partnership to put this together. I also want to acknowledge John Gross's associate, Kristi DiPaolo, who was very helpful in working out the details of the program. I have also been asked to make a few other introductions this morning, and if I miss anybody who feels that they should have been introduced, you know, just raise your hand and we will take care of that.

The Chief Judge of the State of New York is here and will be more fully and properly introduced in a little while by Paul. Judge Newton has already been acknowledged and we thank you for hosting us here today. Judge Fern Fisher is here, the Deputy Chief Administrative Judge for New York City. And Judge Jennie Rivera, Associate Judge of the Court of Appeals is with us.

I also want to acknowledge some Bar leaders who are here: Bill Ferris from the Suffolk County Bar Association; Jacqueline Silberman from the New York Women's Bar Association; President Elect Glen Lau-Kee of the New York State Bar Association who will succeed me in nine days, but who is counting, and P. Daniel Hollis, President Elect of the Westchester Bar Association is here. I will soon introduce and turn this over to Jim Silkenat, the President of the American Bar Association, who we are very pleased to have with us today.

We are delighted to be here. None of you would be here if you weren't aware of and interested in the challenges facing not only law students and law schools, but practicing lawyers today. It is critically important that the profession understands these issues, and that we engage with each other in a discussion about these issues, as together we shape the future of our profession. So I thank all of the speakers, panel members, and all of those who participated in our focus groups and laid the foundation for our discussion today and kind of keyed up some of the issues.

So with that, let me ask Jim Silkenat to come up. Jim has been a leader and really a partner with the New York State Bar Association this year. Well

before either Jim or I took office we were communicating with each other about our shared values and our shared concerns. Legal education has been one of those issues that both the New York State Bar Association and the American Bar Association have really focused on and summed up. And as Paul said, this had been going on for many years. Discussion will continue. And it is my view, and I know President –elect Glen Lau-Kee shares this view, that the New York State Bar Association needs to continue to be involved and play a leadership role in fostering the discussion and bringing together the various stakeholders in this discussion for the future of legal education.

With that, Jim Silkenat, President of the American Bar Association.

JAMES R. SILKENAT, ESQ.
PRESIDENT, AMERICAN BAR ASSOCIATION
SULLIVAN & WORCESTER

Thank you David. Good morning everyone. Our discussions planned for today are very important to the future of the legal profession. How do we overcome the current problems facing American legal education so that we can train new members of our profession and do it in a way that produces competence and ethical conduct at a realistic and affordable price.

That is the \$164,000 question, and I use that number particularly. According to U.S. News and World Report, which I usually don't like to cite for anything, \$164,000 is the average amount of debt for students coming out of New York law schools. At New York University Law School, the average student debt is almost \$148,000. At Fordham, it's \$142,000. So you get the picture about why the numbers are important. The amount of debt students have coming out of law school is an important issue.

In concert with the legal education situation, we have what I call an access-to-justice paradox. The need for legal services for poor Americans has never been greater. Nearly one in five Americans now qualifies for legal assistance. Meanwhile, too many recent law school graduates are without good jobs or the practical experience they need to be effective lawyers. Only 57 percent of the class of 2013 are employed full-time with a job that requires a bar passage. Too many are unemployed.

As President of the ABA, one of my first priorities has been to work on these two seemingly contradictory problems: enormous unmet legal need across the United States, and the large numbers of young lawyers who are underemployed and looking for experience and training. So really my first action as ABA President was to create a Legal Access Job Corps to improve the fit between the needs of our society and the needs of our profession.

I'm thankful to Luke Bierman who will be speaking today on the first panel regarding our Legal Access Job Corps. The Job Corps has undertaken, really I think, meaningful outreach efforts among an array of stakeholders within the legal community to stimulate greater attention to the access-to-justice paradox. We have created a comprehensive catalogue of state and local

programs designed to provide legal services in rural and other underserved communities and other incubated programs. We have also launched a catalyst grant program offering funding to support the implementation of innovative programs to enlist recently admitted lawyers in providing legal services to persons of moderate means. In just two months, we have received more than a hundred applications for the first round of grant funds and those will be announced in the next month or so. We hope to expand this program next year. I have put a significant part of my budget from this year into next year's ABA budget to continue this program so that we can continue to innovate.

There are two other important related efforts underway with respect to which the ABA is working with our nation's law graduates regarding our access-to-justice issues. First, I know all of you are aware of the ABA task force on the future of legal education, which was chaired by former Indiana Chief Justice Randy Shepard. His task force has recently released its final report. The report calls for a number of important things. One, a redesign of the financial model now prevalent in law schools. Two, revisions to the system that accredits law schools to permit more experimentation and innovation. And three, an expansion of opportunities for the delivery of legal services.

The second effort is the new ABA task force on the financing of legal education which was created earlier this month. This new task force, which will be led by former ABA President Dennis Archer, is charged with looking at the cost of legal education for students, as well as the financing of law schools, student loans, and educational debt. We will also consider current practices of law schools regarding the use of merit scholarships, tuition discounting, and need-based aid. Those are all important issues and they all deserve a new look.

I want to thank Luke again for agreeing to serve on this new task force as well. Obviously, no good deed goes unpunished, and we are thankful for his support.

Today's discussions on these important issues are as difficult as they are important. The ABA is pleased to work with the New York State Bar and the New York Court System on this vital effort. Law is a great profession. It can and it does provide a meaningful and inspiring career. That is even more true today, despite the many challenges that we face. So, thank you for including me in this discussion. I'm very pleased to be here. Thank you very much.

MR. SAUNDERS

Thank you very much. No discussion of changes in legal education and in the profession of law in the State of New York can take place without including in that discussion Chief Judge Jonathan Lippman. More than any other person in my career, I have seen Judge Lippman make changes in access to justice and in legal education that have been talked about for many, many years without any result. So Judge Jonathan Lippman deserves great credit, in my view, for doing while others simply talked about doing.

The changes that he has made in legal education will reverberate, in my judgment, around the country, and deserve to be discussed and understood in great detail. Judge Lippman has been a very strong supporter of the Judicial Institute on Professionalism in the Law. He has been a participant in many of our programs, and I'm delighted to introduce to you the Chief Judge of the New York Court of Appeals and the Chief Judge of the State of New York, Jonathan Lippman.

HONORABLE JONATHAN LIPPMAN
CHIEF JUDGE OF THE STATE OF NEW YORK AND
CHIEF JUDGE OF THE COURT OF APPEALS

Thank you. I'm so—thank you, Paul, for that really lovely introduction, I really appreciate it. Thank you all for coming. I'm so happy to be able to get over here to help kick off this terrific event.

I'm particularly pleased that the three people before me who welcomed you to start today's discussion really picked up the different pieces of what this is all about. Paul Saunders and the Institute have been so active in highlighting what the legal profession, ethics and what being a lawyer is all about. I must mention—I would be remiss if I didn't mention the person who originally created this institute, who is Lou Craco over there.

When you talk about the profession in New York, you talk about Lou Craco. So thank you Lou, for writing the script for Paul and all of us to follow. And again, the ethics, the professional values that Paul has mentioned, Lou has been so terrific in leading our institute. Dave Schraever has put his focus or his main priority item on legal education. He has put a real laser on that, on what it's all about, and is being inventive and supportive in trying to highlight the different approaches to legal education. I really think it is so important. David deserves great credit for that. The State Bar deserves great credit for this event. And Jim Silkenat who has made Access to Justice such a great priority for the ABA. What could be more important than for our umbrella bar association in the United States to understand the critical nature of that challenge, which to me is so fundamental to our legal profession.

And so those three speakers or “welcomers” really put together what this conference is all about. I think labeling it “Coming Changes in Legal Education”, and hopefully some of them are here and more to come, and “Ensuring Professional Values,” and linking those two questions is so important and so topical. There is such a clear intersection between the values of our profession and legal education.

It manifests itself in two closely related developments. Jim framed it in a certain way. I always call it the disconnect between two basics. One is the rethinking of legal education which is going on because of the declining enrollment, increased debt burdens, and yet fewer jobs for law students graduating from our law schools and being admitted to the bar. And at the same time, the other development is the crisis in access to justice in this

country. And I use the word “crisis” advisedly. The needs of poor people and people of limited means, and limited means goes up to the middle class that cannot afford a lawyer today. The crisis of people fighting for the necessities of life, the roof over their heads, their physical safety, their livelihoods, the well-being of their families, and yet who are threatened every day and falling off the cliff because of a difficult economy and the inability to get legal representation. It is so fundamental to the essentials of life that we all are entitled to, that every human being is entitled to.

We are all recognizing that law schools are right in the middle of all of that, of this disconnect. You have this great need, and on the other hand, we have these kids coming out of law schools with tremendous burdens and, again, can’t find a job. What’s wrong here? What do we have to do to make this right? Now, we are all beginning to recognize that law schools cannot just teach and just—I underline this and I don’t diminish it—but cannot just teach about Torts and Contracts and Property. They have to focus, by all means that are so obvious to all of us, that law schools have to focus on the values of our great profession and provide practical experience combined with that value training, so that the next generation of lawyers can play a vital role in the pursuit of justice for all—rich and poor, high and low alike, so that we can solve however you want to describe it, the justice gap.

The justice gap is between the finite legal resources and this tremendous need for legal services particularly among the most vulnerable, the most disadvantaged in society. It is clear to me that we have been circling these issues and circling these issues with the new and interesting things that are going on in legal education. There are new developments all across the board. First of all, when the President of the United States gets up and says, “We should do away with the third year of law school”, I think people took notice. I don’t agree with the President of the United States respectfully, but isn’t that something?

Three years of legal education, which today is so ingrained in our views of what we are supposed to be doing as a profession, as legal educators, and the President of United States said, “Let’s do two years, I think that will be better.” My view, and I think the view of many in this room, is that we have to enrich and make the three years of legal education as meaningful as possible—that we can do better, we can always do better. Look at how many of the advances in our society have come from this rich legal education, this three-year format that we have. But we are looking at ways to again make it better, to make it more relevant, to make it resonate in our society today. So look at what’s going on. In New York we are very proud of the new 50-hour rule that requires new lawyers to show that they have contributed 50 hours of pro bono work to the poor before they are admitted. We are excited about the Pro Bono Scholars Program, which will allow law students to take the bar in February of their third year of law school if they are willing to devote their last term of law school to pro bono work and to helping people most in need.

What are those programs about? Those programs are about what we are discussing today, what you are discussing today—about new lawyers embracing the core values of our profession and about what it means to be a lawyer. What does it mean to be a lawyer? Service to others above all else. Service to others in the pursuit of justice. This is what we all do. No matter what our role in the legal world is, whether it is in the judiciary, in the profession, in academia, a provider, a big corporate lawyer, this is what we do: we pursue justice for everybody. And the core value of our profession is that we help people. Lawyers help people. Lawyers serve people. We are not concerned about the mighty dollar. It is good to earn a living, and new lawyers should also earn a living, but that is not our primary concern. We are not narrow. We are not parochial. We are lawyers. We are proud to be lawyers. That is what we do.

There are so many other programs that are going on. I note too that Arizona is also allowing students to take the bar exam in their third year without waiting so that they can get right out into the market. In the New York Pro Bono Scholars Program, if you do that, you will be admitted on the day you graduate and begin to attack your debt burden. Hopefully, where you worked for the last six months of your law school, maybe you can continue on in that job. Again, there are lots of different states, lots of different parts of the profession doing so many interesting things.

The Daniel Webster Scholar Honors Program at the University of New Hampshire Law School, which we are going to talk about later, is such an interesting program. And I'm so delighted and pleased that my good friend, Dean John Broderick from the University of New Hampshire Law School is here today with us, along with Professor Garvey. Dean Broderick is a model for the profession, for the judiciary around the country for his commitment to access to justice for all. He was such a great Chief Justice of New Hampshire, and I'm so pleased to have him here in New York for today's event. That program is so interesting. You are going to hear about that today.

The emphasis today, the increasing emphasis, is on law schools devoting so much of their time to clinical and externship programs. The idea of giving practical experience to students is such an important part of law school, of legal education today. We see that across the board. That is so important. So much energy is going into clinical programs and incubator programs, which are little law firms funded or sponsored by the law schools. It is very interesting and creative. Additionally, there is a focus on distance learning. We in the state court system and the Board of Law Examiners—I'm so glad Diane Bosse is here, who is our head of the Board of Law Examiners—we were confronted with the issue of whether we should approve long distance learning. Penn State Law School has an interesting program with very modern technology in terms of distance learning and has so many interesting things going on there. Testing of the bar exam, which we have been dealing with—Diane has been dealing with it here in New York—where around the country we are trying to

incorporate into the Bar Exam skills testing and access to justice. And how do we do that? What is the best way to do that? Sixteen states are now part of the Uniform Bar Exam, which is so interesting and a different approach. You know, we in New York said, “Gee, we want that extra, to test New York law,” but the Uniform Bar Exam is so interesting.

This idea, the concept that we all understand now, is that legal education doesn’t end when we leave law school. Legal education is an attachment to the law school even after you graduate. All of these things are so interesting, new, and fascinating in the context of this discussion of the challenges to legal education today and how it fits in to the challenges that the profession faces.

To me what’s clear is that with law schools, it is not just about teaching the different academic disciplines in classrooms. It is also about what it means to be a lawyer. You have to have real world learning, and you have to be in touch. And law schools, more than anybody else, have to have their students in touch with the core values of our legal profession: service to others and pursuing justice for all regardless of one’s resources or station in life.

The values of our profession begin in our law schools. Being a lawyer is being relevant to the world around us. Legal education is not in a vacuum. Legal education helps the profession, helps the new generation of lawyers to confront the challenges that we as a profession, and we as a society, face. In particular the crisis in access to justice where at best—and Helaine Barnett the former head of Legal Services Corporation is here, the head of our Task Force to Expand Access to Civil Legal Services—where our Task Force has found that at best, 20 to 25 percent of the civil legal service needs of poor people were being met. This can’t be. This can’t be the way we go about our business. This is not what we are in this profession. We are about serving everybody. We are about leveling the playing field. We are about not sitting idle when there is injustice.

You can’t have justice unless you have a level playing field. People can’t get, again, the basics of life without legal representation. Lawyers matter. To me the legal profession is uniquely suited to meet these challenges. The new generation must be in touch with the nobility of our profession and recognize above all that we are a noble profession. That is who we are in our DNA, we are a noble profession. Law schools must produce value-driven lawyers who are prepared to meet the professional responsibilities.

That’s why I’m so—Lillian Moy is the first clapper. Lillian Moy is the head of the Legal Aid Society of Northeastern New York, one of the great legal services organizations to this day. Thank you for always being the first clapper. That’s why I’m so pleased to have been able to get over here today to kick this off. I’m so pleased that two weeks ago we had a conference with Helaine Barnett’s Task Force, which specifically focused on the role of law schools in relation to access to justice. It was a great conference. That’s why I’m so thrilled with the State Bar and the Institute for putting together today’s

program, which again is so topical. The only thing that—and I disagree with the earlier speakers, but when we talk about this debate going on for a hundred years or more, it is most important today because it is different today. The legal profession has changed. The economic template has changed. The job situation has changed. Legal education is really at a turning point, so I think it is more important than ever that Paul and David put this discussion together today. It's been going on for a hundred years, and not that the last hundred years have been easy, but today's challenges are so great, so important.

The discussion that you are going to have today is so critical, and I'm so pleased to have you all, to welcome you to New York, to be able to thank Paul and David and the Institute and the State Bar. And I mentioned, too, that David's successor, Glen Lau-Kee is here. He will succeed David in ten days. We have a great bar in this state. We have a great Institute on Professionalism, and colloquially we have a great judiciary and fifteen fabulous law schools. So have a great day. Enjoy. It is great to see you.

MR. SAUNDERS

Thank you Judge. Now you know why I said that no discussion of the values that we hold dear in the legal profession and changes in legal education can take place without including Chief Judge Lippman in the discussion. He is critically important to that discussion and to the work that we are going to do today. It is my hope today that we will ask the hard questions and deal with some of the hard problems that we face in the legal profession and in legal education. As I look around this room, and I know many of you here, this group of people assembled is probably the best-situated group of people, the most knowledgeable people, and the most invested people that I can think of to have this discussion. That's why I want to make today's discussion a real discussion of real problems and issues to the end, that by the end of the day today, I hope some concrete recommendations will come forth from this program. I don't regard this as just an interesting academic exercise. Rather, I regard this as a working group of the most knowledgeable and invested people that we can think of to discuss these issues and to come up with real meaningful solutions.

To that end, it is a distinct pleasure for me to introduce our keynote speaker with whom I have had the pleasure of working for the past seven years—I think—six or seven years, Rebecca Love Kourlis. Rebecca Love Kourlis was educated at Stanford. She was a practicing lawyer in Colorado. She was a trial judge in Colorado. And she was ultimately appointed to the Colorado Supreme Court, which in Colorado, unlike New York, is the highest court in the state. She served with great distinction as a judge of the Colorado Supreme Court. In 2006, she was asked if she would be willing to leave the bench and create an institute in affiliation with the University of Denver that would study the American legal system and recommend changes in the

American legal system to make it more efficient, affordable, and as Judge Lippman said, to increase access to justice in this country.

So she left the bench and formed an institute that is called The Institute For the Advancement of the American Legal System. Why is she here today? She is here today because her Institute, more than any other organization that I can think of, is focused on the changes in legal education. She has put together a consortium of thirty law schools in a project that is called Educating Tomorrow's Lawyers. One goal of that consortium, I believe, is to make the recommendations of the Carnegie Commission on Legal Education a reality. So it is a great pleasure for me to welcome our keynote speaker. I guess I can still call you Judge, Rebecca Love Kourlis. Thank you.

KEYNOTE ADDRESS

JUSTICE REBECCA LOVE KOURLIS

EXECUTIVE DIRECTOR OF IAALS, INSTITUTE FOR THE ADVANCEMENT
OF THE AMERICAN LEGAL SYSTEM; FORMER JUSTICE OF THE
COLORADO SUPREME COURT

Good morning. Thank you first to Paul. As he indicated, we have been collaborators on a project under the auspices of the American College of Trial Lawyers, and I always use the acronym IAALS that we use for that unwieldy name that he just suggested we are saddled with.

But we have worked together very closely. There are few people for whom I have greater regard in terms of intellect and experience and commitment. So we all are obviously operating in the wake of great leaders, many of whom have been here this morning to launch this effort.

The focus of my remarks will be to gloss fairly briefly over the problems that we are all confronting, and then to spend the bulk of my time proposing some solutions, some of which I know will resonate in other portions of the day, and some which will strike you as off base, in which case that is fine, too.

We all have an accepted mantra that legal education is in crisis. But unpacking that a little bit is important. I begin by noting that there are few sacred cows in this conversation, and I went back and noted that there is a novelist by the name of V.S. Naipaul, who suggests that an ordinary ox being of concern to no one may be quickly put out of its agony, whereas a sacred cow must be solicitously guarded so that it can die an agonizing death without any interference.

I would like to have a preliminary agreement that there are no sacred cows in this conversation because otherwise we would just trip over ourselves. Problems: These are excerpted in large part from the New York City Bar's report *Developing Legal Careers and Delivering Justice*, but they are a brief run-through and many of them are but the tip of the iceberg.

We are facing calls for more training of students in law school at the same time we are facing calls to shorten law school. For example, Professor Neil Hamilton's research on professionalism suggests that the formation of a core professional identity is actually a four-year enterprise, not a three or a two-year enterprise.

However, we are facing circumstances in which we could never even begin to contemplate extending law school. Quite the contrary: The high cost of legal education and the impact of a focus on scholarships on those costs.

Contrarily, the high cost of legal education and the impact of a focus on clinical programs, which are themselves very expensive; legal education accreditation standards that currently measure inputs, not outputs.

Hiring in the largest firms has dropped in employment, and the small solo arena has doubled since 2007. The employment rate, as we know, for the class of 2012 is the lowest since 1994, whereas unmet legal needs proliferate.

You have heard this morning that as much as 80 percent of the legal needs of the poor go unmet. Perhaps 40 to 60 percent of the legal needs of the middle class go unmet. Jim Silkenat noted in the Legal Access Job Corps report that the United States is 66 out of 98 in terms of access to affordable legal services, as ranked by the World Justice Project.

Median salaries of young lawyers have dropped, where law school costs and tuitions have continued to climb. Law school enrollments nationwide are down 11 percent this year from last year, 24 percent from 2010. As of 5/9/2014, applications are down 8.9 percent from 2013. So we are on a free fall to some extent.

In short, the system is broken. And your law school or your father's—probably not your mother's law school—or your grandfather's law school is not going to cut it anymore.

So now let's talk about solutions. Before we begin that, I want to share two premises with which I approach this part of the conversation, and you have already heard them resonate through some of the remarks this morning.

First, the premise is that law schools should serve law students, not law professors, not the university at large, and not the practicing bar. Now, I would note that law schools clearly serve a critical role as the pathway into the profession, and thus law schools also serve clients, and in this way society, but law students are the immediate benefactors.

Second, practicing lawyers directly serve clients and society. A lot of those clients are low to middle income clients who need affordable help as they navigate their lives. And remember now that up to 60 percent of new lawyers are going solo or going into small firms. We have to train them as well.

To me those premises seem axiomatic, unarguable, but they have not necessarily been the guiding light of the design or of the practice of law schools. To redesign law schools around those principles we should think about how to achieve the most value for the law student, balanced against cost and time.

We are not just looking for a cheaper product mind you. We are looking for a more effective product for the student because those students go on to fill such an important role in our society.

And most critical both to this conference and perhaps to these questions broadly, we cannot afford to lose the essence of professionalism as we slice and dice law schools. So number one on my hit parade of solutions -- and there are seven for anybody who is counting: figure out what law students need in order to be successful lawyers, what they need to learn in law school, what they need to know when they graduate.

This is an effort to allow law students to 'begin with the end in mind.' What a concept, right? We at IAALS hope to be adding to that part of the

calculus with a project that we just launched under our Educating Tomorrow's Lawyers initiative. We call it Foundations for Practice.

This multiyear project will identify the desired foundations for new lawyers, the models for legal education that help get us there, and some tools that legal employers can use to make better entry-level hiring decisions.

By understanding what new lawyers need to succeed, law schools can better equip them to get there. Working with this profession and our consortium of law schools—you have already heard a mention of that—six of the consortium members are in this state: Albany, CUNY, Cornell, Hofstra, NYU, and Touro.

Educating Tomorrow's Lawyers will conduct a national survey of legal employers. Watch your e-mail inboxes. We are hoping to send out a national survey in the fall through some of the state bars in an effort to get as much feedback as we possibly can.

We will convene small groups of legal employers from around the country. We will bring all the necessary and important perspectives and stakeholders to the table, and of course we will engage the academy.

We want to figure out where we want to be and what the law schools can do to help get us there, being ever mindful of the role of professionalism, not just the role of ethics by the way.

I would offer you a preliminary observation. Part of this project has involved collecting core competency models from employers; big firms, corporations. Midsized firms have core competency models as well. We put them into a database. If any of you have others you would like us to include in that database, we would be delighted.

I will give you one of my first observations, and that is that integrity, truthfulness, and good judgment are much more important to employers than advocacy skills or competitiveness. Think about that for a moment. And yet law schools are very focused on advocacy skills, training young lawyers to be advocates, and to be able to advocate for a particular point of view.

But maybe the employers think that that skill -- except for those who actually are litigators -- is not a skill for which they have high value. So it's those sorts of checking ourselves, checking our premises and our assumptions that this project is all about.

Number two: Again, this is the theme you have heard this morning, and it came out of the ABA task force report as well; allow and encourage law schools to differentiate. Debra Rhode of Stanford notes that all law schools are expected to produce 'Pericles and plumbers.'

I would take issue, by the way, with her implicit characterization of the general practitioner as a plumber. I was once in a small town for a few years of my legal career, and it was incredibly rewarding and important.

But I do agree that law schools should have areas of focus, and that not all law schools should purport to serve all students.

By the way, for those law schools that might cringe at the notion that they wouldn't be in the center of the legal academic arena, I would note that there are at most thousands of law professors and there are millions of practicing lawyers who write laws, represent clients, make judicial decisions and have a profound impact on our society. Educating those folks is no second-class job.

Number three: Now we are starting into the sacred cow arena. The role of scholarship in general needs to be reexamined. The emphasis should be on teaching. And the qualities and background that produce an excellent scholar are not always the qualities and background that produce excellent teachers. They can be mutually supportive and consistent, but scholarship cannot proceed at the expense of teaching. We need to state that. We need to make sure that it is happening, and we need to reexamine why we have concluded to date that those who teach should not have practiced.

This one really confounds me. We disdain practice in the academy except for the understudy adjuncts who both teach and practice. Why is that?

Number four: Allow, encourage, and help law students to develop a course plan that corresponds to their needs and interests, and that ensures the development of some practical skills. If you think you want to go into business law, three years of courses that focus on reading appellate opinions and no courses that focus on reading financial statements is probably not in your best interest.

The law school needs to provide assistance to allow students to chart their course through law schools with a view towards their own particular interests, attributes, and career plans. This may ultimately, by the way, invoke such things as the paraprofessional approach that is being instituted in Washington State as a part of the model.

Number five: Embed the teaching of professionalism in every course, not just in a stand-alone ethics class. This comes from the Carnegie work, from the notion that there are three apprenticeships and the apprenticeship of professionalism needs to be happening throughout law school and in every course.

Ethics is a way of life, not a class. Thinking like a lawyer is not just about issue spotting and prioritizing research and writing, it's about managing ambiguity, exercising judgment, and demonstrating integrity.

Employers and clients care about those attributes. Society requires them. Law schools must teach them as a thread or maybe even a cable throughout the entire curriculum.

Number six: Encourage employers to hire based on the quality of the law graduate, not the rankings of the law school. The U.S. News approach to hiring, which looks down the list and suggests that hiring from the top schools is definitionally analogous to hiring the best candidates, both stunts the opportunities for law schools to differentiate, stunts the opportunities for law students to differentiate.

And it is also sort of shortsighted in terms of the data, because the superstar academic high performers do not necessarily stay in a particular firm. The data suggests that they may move on to other opportunities. So in terms of investing in a new employee, it may be better to look at the quality of that law student rather than just the ratings of the law school.

Number seven: This is where we all come in. We all used to have an obligation to help train the attorneys with whom we work directly. That is still true. However, we now have an additional obligation; to come up with and implement ideas designed to help more new lawyers.

You have heard a number of them mentioned this morning: Bridge to Practice, partnerships, residencies, incubators, Legal Access Job Corps, Lawyers For America, mentoring, and ideas we haven't envisioned yet, some of which may come out of today.

This is the practicing bar's opportunity to step into the conversation and impact the solution. We have a daily obligation to identify what we cherish in this profession of ours and pay it forward.

So to preserve our profession and our professionalism we all need to reinvest in this conversation about legal education redesign and in the actual training of new lawyers. We need to identify and hold onto that which we hold most dear and teach it.

This is no longer about us versus them, the bar versus the academy. This is solely about joining forces to serve law students better so they in turn can serve clients and society better. Today is an excellent example of acting on that responsibility.

I commend all of you who organized this, and those of you who took the time to be here today. I'm honored to be part of the conversation. Thank you.

MR. SAUNDERS

Thank you Becky. That was exactly what we expected. Those were the right comments to make, I think, to kick off this discussion, and those were some of the hard questions that we need to address today.

If I could just leave you with a personal observation: I was reading the minutes of the ABA task force on the future of legal education, and they were discussing a topic that is timely and that Judge Lippman referred to, and that is whether there should be a third year of law school. One of the academics on the ABA task force, according to the minutes, observed that we did need the third year of law school in order to ensure that, and these were the exact words, "the students had the required competencies." I said to myself, what exactly are the required competencies, and how do we know whether or not the students have achieved the required competencies?

You can graduate from law school today without ever having seen a will—not draft a will, but see one. But you can be licensed to practice law, including drafting wills, without ever seeing a will. That's not true about

medical school. You cannot graduate from medical school without having delivered a baby. My son is a heart surgeon. That's all he does, but he could deliver a baby. It wouldn't be pretty, but he could do it. I asked him about this and he said, "Yes, I could." That's not true about law schools today. We kind of lost what Becky talked about, which was the focus on the student; and to paraphrase from the ABA task force—the focus on the required competencies, whatever they are.

So the way we have structured this discussion today is to break up into panels. In a moment I'm going to introduce the members of the first panel who will be discussing the coming changes to legal education that we sort of talked around, but we haven't addressed directly. Our hope is that the first panel discussion will talk about the coming changes to legal education and some of the best models that we have been able to find for changes in legal education. This afternoon we will discuss how those changes, should they be implemented, will affect the inculcation of professional values, which as Judge Lippman said, we all believe is absolutely central to the profession that we all love and share.

Let me briefly introduce the members of the first panel. First we have Michael Cardozo, who until fairly recently was Corporation Counsel of the City of New York. He has returned to private practice and he is, I'm proud to say, a member of the Judicial Institute. Next we have Professor John Garvey, who has been mentioned already, who is the Director of the Daniel Webster Scholars Program—about which we want to hear much more today—from the University of New Hampshire Law School. Next we have Dr. Bob Lapiner, who is not a lawyer, but an educator and was a dean and an associate vice chancellor of New York University. Next we have Diane Bosse, who has also been mentioned today. She is the chair of the New York State Board of Bar Examiners. And just as no discussion of the changes in legal education can take place without Judge Lippman in that conversation, the same is also true about Diane Bosse. And finally, we have Dean Luke Bierman, who is the Dean-Designate of Elon Law School and was also a private practitioner before he became an academic. Leading this discussion will be Vincent Doyle. Vinny Doyle is a practicing lawyer from Buffalo, and he was, as probably all of you know, the President of the New York State Bar Association. So let me ask all of the members of the first panel to come forward and let me turn this over to Vinny Doyle.

PANEL I—EXAMINATION OF THE CHANGES TO LEGAL EDUCATION

VINCENT E. DOYLE, III, ESQ.

CONNORS & VILARDO, LLP
PAST PRESIDENT, NEW YORK STATE BAR ASSOCIATION

Good morning everyone. Thank you for coming. I want to join the other speakers, and on behalf of the panelists, thank the people who organized this very important conference. I'm thrilled to be here and participate. We had several phone calls to organize the discussion we are going to have today. Someone asked a very interesting question at the beginning of one of the phone calls. They asked, "Why do we each think we were invited to participate? What do we think we have to add to this discussion about the changes in legal education? What experiences, what work have we done? What have we written? What programs or committees have we worked on that leads to this discussion?" It was actually very good because then we ended up talking about those things, and it set a good stage for what I think is coming next. I think, if you don't mind, Luke, I will start down at the end with you because you feel left out all the way down at the end. We are going to go to each of the panelists and just have them describe a little bit about the experiences, projects, and things that they have worked on that are relevant to the discussion about changing legal education.

DEAN-DESIGNATE LUKE BIERMAN

DEAN AND PROFESSOR OF LAW, ELON UNIVERSITY SCHOOL OF LAW

I assume I'm down here because I'm from the South, but I did practice in Plattsburgh, which is probably as far on the other end. I think I was asked—and I'm very happy to be here and back in New York—I think that I was asked because I'm probably as close to a traditional academic as you can get without being a traditional academic. I have done a lot of things in my career, some inside the academy, many of them outside of the academy, and because of that I bring a little different perspective to some of the challenges that we have.

My most recent job before heading down South was at Northeastern Law School, which really does have a unique academic program. As associate dean I was in charge of that, I was in charge of an academic program where the students have to graduate with a full year of experience, which is achieved through four placements. It's a program that is iterative, immersive, and integrated into the curriculum. It is done in three years. Essentially the students are really getting four years in three because the school year goes year-round.

So that experience, plus a variety of my other experiences—being selected to be the dean at a young, a new school that has been recognized as innovative, and some of the plans we have for that school to really try to test some of the things that have already been mentioned, and certainly some of the things that haven't been mentioned. We have the idea of a shorter, quicker but better program. I have asked the faculty already, I'm not dean until next week, but I have asked the faculty to look at exactly what Justice Kourlis talked about—what is it we want the students to have at the end, how do we get there and can we do it in two and a half years and charge 20 percent less. How can we do that while giving the students full-time experience so they can write a will, or at least see one, and do some of the other things that we are challenged by, and try to work on that debt question. I think an important question is how can we engage the profession in ways that we have not engaged them before? I have asked the faculty to do that by July 4, which in academic circles is probably unheard of. All of this may mean next time you will see me, I will be the dean with the shortest tenure ever, but we are going to try and give it a shot. I think that may be some of the reasons why I have been asked to participate.

MR. DOYLE

Diane Bosse.

DIANE F. BOSSE, ESQ.

CHAIR, NEW YORK STATE BOARD OF LAW EXAMINERS

I want to thank the organizers of the program. It is a very important and useful conversation. I'm happy to have been invited to participate. I have three minutes to explain to you what my experiences are and how they shape my views. As was mentioned earlier, I'm chair of the Board of Law Examiners. I also spent six years on the ABA Accreditation Committee, two years as Chair, and that ended last August. I spent three years before that on the Standards Review Committee, writing the standards for law school. I have been on the board of the National Conference of Bar Examiners. I served as its Chair, and presently I am Co-Chair of the Conference's Long Range Planning Committee. I was very interested in Justice Kourlis' description of their project because we did a job analysis project—the first time it has been done in law—where we surveyed thousands of new lawyers to see what it is they do, so we can then figure out from that what is it that they need to know.

I did want to spend just a minute, because of the experiences that I have had, to give you a little bit of my view, which is that I'm just not as pessimistic about legal education as many of the commentators are. I have had opportunity for observation in my work on the Accreditation Committee, and I think law schools are doing a fabulous job. I was there for six years, and with a seven year sabbatical cycle. I saw almost every law school in the country. I

read their self-studies. I read their strategic plans. I read their site reports, and I was impressed with the array of programs, clinics, externships, concentrations, academic support programs, and simulation courses—all kinds of programs that law schools are doing. I learned law school now is very different than the one I experienced so many years ago. I think that law schools have given thought and breadth and strength to the curriculum. Not that there isn't room for improvement, but I'm not as pessimistic about law schools as some commentators are.

On the output side I see the results on the bar exam of our fifteen law schools in New York. Over the last six years, the bar passage rates for first time takers on the July exam of those law graduates has ranged from a low of 85 to a high of 91 percent. I know that the standard is minimum competence and that the bar exam is not a perfect measure, I get that, but I think it is some indication of how well law schools are doing in preparing their graduates to enter the practice. What I am pessimistic about is what we are expecting of law schools and what the profession is demanding of law schools. It seems to me we are telling them you have to manage your current crisis or management problem, whatever it is. Applications are down 40 percent, and law schools have the choice of cutting class sizes to a point where the revenue stream cannot sustain the program, or dipping a little deeper in the credential pool than they might want to dip. We want them to diversify the profession, solve the access to justice problem. We want them to be innovative, and we want them to produce practice-ready graduates because we don't want to train them and our clients don't want to pay for it anymore. I think while there is room for improvement, we may be expecting a little too much of the law schools.

But I don't let the law schools off the hook. I do think, from what I have seen, that law schools are on a quest for higher rankings. That quest increases the cost, it increases the tuition, and it is fueled by apparently unlimited amounts of federal direct loan money given to willing borrowers. This impacts a law school's future ability to use resources to innovate and engage in improvements to their program. I look forward to our discussion. I'm very happy to be here, and I hope I didn't go over the three minutes.

MR. DOYLE

Thank you, Diane. Robert, you are our one non-lawyer on the panel, but from our discussions I know that you have a great deal of experience with the universities and how the different schools, including the school of law fit into the university. Please tell us a little bit about what you think you can bring to the discussion.

DR. ROBERT LAPINER

PROFESSOR, NEW YORK UNIVERSITY
FORMER NYU ASSOCIATE VICE CHANCELLOR
FOR GLOBAL CONTINUING EDUCATION
DEAN EMERITUS, SCHOOL OF PROFESSIONAL STUDIES

Thank you. I'm very honored to be here. I just want to point out that my wife reported for jury duty this morning—and I realized that there was no *voir dire* in my selection today. I want to thank John Gross for asking me to participate today. My background is diverse in that I have been involved in international education, the world of continuing and professional education, as well as professional studies. I served as dean at UCLA and NYU, and have always been involved in conversations with my fellow deans of professional schools about the global changes that we have all been experiencing. In my attempt to become familiar with the challenges that you all in the world of legal education are facing and the various experiments and approaches that are being introduced to accommodate those changes, I see once again the quality of innovation and extraordinary self-reflection that have characterized the law community within the universities that I have been a part of.

But I also see that what you are doing is so terribly important for higher education as a whole, because all of higher education is indeed facing the same disruptive factors. These include, of course, the transformative application of technology. It is not just a question of the use of distance learning, but how social media and digital technologies are used in the practice of every profession. For incoming students across our institutions, there is an assumption that if you Google it, you do not have to learn what it is to evaluate research—and that is a problem.

With regard to the challenge of downturns in law school applications, it is important to keep in mind how any comparison to other higher ed sectors is distorted by the issue of globalization in the applicant pools. The issue is felt and experienced differently by law schools. International students are arguably the only vector of growth within traditional undergraduate, graduate, and professional school programs. So when law schools draw worrisome comparisons with their sister professional schools, these two factors matter. Last year, the Institute of International Education reported that the growth of international students relative to their number in the community of graduate and professional schools, grew by 80 percent. At the same time, the population of native born residents and citizens grew by only one-tenth of one percent. When you consider of course that while law schools have LLM programs which do indeed attract international students in large numbers, the traditional JD is simply not a vector for international students to the same degree that an MBA might be—precisely because the curriculum is anchored in American jurisprudence, whereas the study of international business and management practices and financial modeling are more universally applicable, whatever one's nationality.

It's also essential to keep in mind that the absolute majority of undergraduates in the United States are not 18-22 years old full-time students: the majority for the past decade has been made up of part-time older students who are usually working and often raising families. They are not full-time residential students. And while many go on to further study, they generally chose programs that accommodate the rhythm of part-time study.

Law schools might thus really be more subject to the changes in American society in general. So this latter issue is a terrible driver: the movement away from residential full-time study even for undergraduates and the relative increase of working adults who are earning their first degrees must be contributing demographic factors to the decline in applicants for JD programs.

These observations get to my next set of relevant issues from the "world" that I inhabited. I was responsible for vast continuing and professional education programs, including many degree programs at NYU (the school I led was the fourth largest graduate school at the University by head count). But education is a lifelong practice. The efforts that are underway to create a program for recent graduates of law schools resonates with this simple truth in a big way; and, of course, in your profession, you have the historic practice of the requirements of the continuing education of the Bar. I think that your conversations reflect an increasing widely shared need: Engineering schools are looking at these issues, business schools are looking at the issues, certainly the health science schools are looking at these issues about creating a formal curriculum which goes beyond the intention of the degree and professional licensure, so that there is not just a renewal of competency, but a chance to learn new things as a condition to change. All professional schools now have—whatever their field—obligations for internships and practice-oriented programs. The reliance on adjunct faculty is a topic that raises a separate set of issues in higher education, but it also speaks to the need to incorporate the world of experience into all sorts of curricula. In this regard, law schools in many ways have led the charge, although the bifurcation of the research faculty and the practitioner faculty in law schools also reflects the same pecking order that exists in almost all other forms of university teaching.

I obviously would love to go on, but I have to stick with the time. I am interested in what you are doing, and I am looking forward to learning from it, but also to share perspectives from other areas of higher education that may be relevant.

MR. DOYLE

Thank you very much for being here. Professor John Garvey, I would ask you next. We have heard some references to some of the programs that you have worked on. Maybe you could tell us a little bit more.

PROFESSOR JOHN BURWELL GARVEY

UNIVERSITY OF NEW HAMPSHIRE SCHOOL OF LAW
DIRECTOR, DANIEL WEBSTER SCHOLAR HONORS PROGRAM

Sure. I think I'm here because of the vision of a woman named Linda Dalianis, who is now the Chief Justice of the New Hampshire Supreme Court. When the MacCrate report came out in 1992, she read it, and she was very interested in it. She looked at the ten skills and the core values, and at the time she was a trial judge, and she said, "Wow, I don't see those ten skills and core values consistently in my courtroom—there must be a better way to educate people so that when they get into my courtroom, or wherever they are going as lawyers, that they would have a better idea of what it meant to practice law." So she formed committees and they studied the problems, and as with all committees, it took a long time. In 2005, she got to the Supreme Court—she was then an associate justice and my now dean was the Chief Justice, Dean Broderick – and she got the Court to do a three-year pilot program where it would create what was described as a two-year instead of a two-day bar exam, and that would be during the last two years of law school.

During those two years, the students would do what was needed in order to become client-ready. So I was hired. At the time I was chugging along as a private lawyer in a firm in New Hampshire. I had been a litigator and a mediator, so I thought this was a great opportunity because I had been an adjunct for quite a number of years and my passion was always teaching, and to be able to combine my experience with my passion seemed like a great idea. I went over to the law school, gave up my partnership, and began to look at the issue of making law students client-ready, and what that would look like. So what we did—a lot of people worked on this—we reverse-engineered what we thought that would look like at the end of the two years, and then we developed the curriculum around that. So it is heavy on experiential education. There's a lot of simulation. There are residencies, externships if you will, that are required. There's clinical work that is required. The students create portfolios over the course of those two years. The portfolios contain a lot of reflection. And in that reflection we are able to look at what they did, what they thought they did well, what they thought they needed to improve on, and what was their plan for going forward.

What we have been trying to do, in essence, is condense that time period that we have all experienced as lawyers where we go forward into the world and we practice, and as time goes by we get experience, and if we are doing what we should be doing and reflecting on that experience, we get better. So the program has a lot of formative education, where the students get to do it again, and then they try, reflect, and do it again. It has some summative aspects where it is high stakes. One of the things that we do, and there's not time to talk about a lot of it, but one of the things we do that, to our knowledge, has never been done before as part of passing the bar exam is that the students must demonstrate competency through standardized clients,

which are similar to standardized patients. We trained standardized clients, from the perspective of the client, to determine whether the students possess the basic competency to interview a client, to obtain the necessary information, to make the client feel listened to, and that the client felt the questioning was helpful, et cetera. There are rubrics on that, or benchmarks. To our knowledge, this is the first time in the history of United States licensing that anybody has had to show basic competency in examining a client in order to practice law.

As someone said earlier here, for example, in the context of flying, a law license is not limited. It is like telling a pilot that as soon as the pilot gets licensed, he or she can fly a 747. Our hope is that when we train law students to be client-ready, although they may not be ready to go out and fly a 747, they will be ready to fly a Cessna. That really should be the goal for all law school graduates.

MR. DOYLE

Thank you, John. I just wanted to mention that the New York State Bar Association puts out a journal. Under the leadership of President Dave Schraver, the fall edition of the journal is dedicated to legal education issues. All of the articles involve the issue of legal education and bar examination. Professor Garvey was an author of one of the articles about making law students client-ready. Diane also authored an article in there as well, so I recommend the current journal to people.

Mike Cardozo, no one would have the temerity to ask you what you are doing anywhere. Nevertheless, what are you doing here on a panel discussing the preparation of law students to become client-ready lawyers? As Professor Garvey said, what are your experiences, Mike?

MICHAEL CARDOZO, ESQ.

PROSKAUER ROSE, LLP

FORMER CORPORATION COUNSEL FOR THE CITY OF NEW YORK

Thank you. As most of you know, I was a practicing lawyer in a large firm for thirty-five years, and in that capacity had obviously dealt with law students who joined my firm having been trained in the traditional way. And then shortly after 9/11, I became Corporation Counsel. I emphasize that point because after I started, and the City was in very bad financial health at the time, we had a desperate, desperate need for lawyers. I called in the heads of the fifty largest firms of the City and I asked them to help. That was the start of a very interesting experiment which I will come back to in a moment. When the recession hit in 2008 and 2009, we had the phenomena of so-called “deferred associates”—approximately twenty new lawyers who were supposed to go into the various large firms in the City. The law firms let them come and work for various employers including the Corporation Counsel’s Office. I observed there that those law students, because they were in a government office, they

were able to jump in and get responsibility right off the bat. When they went back to their firms, I learned shortly thereafter, that many of them were more highly thought of than their peers who had not had that experience. And it got me thinking that maybe there's something more that we can be doing to train young lawyers, because these lawyers really seemed to be well-trained.

At about the same time we expanded, and we now have—I have to change the terminology—the Corporation Counsel's Office now has members who are adjunct professors at seven different New York law schools teaching courses in which the students come back to the Corporation Counsel's Office for ten to fifteen hours a week, two hours in the classroom and ten to fifteen hours a week in the Corporation Counsel's Office doing real work. That's another example of hands-on training. And then finally going back to my experience after 9/11, I realized that young lawyers in the big firms were really hungry for hands-on experience. So we expanded what we were doing. And last year over one thousand depositions that were taken by the New York City Corporation Counsel's Office, taken or defended, were handled by the private Bar pro bono. Obviously, that was great for the Corporation Counsel's Office, but the young lawyers from the big firms loved it as well because, as they kept saying, "We are now getting experience." I put all that together and I think that was one reason why I'm on this panel.

The second reason was that I had the honor of serving on the City Bar Association's task force on the New Lawyers and the Changing Profession. Professor Kourlis referred to its very, very interesting article, and we came up with a lot of recommendations which we will get to a little bit later. I'm on a committee now that is implementing some of those recommendations.

Finally, I'm the former Chair of the Columbia Law School Board of Visitors, so I think I have seen these issues, a little bit at least, from the law school perspective, as well.

MR. DOYLE

We have previewed some of the issues we are going to be talking about, and programs that we are going to be talking about. Let's take a step back. The panel is meant to talk about the changes in legal education. If we are going to talk about changes or where legal education may be going, we should set the stage at least briefly by discussing where legal education is and how it got there. I did ask Luke and John, our two legal educators, to take five minutes and tell us the entire history of legal education up until about five years ago.

Seriously, can the two of you tell us about how the traditional or casebook system of legal education developed and where it is.

DEAN BIERMAN

Whenever I'm asked that, I always say I'm a third generation lawyer, both a burden and a bright part of my life. My grandfather graduated from law

school in 1922. At one time I believe he was the oldest living graduate of the NYU Law School. That was almost a hundred years ago. My father graduated from law school in 1952, me in '82. You see a pattern. We just graduated the class of 2012. Somewhere after those hundred years my grandfather would be relatively comfortable if he popped into a law school today. Once a century we should look at these things and think about what is different. 1922 is not 2012.

It occurred to me that at this time of critical examination, as I think about it, the law and being a lawyer is really about sort of two things; the idea of knowledge of the law, and the idea of judgment and knowing how to use the law. The knowledge part, in some way, I think we sort of lost because the Internet has changed everything. Anybody can read a statute now. Anybody can learn, and I think we learn about and deal with more sophisticated clients, or at least they think they are more sophisticated, which might be worse. Nonetheless, that information is available.

So it is really about the judgment, and trying to learn from the history of what we have done in educating lawyers and preparing lawyers for practice. It seems to me we really need to refocus on the judgment part. The large classrooms, the reading of appellate cases—you know, the only real innovation over the last hundred years has been the idea of clinical education. The realization has been the introduction of clinical education and the things that go around clinical education: externships, internships, those sorts of things. It's very expensive to do that. What else can we do, since technology disrupted the way in which we did everything.

It is hard to for me to think the law is immune from those kinds of changes, those disruptive technologies. I always come back to sort of try to think about this in a simple sense. Why should it be that my grandfather would be comfortable in law school today, and what has changed over that period of time. John has written about these things, the history of legal education, and the story is well told and many of us are familiar with it. John, do you want to talk a little bit about the development of those things and how we got here?

PROFESSOR GARVEY

I will briefly. First of all, I will say it sounds like your grandfather graduated from law school about the time the first Carnegie report came out. It is an ongoing conversation. The history of legal education, as most of you know, started out primarily as an adventure in studying with another lawyer, reading the law. There was a time when people could do a combination. People as recently as Justice Jackson—who was involved in *Brown v. Board of Education*, and also was involved in prosecuting in Nuremberg. He went to one year at Albany and then took the Bar. So the idea of having to go to a three-year accredited law school is relatively new when you think about it in those terms.

But there was a development—the Langdellian method. You probably all heard of the case law method which was developed in the 1870s.

Christopher Columbus Langdell was teaching at Harvard, and he created the case law method. And then there was also this development that I think is worth discussing as part of this conversation, and that is that there was this need or desire on the part of some people to want to professionalize law school, and to want to make it something that was more elite than merely studying for law. So there was this pressure, and then the ABA came into it, and there was discussion about whether there would be requirements for the bar passage. Ever since that happened there has been this tension as to the haves and have-nots, and is the ABA or are the accrediting agencies in any way restricting access to other people who are not so elite.

That is an ongoing conversation as we all know. The first Carnegie report that came out in the 1920s actually discussed those issues and whether or not law schools were limiting access to the poor and thereby limiting access to the people that would otherwise represent the poor. Is there anything else you want to add to that?

DEAN BIERMAN

I do think as you consider the development of legal education, the Langdellian model in the 1870s, which we still use widely and those sorts of things—one of those things, judgment, is a big part of what being a lawyer is about. The other part that occurs to me is making clarity out of messiness.

People bring their problems and our job is to help them sort through them. The judge's job is to sort through competing issues and competing facts and bring clarity. You know, 100, 130, 140, almost 150 years ago, the common law was really the formation of the law. If you think about the progressive era and how we tried to solve problems in a rational, logical, scientific way, today seems to me to be different. Most law is derived from statute and regulatory activity. But we are still reading appellate cases in the ten months of the first year. Somehow that seems off to me for what we are trying to accomplish—getting new lawyers to deal with an incredibly messy—you know, resolve incredibly messy situations.

The impact of technology and the Googling to find answers, aside from, you know, the idea that it may be incredibly accessible to many people, removes the hierarchy that is so important to the law. The answers come up and they are all equal. It says it right there, it must be right. It used to be that we read it, now we read it on Google, it's got to be the answer. Students are educated that way, and they come to college and law school with a little bit different view of how the world operates. There is a breakdown of hierarchy and the law is a very hierarchal thing. We are a conservative, small profession. Our job is to make sure that there is ordered change, not just change, and to make sure things are in order. Those are the kinds of impacts that we are trying to deal with. We certainly do appreciate that--don't put everything on the law schools. But a lot does go on in the system of education that we have

developed, and what the students are bringing to that educational experience when they get to law school at 22, 25, 30 years of age or older.

MR. DOYLE

Robert, I want to draw you in because much of the discussion about legal education focuses simply on the law schools and the legal profession. It doesn't take into account the place of the law schools in the larger university structure and how law schools relate economically and academically in terms of the hierarchy that has been described. Can you talk a little bit about that from your experience? How does the law school traditionally fit in? And we are going to talk about some of the changes that are coming for legal education. Are those changes that will occur in larger academia as well?

DR. LAPINER

I have to qualify that my observations are based on direct experience, not just general reflections. Certainly at UCLA—and obviously at NYU—the place of the law school is one of being among the most outstanding academic communities within these institutions. And that isn't just because, as is the case of NYU, of having historically had a separate administrative standing and different financial structure. It is really because of the nature of the practice of law, its historic intellectual legacy, and the fact that it is based on notions of very profound professional ethics, engagement with the public, and community service. It also because the law is a profession based to an appreciable degree, on historical reflection and scholarship—knowledge of cases, the process of review and being aware of precedent—and these practices really reflect and inform in the broader sense the values and standards of liberal arts education.

At UCLA (where I spent more of my academic administrative career), as a publicly supported institution, its law school was less oriented toward corporate practice than at NYU. It was interesting to see the place of the law faculty in the life of the university. Often the winners of the most important teaching awards, distinguished law faculty I believe traditionally were invited to take on some of the university's most important senior academic administrative positions—such as provost or vice chancellor for academic personnel, leadership roles called on also to adjudicate the most complicated procedural responsibilities that the university faces. It is also noteworthy that law schools often have the highest proportion of joint appointments with other faculties and academic departments, a reflection of the nature of the connection of the law to other disciplines.

One of the issues that I think could be very important that may speak to the declining applicant pool for JDs is the erosion of liberal education in the United States. The fact that historically (I believe that this is the case) the humanities and the social sciences have been the birthing grounds of potential students, of potential applicants for law schools. Their place—the place of the liberal arts—in the universities is declining. If you go back even farther, and

this *is* a pipeline issue, the place of civics education or even elementary discussion of government within K-12 has also declined. So many of the places where young people were historically introduced to the centrality of the law in our society are not as visible as they were before. (Yes, these pipeline issues *are* discussed broadly in the university community—because they affect all fields of study).

MR. DOYLE

So having set the stage a little bit in terms of legal education and the history of legal education and the so-called traditional model, we have now seen over the last few years, five or ten years, that legal education has become a very hot topic—a hot topic not just among legal academics and the legal profession, but a hot topic in popular media. Pages of the New York Times have been dedicated to discussing legal education. When you have the President of the United States weigh in on a fairly arcane issue of whether there should or shouldn't be a third year of law school, we know that legal education is a hot topic.

Mike, I'm going to pick on you first. What are some of the things that have happened over the last five to ten years that are pushing some of the innovations that we are going to be talking about in a second?

MR. CARDOZO

Well, I think we can all tick off technology, which has already been referred to. Technology is not only changing the way students are learning, but I think it is significantly impacting how much legal services you need because technology is, in fact, replacing lawyers. The stories of young lawyers being in a warehouse going through old documents and reviewing them for privilege and things of that nature, that is no longer true. Obviously, law firms are doing some things in other states if not in other countries, so I would say technology being one factor.

The people point to the recession. Obviously, that focused on everything. I think even if there had not been the recession, over a couple of more years we might have seen most of the phenomena of what we are seeing today. But the consequences of the recession, I think in large measure have made clients, particularly in the large firm area, say, "Hey, why should I be paying for a young lawyer to learn at my expense." And so law firms are saying if the young associate cannot sit at a second chair at a deposition or the equivalent, then he is not going to sit there because I can't charge for that. So there is a ripple effect of not learning as we would hope that people would learn. And then the other forces, I think Justice Kourlis identified them, in partaking from this task force report that I referred to, the price of law school we all know is going up significantly.

I was tempted to inject when we were talking about the history here, that law schools historically have been viewed by universities as a bit of a cash

cow, because there is not the kind of research that is required to support law schools. And tuition at law schools has way, way exceeded inflation. You add that to the fact that there's less, significantly less, jobs available, as Justice Kourlis said, so you have students who are now graduating with an average of \$125,000 to \$150,000 in debt while the median salary of graduating law students is down to now about \$50,000. If you are earning \$50,000 a year, you can't afford to make monthly payments on a debt of \$125,000 or \$150,000. Jobs decreasing, debt increasing, on-the-job training decreasing, and employers saying give me more practice-ready lawyers that are graduating, this has an enormous impact.

MR. DOYLE

Diane, in addition to some of these forces that Mike has identified for us, some of the organized bars, including the American Bar Association, which has a special role in terms of law schools, but also the State Bar Association, the New York City Bar, and others have made input and suggestions. Can you talk a little bit about that?

What roles do the organized bars have in identifying issues and in being agents of change in legal education? I also want you to address the issues regarding the role of Bar Examination in the preparation of new lawyers.

MS. BOSSE

Sure. First, I think that there is one statistic I came across recently that opened my eyes. Enrollment last fall in law schools was just under 40,000 students. The last time there were fewer than 40,000 first-year students in ABA-approved law schools was 1977. In 1977, we had 163 ABA-approved law schools. We have 203 now. I often hear, "There are too many lawyers. There are too many law schools. The ABA is approving too many law schools." I think there is a definitional problem among the practicing bar where people don't understand the role of the ABA. There is the "big" ABA which is the trade association. The "big" ABA is not the accrediting agency for law schools. The Department of Education recognizes the Council of the Section of Legal Education as the accrediting agency for the first degree in law. It is not controlled by the "big" ABA. Because of anti-trust reasons it has to be separate and independent from the ABA in performing its accreditation functions. It has Standards. When a school, either an unapproved school or a new school starts up and seeks to become ABA approved, if they come before the Council of the Section of Legal Education and Admissions to the Bar and show that they are in substantial compliance with all of the Standards, and have a reliable plan to be in full compliance within three years, they are entitled to get provisional approval.

There is not any effort to control the access into the profession by controlling the number of law schools or the number of law students, as we are often told about medical schools. I don't know how they control for fewer

seats, but in law that isn't the way it operates. I'm also told we pass too many people on the bar exam. We ought to keep more out as if we set a number every year. Of course we have a passing standard—if you meet it, you pass. We congratulate you and you move on.

There are the ABA standards, and it is argued in some places that the ABA standards are contributing to the cost of legal education and driving it up. Congress a few years ago in the Higher Education Act directed the General Accounting Office to make a study of that. They found accreditation standards were a minor contributor in some instances, but the driving forces were the resource intensive approach to legal education and the competition among law schools for higher rankings. In that regard the rankings reward are things that cost money, like faculty. The number of law schools increased by 11 percent from 2000 to 2013; the number of faculty increased in that time frame by 37 percent. And there are other things we can talk about that drive up cost in terms of schools being rewarded for spending money to improve their rankings.

In terms of the Bar Exam, we have, of course, a standard of minimum competence which we try to meet, and we are forever investigating ways in which we can improve that test by better incorporating skills, by better evaluating the minimum level of core knowledge and critical lawyering skills that we can test. There are many things that we can't test. It is a wonderful thing that the Daniel Webster Scholars have that standard client interview. I think it is a wonderful thing. We have 15,000 candidates a year coming from all over the world. 190 of the law schools of America will send graduates to take our test. The Daniel Webster Scholar Program is a wonderful program for legal education. I think it is a wonderful thing for law schools to consider adopting. It is not scalable. Having the program doesn't necessarily require that it would be a substitute for the Bar Exam, but it is a wonderful educational process.

The ABA Standards are changing. This summer there will be some changes in the ABA standards that I think are very forward looking. Law schools for the first time are going to be required to define what their learning objectives are: the outcomes they expect their students to meet and how they are going to assess their students. They are also going to be required to provide every student with six credit hours of experiential learning, either in the form of clinics or externships or simulation courses, which is a new change and I think a very positive one. Also, variances are available. I don't think that the real language in terms of a variance requirement has been changed as much as its placement and emphasis has changed so that law schools can begin to present plans for innovation and to obtain variances from the Standards. Perhaps an increased emphasis on that can be talked about. There has been already innovation in distance learning, which is a very important piece in controlling costs and moving forward.

MR. DOYLE

Mike, you have a comment?

MR. CARDOZO

So maybe we can provoke a little controversy. Appreciating what Diane said, there are some fundamental ABA rules that I think go far beyond asking for a variance. For example, if you are a third year law student and you are going to work for a legal employer to get some experience, and you are paid by that employer, then the work you do for that employer you can't get—I may stand corrected—you can't get academic credit. If you are not paid, you can get academic credit. If the private employer doesn't pay you, they will be sued under the Fair Labor Standards Act. That is not true if you go to work for a government agency. So I would suggest that there's an ABA rule that is standing in the way of the experiential learning initiatives that we talked about.

In addition, there are ABA rules as to how many hours you can be off-campus versus on-campus. I don't mean to get into the nitty-gritty of all of those rules, but I think we are talking about something a lot more fundamental than: Mr. ABA, give me a little variance because I have a potential innovative program. I think—and I have discussed with Jim Silkenat at the very beginning of the day—I think there is a fundamental need dealing with the basic issues that we are talking about here, for the ABA to make a major change, not just, yes, law school, come on we will give you a check mark, okay, a major change to make in this area.

MR. DOYLE

Diane, I will give you the chance to respond.

MS. BOSSE

They are listening to you, Mike. There is a rule out now from notice and comment from the ABA Council that would allow law students to be paid for externships for which they are getting academic credit. And the 20 hour limit in terms of employment has been—is also proposed to be deleted this summer.

MR. DOYLE

Diane, you said something during one of our conference calls yesterday, and I want to follow up because it is relevant here. In the times you have been involved with the ABA putting rules out for comments, how often do you get comments from organized bars, bar associations, private practitioners?

MS. BOSSE

I don't pay attention to all of the notes and comments, but you don't see very many comments from the practicing bar. The same is true with regard to the Bar Exam when we ask for comments. We never get comments from either law schools or the practicing bar.

MR. CARDOZO

How long does it take to change the rule from the proposal to implementation?

MS. BOSSE

Well, the rule, they have been working on changing the rule for a long time. If it gets changed, it will be effective in August.

DEAN BIERMAN

If I can add, not wanting to get into the details, but I can tell you the law schools are deeply into the details. Every seven years the ABA accreditation team will come and their job is to look at those details: are the law schools satisfying the requirements of standards in a very objective analytical assessment. Having worked for several years at a law school that does have a really different program, the contortions that the law school had to go through, Northeastern specifically, to run its cooperative legal education program, the contortions were outlandish. I mean absurd. It was a completely different schedule from the university, which created all kinds of problems, no doubt added expense of running different calendars. And a different calendar in the first year than in the upper year. Literally counting minutes because that is the way the standards are—how much time is spent in the classroom, how much time is out, the limitations on how that all fits.

When the team comes to do that accreditation assessment, it is hundreds and thousands of hours to comport with the requirements, to demonstrate, to write the report, to get the community involved. And, you know, we are down to discussing things about bathroom breaks and whether those things count in the class time or not. It's kind of funny but it's not when you are sitting there going through it and whether you meet the 55,000 minutes for this and the 42,000 minutes for that. You know, school got cancelled one day because of the weather, how did you make that up? Did you not make that up? Were all of the students there? This is just an enormous use of time, which translates to money of course. All of those things do contribute to the expense and the way in which—now, that is not in any way saying a rigorous accreditation program is not appropriate, but one wonders if there isn't a rigorous accreditation program that might be somewhat more flexible as the team comes in and looks at some of these standards, or more importantly the way in which the standards look at schools, particularly in this day and age

when technology and the influence of technology can be disruptive and those aspects of technology are just wreaking havoc with so many aspects of the academic experience.

MR. DOYLE

Having identified some of the factors that are in play and having a preview of the innovations that are out there, let's get into a little bit more detail about some of the innovations and some of the topics. John, if you don't mind, I will start with you. One of the factors that we heard discussed was the concept of making prospective lawyers ready for practice, which is one way to put it. I have also heard it described as profession-ready. Your article said client-ready, which is a good way to put it. If you could talk a little bit about your program, and also some of the broader changes that may be coming in terms of preparing students with the skills that they are going to need to actually practice the profession.

PROFESSOR GARVEY

I think first of all, if you haven't read it, the report that Mike referred to is an excellent report and summarizes a lot of what we are talking about very well. It was obviously a lot of hard work. Congratulations on that. The things that are happening—I think Luke perhaps referred to it—when the MacCrate report came out in the '90s, the biggest change that occurred was a more robust clinical component to legal education, so that change was really huge. But my career has been primarily as a lawyer and not in the academy. It is very clear when I came into the academy nine years ago that there's been a two-track system where clinical people are not received by tenured people as being on par. So there has been this diverging path. I think one of the changes happening in a lot of schools and in the discussion is—as we look at the things that Mike has been talking about, the need to be client-ready or practice-ready or however you want to phrase it, that isn't happening with the traditional Langdellian model exclusively. I don't advocate we throw that out. I think learning the doctrine of the law is important, and we do that well in the first year of law school, as the Carnegie report said, and there is a certain amount of absorbing information that is required before you can start practicing it. You are not going to go out and play baseball without understanding the rules. And so I think what has happened is the discussion has created—the clinics, that at first were out there sort of on their own, have become more and more a part of the legal education process.

I think as law firms continue to focus primarily on looking for students who can do it right away, that programs like ours are going to be in demand. We are getting very positive feedback from law firms because, for example, in the pre-trial advocacy simulation, they write interrogatories, they do requests for admissions. Court reporters come in and they do real time depositions. This is all on video which they can look at and reflect on. They

argue motions for summary judgment in federal court in front of real federal judges. They go through experiences that blend the doctrinal because they have to know the law in order to do what they are doing. They go out and have a simulation, and this is in the first semester of the second year, so that they are getting the experience and the feedback from real lawyers, real judges, real court reporters, and then they go forward and apply that.

We combine that with our experiential education in the externships. In the externships our current director Courtney Brookes does a phenomenal job of intentionally placing the individual student based on what that student's interests are, so that they come into the second summer with some understanding of what practice looks like. One of the things the students are doing in our Pretrial Advocacy simulation, for example, whether he or she is going to be a litigator or not, every Friday they turn in time sheets. When the lawyers who work with them in the summer meet them, they have experiences that you just can't get in law school unless you are in the first instance, I think, simulating those experiences to accelerate their progress, and then giving them real experiences in the clinics and then externship summer programs, and then allowing them to reflect on that and move forward.

We see a huge change from the second year student to the student in the capstone course in the third year where they are learning the client counseling skills. I don't know if that is a specific answer to your question, but I think that is one example. I think there are a lot of other examples out there and you mention them in the report. Schools are being more intentional about blending these two things and not thinking of them as separate events.

MR. DOYLE

Luke, if I could draw you in, you are in the situation of designing a curriculum from scratch. In regards to your experiences with Elon, what are the things you are looking at doing to try to incorporate some of these practice-ready, profession-ready, or client-ready concepts into your curriculum?

DEAN BIERMAN

John really hit it. The idea is we know it takes around ten years to become an expert. And that is really what lawyers are; they are experts on the variety of things that they are counseling their clients on. We have three years with the aspiring lawyer, and a lot of what is going on in legal education is talking about the third year. It seems to me, then, that, we have lost a couple of years. What I have asked the Elon faculty to do is think about a logical progression of an educational experience, thinking about what the competencies or the goals that we want our students to come out with and focus on that. The idea of some kind of a professionalism and ethics program or introduction early on, because if we are going to have them going out into a practice setting, they need to know a little something about conflicts. They need to know a little something about confidentiality. We don't require—in

many schools there are ethics courses required, but at no particular time. If we are going to try to make full use of the three years or two and a half years, we should give that to the students early on. I think one thing we need to think about is when they are getting that exposure if we are sending them out into a practice setting.

Thinking about those kinds of competencies, you know, there is no shortage of opinion about what the right competencies are, but really focusing on what a particular school wants to do and how they want to get there. So I have asked the faculty groups to really think about that and to arrange the courses in such a way—I have asked them to think about two placements so that there is this sort of logical progression, so that the full three years or two and a half years if you are able to do that and meet the ABA requirements, whether we get a variance or not. You know, those are not inconsequential considerations as we are trying to redesign the use of the amount of time that we have the students. So the idea of the logical progression, when should they get this professionalism, how does that fit into the ideas of some of the competencies that they need. But it's also some of the transactional work, making sure all of the students have exposure to those kinds of things.

I think it is worthwhile noting—and I think this goes right to the direction that John suggested and I think we all see—when I went to Northeastern, we convened a group of interested faculty members from around the country, and there were about ten of us who had the title of experiential education or experiential learning in our portfolio; director, dean, this and that for experiential learning. We are convening the second symposium on experiential learning in law in a couple of weeks. You are more than welcome to come to Greensboro, North Carolina. People have been working very hard for a couple of years on these issues, but there now are over seventy of those folks with that in their title. I think the idea is that schools have heard the message, the academy has heard the message, but the real question is how are we, who are involved with experiential education, using the time that we have with the students. Are we really thinking about a logical progression of three years, so we can cut into the ten years of becoming an expert? That is really what I think the switch is. How can we use technology? How can we use placements, whether we call them residencies or externships or co-ops? How can we use all of these different things at our disposal, while still being true to the traditional important aspects of putting the client first, thinking like a lawyer, the legal analysis and those sorts of things. It is not for the faint of heart. It is hard work to try to figure out how to do that, I think as evidenced by the fact that my grandfather would be relatively comfortable popping into a law school today.

MR. DOYLE

Mike, I see your hand up and I was going to ask you about this. I think the Chief Judge credited the law schools with being very responsive to the

increased emphasis on clinical courses and this type of learning of practice or professionalism, but they can't do it alone.

There has to be the opportunity for partnerships with the private bar and with government entities as well. I know you talked a little bit about what you did at the Corporation Counsel's Office. Can you talk a little bit more on what other opportunities are out there that the people in this room from the organized Bar, from the Judicial Institute and from private practice should be looking at?

MR. CARDOZO

Well, I think that's a good question because we in the profession outside of the academy—I think there were a couple of the earlier speakers who referred to having an obligation as well to try to solve this problem, but also an opportunity. Because all of these very interesting programs that we just heard about are obviously expensive. Clinics, I don't know the statistics, but they are very expensive. If I can work up to your question, are there other ways to give the clinical experience that is not as costly, or supplement the clinical experience, not to replace it. We talked about externships, but in the Corporation Counsel's Office, just to take one of many examples, one of the lawyers was a professor of appellate advocacy at Cardozo Law School, and the good Dean is sitting over there. It's none of my business how much she earned as an adjunct professor, but I have reason to believe it is substantially less than a full-time law professor. Those students then came back to Corporation Counsel's Office and wrote briefs, real live briefs. These are third year students. And because of various rules that exist if you are working for a government office, they had the opportunity depending upon the case to argue the case in the Appellate Court. That is real hands-on experience.

Similarly, Corporation Counsel just had a program with Brooklyn Law School where, again because the rules permit it, the students were in trial practice from one of the Corporation Counsel's lawyers, and then they came back to the office and they took that deposition, real live depositions, as third year law students. To take that another step forward because I'm talking government, there have been—and again this report identifies it, I'm just trying to follow up further—Credit Suisse has a program with New York Law School in which third year students at New York Law School are going to work for Credit Suisse, I think twenty or twenty-five hours a week. They are getting paid for it, so as I said they are not getting academic credit, but they are getting real hands-on experience. I think one of the questions to address, and we are trying to address it at the Bar Association, is how to get more private employers to partner with the law schools to do things like this.

Just while I have the floor, there are programs, I think it is the University of Hastings and others, that have what is called a Bridge to Work Program. So you take the example of Credit Suisse that I just mentioned and

you are saying to those students, “If you do a good job as a third year law student, you could work for me as a lawyer the year after you graduate.”

One of the other points I think we all recognize, and it is pointed out in the report, is that legal education does not stop just because you graduated. So one of the other exciting things I think is we can still try to pursue how can we get a full bridge to work. And, again, the Corporation Counsel’s Office has a program now. There are ten to fifteen Brooklyn Law School students who are working in the Corporation Counsel’s Office during their third year, and assuming good performance, will then work full time after graduation. The benefit to the employer is you are getting trained students already. I think there’s a lot in the private bar that needs to be pursued and could help in this area.

MR. DOYLE

Diane, what are some of either the accreditation or licensing rules that have been changed or need to be changed to allow more of this type of education? What are the requirements that the law schools must work under in terms of a mix between classroom work and clinical work?

MS. BOSSE

They do have to satisfy—New York has its own rules that do mirror the ABA rules, but vary just a little bit on the ethics. It has been 58,000 minutes, 45,000 of those in the classroom. Eighty-three credit hours, sixty-four in the classroom. New York allows thirty credit hours in clinical programs.

MR. DOYLE

Can we do it in six minute increments because that is how I bill?

MS. BOSSE

They have to use the right code, the ABA code.

I think it is important to understand the requirements. For example, there is a new credit hour requirement where, for each credit hour, you have to work so many hours outside of the classroom for every hour spent in class. These are driven by the Department of Education, which defines what a credit hour is. The ABA Council has both its accreditation function and its approval function. The accreditation function occurs when the ABA accredits law schools and that gives law schools the opportunity to get federal dollars. Otherwise they could not participate in federal loan programs. The approval process allows them to have the graduates sit for the bar.

So are there some rules that could change? Yes. But even without the Standards, law schools would probably look about the same because it is the culture. Could it change? It is changing. I think there has been a lot of innovation that we have seen in law schools that didn’t require variances and

that can fit into the culture. There are also law schools that are doing something that Justice Kourlis mentioned this morning, which is not trying to be all things to every person, but trying to find an area that they can specialize in, that they can offer students a unique program that can attract students. Law schools are also doing things in terms of non-JD programs.

MR. DOYLE

Robert, if you don't mind that I draw you in: This discussion that we are having about whether law schools have been emphasizing theoretical learning more than the practical skills learning, is this a conversation that's common for other schools, professional schools, to have and how are they dealing with it?

DR. LAPINER

It is absolutely. And I wanted to actually step in, in this regard, because of the increasing importance of internships within degree programs—and because the accrediting agencies are attempting to measure how much learning is actually occurring in these hands-on practical experiences. Moreover, there is a tension between paid and unpaid internships, not just a hierarchy of value or prestige among students: many worthwhile structured internships cannot involve compensation but do provide invaluable experience and exposure to practice.

It has become more common for some institutions, such as business schools, to require team capstone projects, in the last year of studies. Students work together under the auspices of a faculty member on a real live issue in the field in which they aspire to become professionals. Companies, government agencies, or not-for-profits organizations contract with the institution—sometimes paying a fee not to the students directly but to the sponsoring school. The faculty member assures that the project on which the students are working is consistent with their studies. When the fees come to the institution, policies vary. They could be disbursed for scholarship assistance, or a modest honorarium to all students, and primarily to cover direct costs for the students to participate—especially when travel is involved. The value of the obligatory capstone for which no student is compensated as such is that everyone is treated equally. And of course, if individual students distinguish themselves in the work and there is an opportunity for employment with the firm or agency afterwards, their experience gives them a leg up in that process.

I don't know if that is a work-around or compatible with the ABA rules, but this approach also puts the school in a contractual relationship with the organizations to make sure that they are indeed fulfilling their obligations to ensure that *learning* is going on—and that the students aren't just being exploited to do work that others would have been compensated for.

MR. DOYLE

I want to talk now about one of the other issues we identified as a factor driving some of these changes, which is the cost. Mike said it very well with a phrase that I have heard a lot of other practicing lawyers use, which is that law schools are a cash cow for universities—that they are not very expensive to run and tuition keeps going up. Is that right, John and Luke? Is that a fair criticism? If you don't want to answer it, I understand. I want to talk about that. And I also want to talk about what can be done and what should be done, what should be looked at in terms of trying to control the costs for legal education.

DEAN BIERMAN

I'm a new appointment. I had to go to the Board of Trustees of the University and be introduced and all of that. The Provost, who you actually report to as the Dean—you actually report to the Provost, not the President, although the President is paying attention—but the Provost comes over, and Elon is moving into a new athletic conference. And it is a little step up academically. And the Provost came over to me and I guess they have provost meetings of all of the schools in the athletic conference, because they do pay some attention to academics, I guess. And so the Provost has been going to those meetings, and he came over and he said, "Nobody talks about athletics at these meetings. They talk about the law schools because there is such a problem." And all the provosts do is complain about how much it is going to cost them this year. You know, it's a problem. It may have worked in the past, but the past is not necessarily the future.

I'm inheriting, I probably shouldn't say this out loud, but I'm inheriting a school that's in debt because of the last couple of years, the last two or three years when attendance figures fell through the floor in legal education. We have to pay back the University for these subsidies they have provided. They are not happy about that. That's part of the—you know, these are serious concerns. Universities, non-profit. These are not-for-profit educational institutions, and they are not there to subsidize the law school or any other school. We have to figure out a way to make our way and pay back when we are subsidized. You know, I know schools—I'm sure you all have heard the stories—some schools are not going to make it. That number, 201, is not going to be the case somewhere in the not too distant future.

It is sad and disappointing, but it's just the way it is. There are schools that are having personnel cuts. There are schools that are staying alive just because of very generous contributions from somewhere. You know, this is not my grandfather's law school. This is not a cash cow. I read something today that Harvard is looking at budget cuts because of where their endowment is. You know, it's Harvard for crying out loud. That's just a different set of dynamics that we are dealing with today, and it is really, really challenging.

MR. DOYLE

Are some of the changes that we have already talked about in terms of skills training with the externships and clinical courses and things like that, does that make it more or less expensive?

DEAN BIERMAN

There is some scholarship in the literature because we really have started to look at this. I don't know. It seems like it would be more expensive to me because the classes are smaller. It is sort of logical. I know that at one of these clinical conferences I went to a couple of years ago they showed some data: In 1987 the average number of students in clinical classes was 24, and in 2010, I guess, the number was 8. You know, you tell me what the implications of that are. I mean, like, higher education generally we are being asked to do a lot more. Students are coming in differently prepared. That means you have to have different faculty. Scholarship is still important whether we like the way it is looked at. But we subsidize our scholarship, unlike most schools, on tuition dollars, not on outside research grants. Is that something that we should be paying attention to? Probably. You know, there's a history for why that is, and maybe it worked at an earlier time when schools were flush and growing and the legal profession was growing. This is not that moment in time, and we just need to think about doing some of these things differently.

MR. DOYLE

Robert, I think you had your hand up.

DR. LAPINER

You have to differentiate among institutions. Many private schools—some are on top, some are on bottom. Within universities I don't believe law schools are the cash cow. What has happened at least among the publics, is that many law schools have escalated their fees to “market rates” in order to become less dependent upon increasingly uncertain state funding—and they could do so, because it has been perceived that more expensive tuition could be offset given the nature of the profession. (Obviously, with a high proportion of lawyers no longer earning high salaries, that rationalization may change).

The general idea that any school is a cash cow is, I think, going out the door. Mostly every school now has to find the resources it needs through philanthropy or other means in order to provide the quality of education that it must assure.

This said, the one advantage that law schools have with regard to faculty-related costs is that they don't require scientific laboratories. It is an assumption that most of the costs are in instruction and in an appropriate

instructional environment and not in specialized research environments—although law schools do often have beautiful physical plants.

DEAN BIERMAN

We also don't have undergraduates. That is a distinguishing characteristic. The presidents scratch their heads and ask why we are spending all of this money when we don't have any of these other people. Graduate students, you know, there are LLM programs. Increasingly we see schools looking at master's programs and a variety of different ways for non-lawyers, for folks mid-career who are thinking about regulatory compliance or health care, you know, different areas to enhance their careers—but those are still relatively small, and there are no undergraduates. The key is a JD program. That is the core of the law school, and that is what the ABA accredits and really pays attention to. Not that they ignore these other things, but it is the JD program at the core. And we really have to get that right and that's not a cash cow. Not only is that cow gone, that cow is way out the door.

MR. DOYLE

We have identified the cost as an issue, as having an impact on the legal profession—with students owing so much money, they can't accept certain jobs that don't pay enough to service their debt. What ideas are there, what innovations are out there or being discussed in terms of trying to control the cost of the legal education? Some people mentioned the third year. The President of United States mentioned the third year of law school and whether it is worth it or not. What other ideas are there out there?

MR. CARDOZO

I don't agree with the President of United States either, and the City Bar Association takes the position that they think we should still have the third year of law school. But this is obviously very difficult, but do we really need as many full-time tenured professors teaching all three years because again, and it may be easier to do this in a big city like New York, but there are a lot of qualified lawyers out there who would jump at the opportunity in an experiential learning context to teach. And so the example I have always used is if someone is taking an advanced tort law course, should that course be taught by a professor, in all due respect, who probably knows every tort case that has ever been decided, or would the student get more out of it if it was taught by a practicing lawyer who has tried a large number of cases, and on the side that student can come back to the law firm and work with that lawyer?

And so I think really one way to potentially reduce the costs in the long term—and again, this runs into ABA rules—is to ask: can we have fewer tenured professors and more adjunct? And I know there is a problem because you want to make sure the student is getting the pedagogical and learning aspects, but I think this is a major area that should be explored.

MR. DOYLE

John.

PROFESSOR GARVEY

I agree with you, Mike, and I think that one of the things that I would do if I were looking at a law school or the legal education problem in general would be to say, let's reverse engineer it like we did with the Webster Scholar Program and what do we want to see. Since the Bar Exams in whatever form are supposed to be outcome measures, why do we worry so much about the input? If the outcome measure is a legitimate measure to determine whether the lawyers have gotten what they need in order to practice, why do we care whether they are taught by an adjunct or by a tenured faculty member? Why do we care what the student to faculty ratio is? Why do we care how much is online versus in class? I think the technology is changing so fast, and there are so many ways to teach people now that weren't available before.

I agree with you about getting people excited who are out there practicing. In our program we get volunteer judges. The court reporters—I have a waiting list of court reporters. Because I bring them in there and I give them a chance to show these new law students what they are supposed to do during a deposition. These court reporters are so excited to have people that actually listen to them. The first few years I had to call them up and say, “Hey, would you do this for me as a favor?” Now I have a waiting list. I think you find the bar gets really excited to pay back to the law school. There's a lot of energy out there that is untapped. Most of it is free.

With respect, I disagree when people immediately say that something is just not scalable, because there are a lot of things that are not scalable under the current circumstances, under the current rules, but a lot of what is not currently scalable could be scalable if we were more innovative about it looking forward. I think an example of that is the Glasgow Graduate School of Law where we first learned how to do the standardized client testing. They tested 256 people through the standardized client testing with 8 standardized clients. You could scale that. We could scale that. Every school in the United States could have a standardized client program and the cost would not be prohibitive. So there are a lot of things we can do if we just start with what would be the best outcome, and then work back to what to do to get there.

MR. DOYLE

Diane, if you don't mind if I pick on you, we had a discussion yesterday and one of the topics that was thrown out was degrees other than JDs as one way possibly to address the cost concerns. Could you talk a little bit about that?

MS. BOSSE

I could. Could I say one thing about what John just said? I didn't mean to suggest that the program is not scalable within the law school. I certainly think it is. It's just that my concern is the number of people coming out when the program is used as a substitute for the Bar Exam. But I commend you for the work you are doing there. I certainly agree with the idea of the use of more adjunct faculty. That is a good way to address costs. I don't think the standards are that prohibitive in that regard.

In terms of the non-JD, there were over 11,000 non-JD students in over 140 something law schools last fall. One law school here in New York awarded more LLMS than they did JDs last year, and that is current practice. So there's a lot of that going on across law schools, both master's programs, as Luke referred to, and people midcareer who might want to get an education in law. But 75 percent of the people who are coming into non-JD programs are foreign-educated people. And for the most part, they are coming into those LLM programs for the purpose of being admitted to practice in New York, which is generally the only place that they can sit to take the Bar Exam. We have 30 percent of the people taking the Bar Exam in New York who are foreign-educated people, over 4,000 of them a year. They come from 120 countries all around the world. And that presents a unique set of challenges.

There is a great demand for admission in New York because of a number of factors including employment credentials, the fact that New York law is viewed as the law of choice in many international contracts, and also because they may be viewed by law firms as having some fluency and experience in English and in international affairs that makes them more employable. So we do see a great demand for that, and the law schools are responding with developing programs that meet the Court of Appeals rules that are somewhat restrictive in terms of the content of the LLM programs. Neither the ABA nor anybody else accredits those programs. All the ABA does is acquiesce in the creation of those programs to the extent that they don't detract from the JD program.

MR. DOYLE

Given the fact that we only have a couple of minutes left, I will go to each panelist. I gave our two professors five minutes to tell us the entire history of legal education, so I will give each of you a minute to tell us the future of education.

The afternoon panel is going to be discussing the impact of the changes in legal education on professionalism and the inculcation of the values of professionalism on prospective lawyers. What advice would you give to the afternoon panel about that type of discussion? Mike, I will go to you first.

MR. CARDOZO

Well, I think people probably can tell that I'm a great proponent of letting the private bar help get significant experiential learning in the third year of law school, which I think can also reduce the costs by the ways that we have talked about.

As to the afternoon panel, would you like to inculcate—do you think professionalism can be inculcated better by an ethics course and the various other courses that one might take in law school, or would you gain something professionalism-wise if those students instead were spending time more analogous perhaps to a medical internship, out in the field learning what it is like to practice law in an earlier stage.

MR. DOYLE

Thank you very much. John.

PROFESSOR GARVEY

I will just answer. I think I just answered the question about the future of legal education. I think it depends on an entrepreneurial spirit, and the willingness to look at things from a reverse engineering standpoint.

I think as far as the professionalism issue, I do believe that when you get to an experiential education format, you build upon it from year to year. For example, in the program, the pre-trial advocacy course simulation is an FMLA case that leads to a trial advocacy course, and we use the same fact pattern and build on the ethical issues. I think if you can teach and understand that the opportunities are threads that build a fabric of professionalism, so that it is not something that you get in a single course, but something that you get through experience.

DR. LAPINER

I assume the law schools would continue to lead in terms of reflective practice, innovative application, and engagement with the most important issues facing society.

MR. DOYLE

Thank you very much. Diane.

MS. BOSSE

Well, my one minute is a plug for the Chief Judge's program on pro bono scholars. For the first part, I think it is a wonderful program and I think the law schools will embrace the Chief Judge's passion for addressing the issue of the access to justice. It also addresses the cost concern, because it allows people to be admitted to practice at an earlier point, and also adds to the skills

training that, I think, new lawyers need while in their last semester of law school.

MR. DOYLE

Luke, we gave you the first word and we will give you the last word.

DEAN BIERMAN

It is hard to disagree with anything that anyone just said here. It all makes sense. I would only add in doing all of these things, we do have to keep in mind that with regard to the professionalism aspects of this afternoon, you know, it is not a lawyers' school that we are running. It is a law school, and that's what we are concerned about, that kind of education. We need to be true to those values. If there is anything that I have taken away from here, it is that there has been an awful lot of discussion and an awful lot talk. We thought a lot about these things. I think it is time to start doing and really experiment and do some of those entrepreneurial tasks and see if they work. If they work, great. If they don't, let's learn from having tried and make some adjustments. I do think that it's time to not just think, but to do.

MR. DOYLE

I want to thank each of our panelists for their hard work and thoughtful input. What we are going to do now is break. Lunch is going to be served on the third floor in the Omni Room. Our luncheon speaker is Professor Fred Rooney. Thank you very much.

INTRODUCTION OF LUNCHEON SPEAKER

HONORABLE JUANITA BING NEWTON

DEAN, NEW YORK STATE JUDICIAL INSTITUTE

My name is Juanita Bing Newton. I'm a judge in the New York State Court System and more importantly right now, assigned as Dean of this wonderful Judicial Institute. I have three messages for you today. First, I would like to welcome you to our Judicial Institute. It is a fabulous facility, isn't it? Unfortunately over the years, with budget cuts, we don't get to use it as much as we'd like; so it certainly is our pleasure to welcome you today.

My second message is to acknowledge our new Dean here at Pace Law School, Dean Yassky. Is he here? I know he was here earlier. I think we forgot to acknowledge him earlier. He's doing a wonderful job. There is a relatively new incubator program here at Pace as well, and it's run by Jennifer Friedman, who is here. So, Jennifer, please stand.

JENNIFER FRIEDMAN, ESQ.

This is my boss.

JUDGE BING NEWTON

Jennifer is an excellent lawyer. She has offered an opportunity if you have time at the end of the program and would like to walk over and see the setup for the new incubator program.

And then thirdly, and most importantly, it's my pleasure this evening—this afternoon to introduce our luncheon speaker, Fred Rooney. He was named, and we can name him something also after this, but he was named by the ABA as “the father of the incubator;” and the program represents his passion for increasing access to justice. On “incubator” issues, Fred is an evangelist—he calls himself an evangelist, a Johnny Appleseed, a man on a mission to develop postgraduate programs which create both opportunities for attorneys and recent graduates to hone their skills and provide a way to expand access to justice. He's taken his program on the road, so to speak. He tells me last year he flew fifty times going to programs both nationally and internationally. He and Judge Fern Fisher have taken the incubator message to India three times last year. He is a Fulbright Fellow working in a university in the Dominican Republic, where he is starting a law school curriculum and incubator program. He believes access to justice is what it's all about and has added young attorneys training to the access mix. It's my great pleasure to introduce a 1986 graduate from the CUNY School of Law, our luncheon speaker, Fred Rooney. Please welcome him.

LUNCHEON SPEAKER**FRED ROONEY, ESQ.**

DIRECTOR, INTERNATIONAL JUSTICE CENTER FOR
POST-GRADUATE DEVELOPMENT,
TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER

Good afternoon, everyone. It's a pleasure to be here. I'd like to thank the Institute and the State Bar for allowing me to be the luncheon speaker and to all of those who are in attendance. My message is not necessarily an academic one, because I've never really considered myself to be an academic. I am currently the Director of the International Justice Center for Post-graduate Development at Touro Law School and have been acting in that capacity for almost a year. For me to give you a sense of what our incubators are all about, and how they came about, and what's going on nationally, I'm going to ask for your indulgence as I step back about 26 years to a time when I was about to graduate from the City University of New York or CUNY Law School.

Before I began studying law at CUNY, I worked as a social worker in Pennsylvania's Lehigh Valley. My work was predominately focused on immigrant adults living in Allentown and Bethlehem. I chose CUNY because it was a brand new school and it had a very unique mission to further law in the service of human needs, something that was very compatible with my goals and aspirations as a social worker. When CUNY opened its doors in 1983, I was part of the first class. It was a wonderful three years. I don't know how many law students can say that, but I enjoyed every minute of it, because it challenged me to develop the skills that I would eventually need in order to represent underserved communities. And, just as a slight regression, having lived and worked in Lehigh Valley, there was a very large Latino community at the time, as there still is. Fortunately, Spanish is my second language, so I was able to take my skills and experience of working as a social worker into the study of law.

In 1986 when I graduated from CUNY, like all other graduates, I was very interested in starting to work. Back in 80s there were certainly a lot more jobs available for graduates, and so I took my first job as a Legal Services Attorney in Allentown, Pennsylvania. For me, it was a dream come true, because at Legal Services I could put into practice all the things that I had learned. I soon found that my first year income at Lehigh Valley Legal Services was so low that under the federal poverty guidelines, had I gone in to apply as a client for legal services, I would have qualified for the same free legal services that I was providing my clients. My salary with one child and one on the way was about \$18,000 when I started. My real struggle was what do I do? I loved working for Legal Services because it was a place where I could learn to develop some of my skills. But in order to survive that first year, I had to apply for federal benefits. My kids fortunately had more to eat because of the WIC (Special Supplemental Nutrition Program for Women, Infants and

Children) program. Our house, that winter, was warmer because of the fuel assistance I got through the State of Pennsylvania. When I went to apply for subsidized daycare for my children, the daycare administrators couldn't believe that as a lawyer, I was asking for a subsidy in order to be able to keep my kids in daycare.

At the time I was so determined not to be co-opted into taking a job with a large firm. My uncle had been in Congress, my father was an executive and had connections, and they both bugged me by saying, "You have to take a real job. You can go with a firm... I'll talk to so and so." I said, "I don't want to go with a firm. I want to do what I went to CUNY Law School to do, and that is to serve human needs." My options were two in 1987: I could either go on food stamps, for which we would have qualified, or I'd have to go out on my own. A friend of mine, Michele Varricchio, who had graduated from Antioch the year before I got out of CUNY, and I decided to team up, and we opened up a practice in Allentown, Pennsylvania. I really believe I received a stellar education at CUNY and learned all of the theoretical areas of the law I needed to learn in order to pass the bar. However, CUNY like most law schools, at that time, was only beginning to develop practical courses that would help law graduates develop the skills that they need to create an economically viable practice once they get out of law school.

The bad news is it was really quite a bit of a nightmare for the first couple of years. The good news is that as time went on, both my skills and Michele's skills developed, and we were able to serve a sorely underserved community. A number of years later, I left the practice in Allentown and opened up a new office in Bethlehem, and I had three or four lawyers who were working for me. I really would not wish those first couple of years on my worst enemy, because I don't think anybody should really have to go through the difficulties and turmoil that we did in order to develop our practice skills. What we needed was ongoing professional development that included more than mandatory CLEs. Prior to 1998, it was generally believed that for the most part, law school trained you and then you'd get your degree as you walked across the stage at graduation. After that, the only time you'd hear from your law school was when they were asking you for an alumni contribution, or during alumni weekend when they would offer you a few CLEs and bagels. That was the model prior to 1998.

So there we were in Allentown with few ways to our develop skills and we didn't have mentors. We didn't have anybody to turn to, and it was grueling. The other thing we were even more clueless about was how to run a business. I was a social worker and Michele didn't have any business experience, and so we were really cutting our teeth for those first couple of years trying to figure out how to make a go of it. Thirteen years after I graduated from CUNY, I went back and I heard about a program that was starting with funding from the Open Society Institute, the Soros Foundation. Also, in 1997, four law deans from across the U.S. got together and started

trying to conceptualize ways to help law graduates who very much like myself had the great desire to serve our communities, but who didn't have a clue as to how to go about doing it. The University of Maryland, CUNY, St. Mary's in San Antonio, Texas and Northeastern were the four schools involved. The deans came together and said, look, we have got to figure out ways to help our graduates who want to do the right thing with their law license. In October 1998, I made a two-year commitment to go back to CUNY to try to create a program that would be a support network for our graduates. In the meantime, the three other schools tried to do the same. When I started to bring CUNY grads into the program, I found the first thirty lawyers who came back to be a part of this network were as isolated in their practice in the five boroughs as I was in Allentown. The fact that they were living in a big city didn't mean that they automatically had connections or the ability to try to make sense out of how to be a lawyer. They struggled, and in many instances felt like they were failing.

What we tried to do in 1998 at CUNY is something that I think of as the beginning of a real renaissance or movement designed to create what we call "the longitudinal law school." Law schools began to realize that they had an obligation to continue to educate students, and absent fulfilling the obligation to continue educating, lawyers were not going to learn. Lawyers at that time may have gone to get CLE credits or taken a other course but things changed when the MacCrate report came out very strongly in favor of continuing education for lawyers. The Carnegie Report was also influential and like MacCrate challenged law schools to do more than just confer degrees.

In 1998 I believe we started in Maryland and New York, the first movement in postgraduate legal education. What did we do? We tried to create for our graduates, who were spread out all over the five boroughs, Long Island and parts of New Jersey, a support network for them, which provided them with the kind of support they'd receive if they were in a firm. If you go to a large firm as an associate, you have a senior partner, you have law librarians and you have a whole array of services to help you. The solo practitioners in our network did not have this support. We became the senior partners. We had a law librarian. Soros gave us money to create this first program. And I will say to you—and I wish some of the members were here, because they can say it a lot better than I—we revolutionized small-firm practice for CUNY grads and University of Maryland grads. We threw out a lifeline to people who wanted to do the right thing and just needed the helping hand.

That program went on very successfully and grew from 10 lawyers to 30 lawyers, to 100 to—I think by the end of last year there may have been 250 or 300 lawyers in the CUNY program. All of them were able to eventually be connected electronically, and it really made life much easier for all of the people who were a part of it. After a number of years went by, CUNY Law faculty member Sue Bryant and I and talked about ways of creating a program that was not reliant on the use of electronic e-mails, long, drawn out trips to

Flushing or the Internet. We wanted to stop forcing people to come back to Flushing at 5:00 on the BQE and LIE. In essence, our dream was to create a program where we could bring together a group of lawyers under one roof and train them in a way that enabled them to avoid making mistakes and developing bad habits that are sometimes very hard to break.

The establishment of the first incubator in December 2007 was really the beginning of the incubator movement. Once up and running, we convened a group of nine lawyers, six lawyers who were interested in starting their solo practice, and three lawyers who were interested in starting a not-for-profit organization. Having a physical space for the nine lawyers meant that for the first time they didn't have to travel or battle the traffic in order to take advantage of our services. For them, their practice would be housed on Fifth Avenue and 27th Street, a place that they'd call home for the next 18 months. The newly acquired space would become a place where they would meet their clients and build their law practices or not-for-profit organization. For a very nominal amount of money we were able to provide them with all the amenities of a law office—desks, chairs, you name it, everything that they needed. And we were able to get some State funding through some capital grants from an assembly member that enabled us to buy the computers and everything else which was needed.

When Sue and I were sitting around in our offices talking about of a way to support our graduates who needed a helping hand and wanted to do the right thing in their community, we didn't have any idea that eventually, in 2007, the idea would take on a life of its own and become a movement instead of just a simple idea. Since that period of time, incubators have been established all over the United States.

In June of last year, Patty Salkin, Dean of Touro Law School, reached out to me and advised me that Touro was interested in establishing an incubator for Touro Law graduates. I appreciated her offer to join Touro Law and to help launch the first incubator on Long Island in November 2013. I've been at Touro ever since.

For the most part an incubator starts from the ground up and a strong foundation needs to be created. For example, you have to find a way to equip the space with the amenities of a law office in a way that doesn't create a financial burden on the institution. Once we had a plan drawn up, the incubator was up and running within 60 days. Judge Fisher was on hand for the opening, as were Dean Salkin and members of the incubator. We went from an empty space to a fully functioning office for twelve lawyers. I'm happy to advise you that since we formally launched the incubator, the lawyers have been doing amazing work developing their skills and learning how to create an economically viable solo practice. One of our members is in the process of establishing a not-for-profit organization that focuses on the rights of the disabled.

As I mentioned, incubator programs and residency programs have cropped up all over the United States, and I know that one of the slides will provide you with an e-mail address for an ABA link that lists where incubators are located and the services they provide to their member lawyers. My guess is, as of today, there are probably thirty to thirty-five programs that have self-identified as incubator programs. The other interesting fact is that there are residency programs that have emerged, as well. I'd like to just focus briefly on the Pace model. Jennifer Friedman left brochures that describe the Pace model on each table and when you read it, you'll see that it does a nice job of describing the program's unique functions. We don't classify the Pace model as the traditional incubator program where lawyers join to develop their own solo or small-firm practice since it functions like a legal residency program. Jennifer will be around to speak to you about it. It's a really wonderful program that provides actual employment opportunities for four or five Pace graduates who become residents who work focuses on issues related to immigration. The model that we started in 2007, in many ways, has been the prototype for many law schools in the U.S. to follow when they start an incubator. As Judge Bing Newton mentioned, I receive calls by law schools and organizations all over the country that seek the kind of technical support that institutions need to conceptualize and then create a program for their graduates.

Another fascinating aspect of the incubator movement is that it's no longer just law schools that are starting incubators. There are bar associations across the United States that have been creating incubators for bar members. Specifically, the Chicago Bar Foundation has an incubator for thirty lawyers who have graduated from a wide spectrum of law schools in the Chicago area. The Columbus, Ohio Bar has a program that's doing very well, and so you can see that there are models of postgraduate support for lawyers that are starting all over the country.

Last year, as Judge Bing Newton mentioned, I was awarded a Fulbright Fellowship, and I spent a year in the Dominican Republic. While there, I helped launch the first incubator outside of the U.S. What I find to be the most interesting aspect of the Dominican program is that because there is no clinical education in the Dominican Republic, law students have virtually no chance whatsoever of getting any type of practical experience during their education. What we did for the first time ever in Santo Domingo was a bit of a deviation from the norm in that we incorporated five lawyers and five law students, the equivalent of 3L law students, into the Dominican incubator. It really has been one of the most successful programs that I've seen anywhere, because the students are provided with an opportunity to work side by side with lawyers, something that has been extremely rewarding for both the students and for the lawyers.

Last month we had a conference on incubators at Touro Law School on Long Island, and to give you a sense of the interest, there were 112 people in attendance. We had people who flew in from Africa and from India and

someone who flew in from Europe. Additionally, 10 people came from the Dominican Republic. All of this has emerged from the idea of creating a little space to be able to train and support CUNY lawyers. It has now taken on a life of its own.

The next incubator outside of the States is going to be in India. As you look at the next slide, you may see it and say, “Wait a minute. India? I see the Dominican flag.” What we are doing now is creating a synergy between the Dominican incubator and one that is being formed in India. Students and lawyers from the Dominican incubator traveled with me to India where they provided support for an incubator to be launched at a law school in Pune.

I mentioned that there is a slide that I think is important for those of you who would like to get a sense of the diversity of incubators throughout the United States. I currently serve on the Standing Committee for the Delivery of Legal Services, which is meeting today in Washington. As you can see, instead of being in D.C., I’m glad to be here with you today. The Standing Committee has graciously enabled us to be able to use its website so that we can capture information about incubators from all over the country about programs and catalog it on the Committee’s website. If your organization has a functioning incubator or residency program that is not on the list, it makes some sense to be listed, because we now have a listserv, and there are in excess of 50 or 60 people subscribed to the listserv and they communicate ideas on how to better support graduates. The idea, again, of the longitudinal law school, is that law schools have an obligation to support their graduates. That is the embodiment of what we’re doing at Touro and is what Jennifer and her colleagues are doing at Pace. I know that Albany Law School has a program, and there are programs throughout the State of New York that are all a part of the movement.

There are a few suggestions I’d like to make, and one is based on some work that I’ve been doing in California. About a year ago, I was invited to speak before the California Bar Association’s Access to Justice Commission. The Commission formed a subcommittee on incubators that’s chaired with Supreme Court Justice Goodwin Liu. Justice Liu has really taken a lead in identifying methods and funds to advance incubator development in a very serious way. When I was before the Commission, I said to them as respectfully as possible that if anything in California were to lead to the rapid advancement of incubators, it would have to come from the top. During my remarks, I implored members of the Committee and the Subcommittee to do whatever they could to help law schools launch new programs. Last month, they announced that \$200,000 has been made available through the efforts of Justice Liu and the Committee and that it funds would be used as seed money for programs that law schools in California and other law organizations in California can apply to receive to in order to be able to get new programs off the ground. The California State Bar has scheduled three meetings to explain the history of law incubators and the steps organizations will need to take to apply for funding once an RFP has been released. The first meeting was held in

LA last month, and I was invited to talk about how to start an incubator. In California, they are very serious about using incubators as a way of providing access to justice as seen by the number of law schools in California that have created or that plan to create postgraduate programs for law graduates who are very interested in becoming part of the incubator movement.

Now that I have the podium, I'd like to make a plea for law schools in New York to think about ways to collaborate. The value of law schools collaborating in incubator development is immeasurable and highly cost-effective. To begin with, incubators don't present issues of competition among law schools. We all know that these are very difficult times for legal education and that there is a tremendous amount of jockeying for a limited applicant. In that area, competition exists. But when students graduate and they get their degrees, there is no longer competition and law schools shouldn't feel that if they work together, they are somehow going to inch themselves out of prospective students. In California, Thomas Jefferson Law School and California Western Law School, which are two law schools that have a fierce competition for applicants, are working together to create programs that are jointly hosted and jointly sponsored. In a lot of ways they are reducing the cost of creating and sustaining these types of programs. For example, in New York City it would make all the sense in the world for the New York City law schools, Long Island law schools and upstate law schools to come together to see if there is a way that we can combine our efforts.

I would make the plea for those of you who may be in a position of authority to think about funding an incubator. It doesn't take a lot of money to get an incubator off the ground, and depending on how big or how small it is, it doesn't take a lot to sustain it. With available funding for law schools and Bar Associations to create incubators, the number of lawyers working in incubator programs will grow and the number of people with unmet legal needs who are served by incubators lawyers will grow as well.

With 12 people at Touro and 8 people at CUNY, and with a program that has just started at Hofstra, there is much momentum within the incubator movement. I think the real challenge for all of us in this movement is to try to figure out the best way to collectively take advantage of the momentum.

I know that I've set aside some time for questions, and so if anybody has any questions about incubators please feel free to ask them.

QUESTION FROM THE AUDIENCE

When I graduated from Harvard Law School in 1959 and went back to Pennsylvania to practice law, there was a mentor system. It was a six-month requirement, or internship, that you had to serve if you wanted to be able to practice law in Pennsylvania. Do you think they should go back to that system?

MR. ROONEY

Anytime that there are mentors available for new lawyers, it's a plus. It's a blessing not only for the lawyers who are being mentored, but also for the clients that they serve, so I would strongly urge Pennsylvania to go back to that.

QUESTION FROM THE AUDIENCE

I was interested in terms of the types of clients that the incubator served. Are all of your clients strictly pro bono, or are there sometimes clients who may be like a small business or start-up that can afford to pay a little bit of money, maybe under market rates, if you will?

MR. ROONEY

I appreciate the question, because it really touches on an important point. The bottom line for incubator lawyers is that they have to be able to earn a living, pay their law school debt, pay their malpractice insurance and cover the costs that are related to running a law practice. While pro bono is important, it's not practical if you're struggling for survival. That's why low-bono services initially make more sense.

We have a 100-hour requirement for pro bono during the first twelve months, but we also try to get the lawyers to understand the value of low bono or reduced fee services. For example, if someone comes in the door that has the ability to pay \$200 or \$250 an hour for legal services, we would never tell a lawyer that he or she should not take that case, because that's what will create them with the bread and butter that they need to survive.

The other thing I would mention is that, at least in New York, and now I know in San Diego, we have been very fortunate because the New York City Council and the State of New York have been very supportive of the CUNY incubator. To raise funds for the incubator, I would go to City Council members and to State-elected officials and say "Look, I know and you know that the biggest problem that you have in your office stems from your constituents who have unmet legal needs, correct or not?" Almost always they would agree and answer by saying something like "Yeah, we don't know what to do with people who call us every day and don't know where to turn because their attorney ripped them off, their retainer disappeared," and so on. I said to them, "Look, we have a group of twelve lawyers who we can bring into your districts to serve your constituents. All we need is some discretionary money." That's how we began. For example, in the case of City Council, we started with two or three members of City Council who agreed to give us \$5,000. After they saw the value of having competent, energetic, committed lawyers coming into the district who set up shop in senior centers, temples, mosques, community centers and churches. The following year, \$5,000 turned into \$10,000, then into \$20,000.

And then the case of Councilmember Michael Nelson—I don't know if any of you know Michael Nelson, five or six years ago he began work with us by giving us \$5,000, then \$10,000, then \$20,000, then \$30,000, then \$75,000 a year. Allocated funds were used to pay the lawyers from the incubator who were placed in his district. Each of the lawyers was paid \$75 an hour for his or her time. The people served by Michael Nelson's grant of \$75,000, which was really the highest of any City Council member, were numerous. Constituents served were eternally grateful because in many instances, for the first time they were able to sit down and talk to a lawyer who could really help them with their problems. For example, seniors were able to get healthcare proxies and wills and they received other documents that they needed but just could never afford. There has been a lot of public support to compensate the incubator lawyers for their services. The money they earn creates an income stream for the new lawyers as they start up.

In addition, with the supervision and mentoring and ongoing quality control mechanisms in place, the lawyers in the incubator were able to deal with hundreds of people with unmet legal needs throughout the City each year.

QUESTION FROM THE AUDIENCE

Do the incubator programs, do any of them provide contact between participants, recent graduates and experienced senior lawyers who may be mentors or guides in certain practice areas and help them out in providing legal services?

MR. ROONEY

Yes, and I can tell you, at least with respect to the Touro model, the Touro alumni community has been very supportive and very generous, as has the faculty. The faculty members will come in and provide training and different CLEs on different types of areas of the law. So mentoring is essential, and having a core of committed mentors who will be there when we need them has been extremely useful.

QUESTION FROM THE AUDIENCE

Are there certain practice areas that lend themselves more so to the incubator system? And the second question: Have you formed alliances or linkages with bar referral programs?

MR. ROONEY

The answer to the first question is "Yes." As I mentioned, when I reached out to City Council members or State-elected officials, they always had an idea of what the pressing needs for their constituents were. I'll give you another example. In 2008 through 2009, the biggest problem in Washington Heights in Manhattan and Bed-Stuy and Fort Greene in Brooklyn were

unscrupulous landlords who knew that the value of tenants' apartments were skyrocketing, but they also knew that they were stuck with rent-stabilized and rent-controlled tenants. So what did they do? You can't just imagine what they did to evict tenants. As evictions began to rise, life for tenants became unbearable. Adriano Espaillat and Hakeem Jeffries were two of the elected officials who gave us money to train the lawyers in the incubator in the areas of landlord/tenant law. Working in conjunction with Judge Fisher and working in conjunction with the courts, the lawyers, in a very short period of time, developed incredibly strong skills in landlord/tenant law by representing tenants. These are lawyers who prior to coming into an incubator didn't know anything about landlord/tenant law.

An example of just how helpful incubator training in landlord/tenant law can be is demonstrated in the case of Pedro Rivera, a CUNY grad who came into the incubator and who was very diligent in his approach to learning landlord/tenant law. About six months after he was trained and started representing tenants through Judge Fisher's Volunteer Lawyer for the Day Program, I asked him in passing, "How are things going?" And he said, "Eh, everything is going well." And I said "Pedro, give me a little bit more information, 'Going well,' but how well?" Pedro, who's the kind of guy who doesn't like to talk about himself, casually said, "Oh, I just got a rent abatement for 26 families for a year in Washington Heights." I said "What?" The 12-month rent abatement, which eventually turned into 18 months, was a highly impressive accomplishment. When Pedro told me the good news, I immediately called Adriano Espaillat, and I said, "You are not going to believe this, but your discretionary money just helped 26 families secure free rent for a year after they were subjected to living in squalor." The next day Pedro's win was on the front page of the *El Diario*, which is the largest Spanish language paper in New York City.

The reason I like to tell that story is because lawyers in incubators are very much like medical school interns—as was discussed this morning. In med school students go through intensive internship and residency programs before they are able to get out on their own and start a practice in the community. Before that, they must be properly vetted and can show they've acquired the skills needed to effectively treat patients.

It is through the incubators that lawyers learn how to provide valuable services to the community, whether it's immigration, landlord/tenant in Washington Heights, or other areas of the law. Currently at Touro, we have a program that was developed with grant from the Hagedorn Foundation. I don't know if you know anything about the Hagedorn Foundation, but if any of you put blue crystals in your water for your plants, also known as Miracle Gro, Mr. Hagedorn invented it. His generously funds programs for immigrants on Long Island. That's the mission and immigration is the scope of their funding. They give us the funding to train Touro incubator lawyers who, for the most part, didn't know anything about immigration law before entering

the incubator. With proper training, they are now able to go out on Long Island, in Brentwood, Hauppauge, and Central Islip, and work with immigrants. I tell you this because it demonstrates a really wonderful way to train lawyers in an area that addresses a pressing need in any community.

In addition, I will say is that for lawyers in incubator, learning takes on new meaning and lawyers are a lot more attentive to what's being taught than they were in law school. For example, at CUNY there is a course on small-firm practice that is taught by Laura Gentile. A number of people who came into the incubator who took Laura's class while in law school, now faced with the realities of creating and sustaining an economically viable practice, thought, "Wow, we probably should have paid more attention to Laura while we were in her class." Laura's response was, "You know what? You can come back in and you can audit it, but this time as a lawyer." I remember Laura telling me that the second-time arounders turned out to be the best students in the class.

There was another part of the question, I'm sorry.

COMMENT FROM THE AUDIENCE

About the lawyer referral programs.

MR. ROONEY

Yes, I know that the lawyer referral programs, at least in Queens County, were very helpful, because like elected officials, they are overrun every day by people who were calling in that don't qualify for services. When faced with the difficulty of not knowing where to refer people, they'd call us and say, "Look, we've got a case. It's a family law case or guardianship issue. The people don't have enough money to pay the \$5,000, which is the going rate. Will somebody in the incubator handle it for less and then call us to let us know the outcome?" We were getting substantial referrals from Legal Services.

QUESTION FROM THE AUDIENCE

Is there a shelf life, so to speak, of the attorneys in the incubator, after which point they feel strong enough to go out and start their own real practice?

MR. ROONEY

We give them 18 months. I know in California there is a program that gives them a year. Some people stayed on longer because they were so helpful in some of the programs that we were creating, they wanted to stay, and we didn't want them to go. Eventually they did, and a lot of times people say "How did they do?" One of the things that would be really wonderful is to get some funding to enable us to take a look at where the lawyers are five years after being out of the incubators. I know that I can tell you they are not all laughing all the way to the bank each day, but they are doing good work. A lot

of them have gone back to their communities in order to serve their community, which was their goal from the first day they entered.

QUESTION FROM THE AUDIENCE

Have you considered a model that allows people who left law school, went to perhaps big firms, stayed there four or five years and realized that's not the kind of life they want, they'd much rather go back to what they went to law school to do in the first place?

I find that to be what happens with a number of the graduates of my law school. They are now setting up small practices, and, you know, they are doing it almost, I will say, on the fly. They were, in those firms, they were associates. They didn't have—

MR. ROONEY

They were pampered.

COMMENT FROM THE AUDIENCE

Well, they didn't have any experience or knowledge about how the firm was run, so they don't have any, you know, background.

MR. ROONEY

Right. They had access to the clients and they had access to support within the firm sometimes.

COMMENT FROM THE AUDIENCE

But they don't know how to generate that.

MR. ROONEY

Using the example of the Touro program we started and named the Community Justice Center of Long Island, the woman who is coordinating the program is an incubator lawyer who worked for Skadden Arps for I believe six years. After her home was almost completely destroyed in Sandy and as a single mother of three teenagers, she woke up one morning and said, "You know what? I've had it with large firm practice." Once her decision was made, she hung out her shingle and shortly thereafter began coordinating the daily efforts at our incubator. She feels a lot better waking up each day knowing she's doing something for herself that in the long run will help her create a much better lifestyle more in keeping with her needs and desires. We don't only open the incubator up to newly graduated lawyers. There are people in all of the incubators who do make a transition from a dead-end job. With practice experience coming into the incubator, they become a godsend, because with the knowledge and wisdom that they bring into the incubator, they become on-

site mentors. We always encourage people who want to take the leap to come our way.

QUESTION FROM THE AUDIENCE

The New York State Bar Association has a Lawyers in Transition Committee, and I wondered if you have partnered with them for any of the incubators?

MR. ROONEY

No, we haven't, but it certainly would be something we would be interested in doing. You know there are all kinds of interesting things going on. If they are not incubators, the City Bar has programs now for new graduates and I've seen a proliferation of programs all over the country that don't call themselves incubators, but basically do the same thing. They provide the kind of support that new solos and new lawyers starting out in practice need. I would be interested in learning more about any program that supports incubator lawyers and that would be willing to collaborate with our efforts.

Well, thank you everybody for listening.

JOHN H. GROSS, ESQ.

MEMBER, NEW YORK STATE JUDICIAL INSTITUTE
ON PROFESSIONALISM IN THE LAW
INGERMAN SMITH, LLP

We're going to reconvene downstairs for the afternoon session at two.

**PANEL II—EXAMINATION OF THE IMPACT ON
PROFESSIONALISM ARISING FROM THE
VARIOUS PROPOSALS FOR CHANGE IN LEGAL
EDUCATION**

PAUL C. SAUNDERS, ESQ.

CHAIR, NEW YORK STATE JUDICIAL INSTITUTE
ON PROFESSIONALISM IN THE LAW
OF COUNSEL, CRAVATH, SWAINE & MOORE LLP

All right, let's begin with the afternoon program. I do intend to leave some time at the end of this panel discussion for questions from the audience, because I would hate to lose the opportunity to take advantage of the collective wisdom and experience and knowledge in this room, so we will have some time for some questions, and then we will conclude with a summary of today's proceedings from Dean Diller.

This morning we recognized the judges who were in the room. I want to recognize a judge who joined us toward the end of the morning, who is here with us this afternoon, Justice Randy Eng, who is the presiding justice of the Second Department and who is also a member of the Judicial Institute. So welcome, Justice Eng.

HON. RANDY ENG

PRESIDING JUSTICE OF THE SECOND DEPARTMENT,
MEMBER OF JUDICIAL INSTITUTE ON PROFESSIONALISM IN THE LAW

Thank you.

MR. SAUNDERS

As I said this morning, the purpose of this panel discussion is to discuss in the context of changes that we see happening in legal education, and how those changes will affect the inculcation of professionalism among students.

The Judicial Institute on Professionalism in the Law, you might think has a definition of "professionalism." And it is true that we have struggled mightily to try to define what we mean when we talk about "professionalism." We've never come up with a completely satisfactory definition of what "professionalism" is, but we understand that it has certain characteristics.

One of those characteristics is involvement in the community. A quintessential part of a lawyer's practice in professionalism is community involvement, community service. If you go back to the days of de Tocqueville, he talked about the lawyers as the natural and, I think, the only aristocracy in

the United States. The lawyers were different. They had a different role in the community. They were looked upon differently by people in the community.

We heard Bob Weber from IBM tell us in one of our convocations earlier last year that he does not regard himself as the Jiminy Cricket of IBM just because he was the General Counsel, but I think it is the case that the role that lawyers play in the community is an important part of our experience of professionalism. Our Chair Emeritus in the Judicial Institute, Lou Craco, here on the Pace University campus some time ago defined the giving of private legal advice as “a quintessential public service.” He said that when lawyers deliver private legal advice, they are delivering the rule of law to their clients in a very real way, more so than legislators do, than judges do; lawyers, in their day-to-day practice deliver the rule of law, and that is an essential part of what it means to be a professional.

About ten years ago, the Judicial Institute had a convocation on professionalism in law schools. In fact, this convocation is a follow-on to that convocation that we had about ten years ago. The Keynote Speaker then was Judge Battaglia. Judge Battaglia offered a definition of professional values that I’m going to use for the rest of our conversation this afternoon, even though it may not be entirely satisfactory, but think it’s a useful construct.

He described professional values as having two components; ends-oriented values and means-oriented values. And when he spoke about ends-oriented values, he spoke about the kinds of things that Judge Lippman talked about this morning. And some of the ends-oriented values in our profession might be justice, access to justice, fairness, and maybe even democracy. Those might be ends-oriented values of what it means to be a professional. Those are the things we’re trying to accomplish, and you could add to that list, or subtract from it if you would like.

But he also then defined what he called means-oriented values, which were the values that we use as a profession to accomplish those ends. And the means-oriented values might include such things as integrity, loyalty, respect for confidentiality, independence, candor, and maybe even civility. Those are means that we use to accomplish the ends that we seek to accomplish in our profession. They are not ends in themselves; they are simply the way we get there.

So, we, in the Institute, have a perhaps broader view of professionalism than some in the academy do. We think of “professionalism,” the core values of our profession, as going well beyond ethics. We’re not just talking about, you know, how you resolve conflicts of interest; we’re talking about something that’s fundamentally much more than that. And in connection with the convocation that we did about ten years ago, we surveyed all of the law schools in the United States and we asked them whether they taught professionalism, and if so, how did they do it?

What was surprising to us is that there was such a wide variety of responses to that question. You would think if you were a law school, one of

whose job it is to create members of the legal profession, you would think that there would be more consistency and unanimity in the ways that law schools went about teaching professionalism, but there wasn't. There was a wide variety. Some law schools had courses in lawyering at the beginning of the first year. Some law schools had courses in professionalism at the end of the third year. Some law schools said, as Justice Kourlis suggested this morning in her remarks, that they taught professionalism throughout the three-year experience in every course. Some law schools told us that the way they inculcated professional values in their students was to make sure that the students signed an honor code not to cheat in their final exams; that was basically it.

So, you can see there was a wide variety, and that was surprising. We published the results of that, and it was quite surprising. In connection with this enterprise, we have recirculated those very same questions to the 203 law schools in the United States, and we will collate and publish the results of that survey as well, but that being the case, the question I would like to address now is: Given the fact that there is already change taking place in legal education, becoming more experiential, for example, more emphasis on creating client-ready or practice-ready lawyers, for example, how do those changes affect the inculcation of professional values in students? And more specifically, who is going to be responsible for inculcating those values?

In this afternoon's panel discussion we have an enormously distinguished group of speakers who will help us address and, I hope, answer some of those questions. On my immediate left, we have Dean John Broderick, the Dean of the University of New Hampshire Law School, and Judge Lippman spoke about him briefly this morning in his remarks. Prior to becoming dean of the New Hampshire Law School, John Broderick was the Chief Justice of the Supreme Court of the State of New Hampshire, and just as an aside, he happens to be a member of my task force that I'm working on with Justice Kourlis for the American College of Trial Lawyers. So, Dean Broderick has experience as a practitioner, as a judge, and now as an academic.

Next, sitting on Dean Broderick's left is Jim Wicks. Jim Wicks is a practicing lawyer from Farrell Fritz on Long Island. He is an Adjunct Professor at St. John's Law School, and he is also a member of the Judicial Institute. On his left is Myra Berman, who is Associate Dean for Experiential Learning, right in our sweet spot, at Touro Law School. On her left is Pat Longan, who actually spoke at our convocation on this very same subject about ten years ago, and he is also in our sweet spot because he teaches professionalism and runs a program for professionalism at the Mercer Law School in Georgia. And on Professor Longan's left is Dean Martin Katz, who is the Dean of University of Denver Law School. I believe he's a member of the board of Justice Kourlis' institute. The reason why Dean Katz is here is because when he became Dean at the Denver Law School, he—and he'll tell us more about this—he instituted a program where experiential learning and professionalism is required to be covered—and I think this is right—in every

single course that is taught in his law school. And it will be interesting to hear from Dean Katz exactly how he was able to pull that off given the constraints of academic freedom, but he has done so.

So the first question I want to put to this group, and I'm going to put it to John Broderick, because I think it goes to the general question that we're talking about, goes directly to that, is whether or not professionalism can be taught, or does it have to be experienced?

DEAN JOHN T. BRODERICK, JR.

DEAN, UNIVERSITY OF NEW HAMPSHIRE SCHOOL OF LAW;
FORMER CHIEF JUSTICE, NEW HAMPSHIRE SUPREME COURT

When I went to law school I had a course in ethics. That was it. There were no clinics, there were no externships, there were no internships, there were no visitors to my law school. The only lawyers I saw in my law school were the people who were teaching me. And that was okay, because when I graduated, I got a job at a law firm where the partners could afford to take me with them. My hourly rate was low but largely covered my salary so I wasn't overhead. I had the opportunity to watch lawyers in action and I learned what good lawyering looked and felt like.

Now that world has largely disappeared, so students coming out of law school today, if they want to get a job they need to know more, need to have more practical training. They are less likely to have mentoring, the mentoring that I had, and, frankly, they are less likely, in my case, to go to court, to see judges, to see lawyers, to see bailiffs and get a sense of what the puzzle looks and feels like. And so a lot of that has been pushed back on law schools as if it can be taught simply in a class over three years.

The problem with it—and the law schools are trying. We're trying. We have a Fundamentals of Law Practice class for first-year students, a lot of lawyers come in. We have a lot of simulations, internships, externships, we teach ethics. So, in many ways these students are better adapted when they leave to be a lawyer better than I was. There's no doubt in my mind that law schools are doing a better job. The difference, I think, sadly, is when they leave law school, they have fewer opportunities to learn from mentors, and I think that's a deficiency that exists because of the larger problem. So, law schools can do things, they are trying; they are exposing the students, and that's important. But to be a professional, it's hard to understand what that means without context, without seeing the whole puzzle.

When I went to law school, I wanted to be a trial lawyer when I entered and a trial lawyer when I left. I didn't have a single, solitary class in trial law. I never saw a trial. Imagine? I never saw a trial. And then I went out and I passed the bar, and I woke up that morning, and I was a trial lawyer, and I thought "America is a great country. I don't know anything, but I'm now licensed to try cases."

But I did have really good lawyers around me, I watched them, I modeled them, and I saw judges, and I saw how judges reacted to behavior. I learned how to be a lawyer from watching other lawyers, to be very honest about it. I didn't learn it in the classroom. Although I understood the obligations of being a professional, I'm not sure I totally understood what it meant in a real-time sense.

So law schools do a better job because they need to, and they are, by the way, but it's never going to be sufficient. It's just not going to be sufficient, and I'm not sure that that should be expected of law school. That's what the practice of law should help you do in a more subtle way.

MR. SAUNDERS

So how do you teach professionalism at New Hampshire Law School?

DEAN BRODERICK

Well, you take an ethics class, you take a Fundamentals of Law Practice class, which lasts an entire year; people come in, lawyers come in and do simulations, you witness and model others. 85 percent of our students do externships and internships in public sector, private sector jobs, so they have an opportunity to observe.

To be very honest, when I got out of law school I wanted to be a very good lawyer and a respected one, too. I wasn't sure what that meant exactly. And then when I got out, I started watching people, and I saw what worked for them and what I admired in them and how clients and judges and others responded to them. The people I worked with were really dominant in the state and the community they lived, and I learned about public service and the obligation to give back. I knew that in an academic sense, but I hadn't experienced or seen it.

And so I think law schools now are doing a better job, but ultimately, if you want lawyers to reach the standards we expect it's up to all of you, not just law schools. It's making yourselves available in large and small ways to mentor new lawyers, to model for new lawyers what it means to be a lawyer. And so law schools are doing a better job, but they can never do a complete job.

MR. SAUNDERS

Well, I hope all the academics in the room will forgive me for asking this question, and I am going to apologize in advance, but do you think professionalism or professional values can be taught by people who never actually practiced law?

DEAN BRODERICK

You are asking me?

MR. SAUNDERS

I'm asking you.

DEAN BRODERICK

They can be taught. But studying professionalism and professional values in a classroom setting is often much more abstract than applying theoretical knowledge in a real world, real-time context of lawyering. Being in the trenches of everyday legal practice is rewarding but often quite challenging. It often does not allow for much reflection on best practices and best behavior. The pressures to satisfy clients are very real. In my experience I often looked to other lawyers and judges who were respected and tried whenever possible to model my conduct after theirs. Professionalism is all around you if you pay attention. Modeling other respected lawyers pays dividends and it's free.

My very first job was with the Attorney General's Office in Massachusetts. It was a job I wanted. The very first day of work, I was scared to death. I knew nothing, by the way. I knew where the bathroom was, but nobody was going to ask me that.

I took out a piece of paper – I saved it for years –and I wrote down how I wanted to be remembered when my career as a lawyer ended. And one of the things in my note was a reminder to find a lawyer in the office who was widely admired and respected by others and crack the code. I committed to do that wherever my career took me. It served me well.

I didn't say "I want to take out my ethics book; I want to read my textbook." I wanted to model my behavior after people who were respected. The opportunities to do that for young lawyers today, because of our economy, are very different, but very important nonetheless.

So, yes, academics can teach it but if they haven't practiced law it's tough to temper their teaching with or actual wisdom.

MR. SAUNDERS

You know, I am going to put the same question to Dean Katz in just a second, but a couple years ago, we in the Institute did another convocation on what it was like in the first seven years of practice. And one of the questions we asked the young students was what were the constraints that they faced on professionalism in the first seven years of practice, and two of the three constraints they told us about were fairly obvious; high student debt and the infamous billable-hour requirement, which they hated. But the third was not completely obvious, at least not to me.

The third was the lack of mentoring. And, they actually meant "mentoring" in a slightly different context than you did, because what they talked about when they said "lack of mentoring" was not so much they couldn't find a model to copy or emulate, but they wanted people to supervise their work more closely and to tell them what they should or should not be doing. That was one of the most important constraints that they were facing in

the first seven years of practice. And so mentoring is an important issue, and it's an important way of inculcating professional values.

But let me put the same question to Marty Katz, and that is: How do you go about teaching professionalism, and can it be taught by people who never practiced?

DEAN MARTIN KATZ

DEAN AND PROFESSOR OF LAW, UNIVERSITY OF DENVER,
STURM COLLEGE OF LAW

So, first off, in the interest of professionalism, which I think includes truth in advertising, at Denver Law we do not, in fact, require experiential learning in every class. What I do is I incentivize it in every class, and we have a very good hit rate on that—I can talk about that more if people are interested—so now my professional duty is hopefully taken care of here.

In terms of your question, how can you teach—or can you teach professionalism in law school, and particularly can you teach professionalism if, in fact, you never practiced? First off, there is a wide variety of law professor populations. I mean, there are roughly 200 law schools in the country, and their faculties have very different core identities. So in a school like Denver Law, we have a faculty of 70, of whom all but two or three practiced law before they came into teaching law school, and of those who did not practice before coming to Denver Law—well, one of them is actually a sociologist, not a lawyer, but the other two are lawyers, and they currently take pro bono cases as professors.

But your question is a good one because there are certainly law schools where many fewer of the faculty have practiced law, or I'd say have practiced law meaningfully. So, I would distinguish, for example, between a professor who might have been a partner at a law firm versus a professor who maybe spent two years and never saw a room with a window in it at a big firm, just going through documents or something.

So I do think the core of your question is really how important is experience to be able to teach professionalism, and I'd say it is highly important. What we're fundamentally doing—and to pick up on John's answer to the way in which law schools are responding, we're sending a demand to provide more of the initial training that our lawyers get. It can't be done by most law firms with their clients today in the way it was done for many of us when we graduated.

Law schools are being called upon to teach much more about how to be a lawyer, including the professionalism part of being a lawyer. And the best way to do that, and what is within the realm of the possible, is to provide experiences in which there is an apprenticeship going on, in which there's the type of mentoring that you are talking about, Paul, in terms of supervising someone's work. And taking them through the work, giving them just enough rope hopefully to come just short of hanging themselves and their client, but

giving them opportunities to try being a lawyer either with real clients or in simulated settings, with supervision, with feedback on both the work but also—not just the mechanics of the work or the doctrine, but also what we think of as professional identity.

So, law schools can, and increasingly are, teaching professional identity—trying to create opportunities while in law school for students to do the type of experiential lawyering that covers not just doctrine and skills but also development of professional identity. And it turns out it can, in fact, be done.

MR. SAUNDERS

I want to pick up on that last point and ask, Myra, because there's a difference, I think, when we talk about experiential learning versus skills, experiential learning on the one hand and understanding what it means to be a professional as a member of a noble profession, in Judge Lippman's words. What's the difference, and how do you deal with that? You are the Associate Dean of Experiential Learning, but it has to be more than skills.

ASSOC. DEAN MYRA BERMAN

ASSOCIATE DEAN FOR EXPERIENTIAL LEARNING:
DIRECTOR OF THE COLLABORATIVE COURT PROGRAMS,
TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER

Yes it does. I'm sitting here thinking about what it means to be the Associate Dean of Experiential Learning? What is "experiential learning," and how do you infuse professionalism into experiential learning. I believe it must be infused into all experiential professional learning. It's inherent in the experience, as Dean Katz just said. You have to have professionalism and the development of professional identity in the experiential offerings you provide at your law school.

But what is the role of the Dean? When I first started, was I a clinician? No. Was I a doctrinal podium faculty member? No. Where was I coming from to do this? I had created a program called "The Collaborative Court Program," which I think is still the only one of its kind in the country. It is a three-year incremental learning program. I'm not going to describe it now, but what is interesting about that program in terms of experiential learning is that we rely on the bench and the Bar in addition to the academy to teach our students from day one of law school, to teach them how to develop into competent and successful and, of course, ethical, professional attorneys.

My perspective, not being a clinician and not being a podium faculty member, was that we had to have practitioners and judges teach our students certain aspects of what it means to be a lawyer. I know that Pat's program—which I'm assuming he'll speak about shortly. I first learned about that program at Educating Tomorrow's Lawyers, which is at Denver, as you know.

Pat's program and those programs like it focus on the legal profession, on the lawyering part. And even though Lou said that we are not a lawyer school, but a law school, we are being asked to produce practice-ready lawyers, and so part of our curriculum, part of what we do, must address what it means to be a practice-ready lawyer.

From my perspective, experiential learning must include the kinds of values that turn you into an ethical and successful attorney. Somebody mentioned earlier this morning, reputation. Reputation is priceless. Reputation as an attorney is something you don't learn in a classroom. You can't learn the value of reputation in the classroom. It's not mentioned in the code, it's not mentioned in the typical required professional responsibilities course; and yet, the very first day that you bring students into a courtroom, the judge will say to them, "reputation is everything." The court officers will say to them "reputation is everything."

The first time I brought a practitioner from a relatively large Manhattan firm who does complex litigation into one of these integrative seminars, he said to the students: "What's the first thing you do when you have a client, when you see that there's a potential client?" And the students, of course, said, "I do my fact gathering, you know, in order to do my problem solving." Their responses were based on ten MacCrate skills, which we teach in a skills development course. But that has very little to do with experience. Not one student in the room knew what that practitioner meant when he said: "We have to do a conflict check." What's a conflict check? What's a conflict waiver letter? And so there are aspects of professional identity that are not being taught in the classroom even in experiential learning types of courses.

Externships, of course, are a wonderful opportunity. Students are out there with practitioners. There is faculty oversight to some degree, but basically we rely on the practitioners to teach professional development to our students. The faculty member ensures that that's what happening, but they are not actually the teachers, the lawyers are the professionals.

Let us look at social work education for a moment. Professionalism is extremely important to social work education more so than even legal education, because we start with the foundation that we are a noble profession. Social workers are not thought of as a noble profession, and so there is an enormous effort in social work education to focus on professionalizing the students and practitioners in both the academic community and the real-world community, and so social work students have a full year of social work practice outside the classroom. It's absolutely essential to be outside the classroom to get a full experiential learning education with professional identity being focused on and taught by those who practice the profession.

What we teach in the classroom cannot possibly cover the kinds of things the student can learn in the real-world environment. An Associate Dean of Experiential Learning, my role as I now see it, is quite different from when I first stepped into the role. I changed my perception when I was exposed to

practice outside the classroom. My role is to find ways to take the student out of the classroom into the world, or to bring the world into the classroom to the student.

MR. SAUNDERS

Okay, so Jim, you are a practicing lawyer; you are also an adjunct professor. How do you bring those two together?

JAMES M. WICKS, ESQ.

FARRELL FRITZ, P.C.; ADJUNCT PROFESSOR,
T. JOHN'S UNIVERSITY SCHOOL OF LAW; MEMBER,
JUDICIAL INSTITUTE ON PROFESSIONALISM IN THE LAW

Can I answer the question?

MR. SAUNDERS

Yes.

MR. WICKS

And the question you posed is this: Is professionalism—can it be learned by the experience or taught? And I am going to answer it a little bit oddly. I am going to say “both,” and “no.” And what I mean by that is I think—you know, listen, we’re all struggling with what is the definition of professionalism. Imagine what the law students feel like. They don’t know what professionalism is or means, and maybe we have to define it early in their legal careers, and “early” meaning day one of law school, what it means to be a professional.

Once you do that, even the traits, Paul, that you have identified as some of the means values, those are character traits, and I’m not sure they can be taught by experience or in law school. Either somebody is a person of integrity or they are not. And do people get through law school that don’t have integrity? You bet. I can’t teach that. If they don’t have it at that point, at age 22, they are never going to have it.

Can I teach them client skills? You bet. I can teach them how to interview a client, I can teach them intake; I can teach them conflicts; I can teach them to be polite and have the right demeanor in court or at a closing or at a will signing, but I can’t teach them some of these professional traits, nor can a law school.

So, I think the definition is really important, and it encompasses much more than ethics, way beyond ethics. It comes down—I mean, I’ve heard a bunch of definitions, as we all have, some define it as being polite and having proper etiquette, real basic manners. I mean, it sounds silly, but the short of it is I think some things can be taught in law school, some things have to be

developed through mentorship after law school, and some things you are talking about character traits.

MR. SAUNDERS

So my question to Professor Longan is, having heard all this, why do we or should we even try to teach professionalism in law school?

PROF. PATRICK LONGAN
MERCER UNIVERSITY LAW SCHOOL

Because it works.

MR. SAUNDERS

What's the point of it?

PROF. LONGAN

Well, I'll tell you the point of it. First off, I'll say it's funny to me to be back after ten years because I know I talked about the course ten years ago. The course we do now, although we have continued it the whole time, is as different as it could possibly be from when I was here ten years ago.

MR. SAUNDERS

Well, answer my questions and then tell us about the difference—

PROF. LONGAN

What you are saying here is "Objection, nonresponsive."

But the reason I mention that is this: Those of you who are thinking about it, thinking of trying to do this, call me, because we made every mistake you can make, and we've learned from them, and I'm happy to share all of those mistakes.

MR. SAUNDERS

So why bother?

PROF. LONGAN

Why bother? Well, we bother because it matters. It matters to the fulfillment of the lawyer's role in society, it matters to what lawyers are for. It certainly matters—and this sometimes surprises me—it matters to their own future happiness as lawyers. There's significant research done by Larry Krieger at FSU that those lawyers who practice with professionalism are happier lawyers. There is some more recent research that those lawyers who exhibit these virtues are more successful lawyers.

So, it matters to the client, it matters to the public and it matters to the lawyers, themselves. So I think we are absolutely duty-bound to teach this, and if I may give you a brief response to your initial question—can it be taught—we can begin the process, but we can't complete it, no matter what we do. We can nurture and begin the process, because when you want to have a lawyer who displays these virtues of professionalism, you need to accomplish three things:

You have to make them sensitive to professionalism issues, which means they need to know what it means. They need a definition, and we can give them a definition. Can an academic teach that? Yes. Somebody with practice experience can do it better, I think, but an academic can do it. So you sensitize them so that they know professionalism issues when they encounter it, whether in law school or later.

Secondly, you need to motivate them. So, okay, I have seen this issue, I want to do it right. I've got to have a reason to do the right thing, and that is all about what I just said about how the public is served, clients are served and they are served. Can an academic do that? Yes, an academic can do that.

But the hardest part of this by far is the third piece, and that is the ability to implement professionalism under circumstances of uncertainty and conflicting values, and that calls for judgment, that calls for wisdom. Now, can an academic who has never practiced teach that? That's much harder to say. Can we start that in law school? Yes, I think we can start that and should start that in the protected environment of law school where they can get feedback from how they struggle with how to implement a professional decision.

I think you can do that in a classroom context if it's structured right, but it can't stop there. It then has to continue on into the experiential learning part, and if you have gotten that foundation in the classroom component, they now have the vocabulary, they have the structure.

At Mercer they all go through this. They have a common vocabulary. So they go out and come back and say, "Longan wasn't kidding. This kind of stuff really does happen," and they have a way of talking about it in the process. So, I think you need all of those pieces in the courses, but it has to continue in practice after.

MR. SAUNDERS

One thing I would add to that from the point of view as a practitioner is that one of the things that informs your judgment in these very, very difficult situations where there's no clearly right answer is knowing what consequences the various alternatives will result in.

PROF. LONGAN

Right.

MR. SAUNDERS

If I do this, the consequences are such-and-such, if I do that, the consequences are different. And often that's not something that can be taught, it just has to be lived through.

PROF. LONGAN

Right, and better to live through it in a protected environment first. So, when we do these simulations, we do groups of twenty or so, we have problems that are presented, and they have to try to resolve them. Again, they are set up to have conflicting values and uncertainty. My job as I sit in there as they come up with their solutions—is to say “What if?” What if this, what if that, and make them think through those consequences.

MR. SAUNDERS

So at Mercer, you have one of the most elaborate professional programs that I've seen in any law school, really. Could you tell us first a little bit about the program, and could you elaborate on the way in which that program has changed over the last ten years?

PROF. LONGAN

Sure, I'm happy to do that, although “elaborate” is not necessarily a commendation, but it is elaborate. I'll accept that.

I'll tell you, we made this commitment—Mercer made that commitment before I ever joined the faculty. My friend and colleague Jack Sammons spearheaded that, and when I was hired, I was given the job of creating the first-year course on professionalism. It's a required course. It's done in the spring of the first year. We've taught it since 2004.

When we were first planning it, we were thinking this is really different. We knew we were doing something different; we knew we were doing something important. But we had this fear that the students would be put off by it because it was different, so we tried to disguise it. We tried to make it look like any other course. That was a dreadful mistake, a dreadful mistake. And only when we came to the realization that it is different, it has to look different and we just need to embrace that, did we have success.

So let me tell you briefly how it's set up now. There's a number of different pieces to it. There are some informational parts to it, including lectures on what professionalism means. And I am telling you, you cannot teach it if you cannot define it, so we do define it, and so there is just some imparting of knowledge that this is what it means, and—

MR. SAUNDERS

How was my definition? Was it close?

PROF. LONGAN

Yes, but the definition we use really is a distillation of things that come from the ABA blueprint of professionalism from the mid-80s, and what I call the Reece Smith Report, about ten years later, the Teaching and Learning Professionalism report.

Basically, “professionalism” means that you are going to exemplify five virtues as a lawyer: first, professional competence; second, fidelity to the client; third, fidelity to the law and the institutions of the law; fourth, civility; and fifth, practice in the spirit of public service, which then of course includes pro bono and self-regulation in the public interest.

So, yes, I think everything you said would fit somewhere in that scheme, but we do have this informational part. But the real core of the course is a series of weekly meetings. The whole class goes through this. So, we divide the whole class into six sections, so it’s about 25 students apiece.

Each of those sections meets once a week. Within each section, they are subdivided further into groups of three or four. Each week we deal with a different problem that raises issues of professionalism. It might be a conflict between your duty to your client and duty to the system, duty to the law—like a discovery problem. Do I produce this document? Do I not produce it? Did the opposing party ask for it? Well, it depends how prepared we are to read a request narrowly. We’ve all been through that.

So they have a series of problems. They go out in their groups of three or four, and they have to decide what to do in that particular circumstance. They have to be prepared to present to the section meeting what they would do and why and how their decision fits into the virtues of professionalism. They have to discuss what they considered, how they balanced conflicts among the virtues of professionalism, and so on. They then come into the section meeting, and each of the small groups present how they decided to resolve the problem.

My job and the job of Tim Floyd and Daisy Floyd, whom many of you know, and who conduct these section meetings, is to push and prod. What if this? Have you thought about that? So that the students experience what it’s like to exercise judgment in a professional context, and they are able to mess it up without causing anybody any harm, and they are able to hear from their peers and from an experienced lawyer how they resolve the problem.

One of the things that always comes out is they are shocked that anybody can possibly disagree with them. They think this seems obvious to me, and, of course, other groups reach the opposite result. So that is really the core I think of where a lot of the learning goes on.

I want to mention one other piece of it, and then I’ll stop. One of the things that we discovered as we started talking about professionalism was that we owed it to the students to present to them how difficult it was going to be to abide by all these virtues. You can hear an all-day lecture about the virtues of the professional lawyer, and it all sounds great; it all sounds like unicorns and

butterflies and everything is going to be fine. But the fact of the matter is when they walk out the door as lawyers, they are going to be in situations where their virtues are going to be challenged. Another lawyer is going to be uncivil to them and they are going to want to fight back, or a client is going to expect them to do something they shouldn't do, and so on. We educate them about what is coming, and that is very disturbing to the students.

The name of the course is Legal Profession, and the students in the first year began calling it "Legal Depression," which I'm still embarrassed about, but I'll admit it. That their professionalism will be challenged is so disturbing to them. I think we owe it to them, but it was disturbing to them. We had to try to think about ways to try to give an antidote to it, and the main way we do that is this: we have a series of lawyers and judges come into the classroom. Now, I don't turn the podium over to them, I sit them down in the front the room and I interview them.

Have you ever seen "Inside the Actor's Studio?" Do you know that format? I interview our guests in front of the class, and then the students get to ask questions. It's been empowering. We talk about their lives. What emerges from those discussions is a couple of things: first of all, I was telling the truth; yes, there are challenges; second, they can be overcome; and third, these people are happy, they love being who they are, they are successful, and the students say "Amen, because I can be like that." They have the chance to come up and talk to us after class. We have lawyers from every part of the profession, big firm, small firm, prosecutor, public interest, and so on.

If you want to see those, they are on YouTube, and I can give you a link where you find not only those links, but also the materials for the course, a detailed description for the course. I understand Myra looked at it, all the problems that we use in these weekly discussion groups, they are all up there to use. Please use them; what's mine is yours. But those interviews as an antidote to the struggle they feel, I think have been key, and we've been lucky with the kind of people willing to participate.

MR. SAUNDERS

Yes, I've looked at those, too, and I want to endorse what Pat and now I guess Myra is saying, too, they really are very, very well run and very instructive.

I want to change the question just slightly, and talk about the use of adjunct professors. A lot of schools told us they use adjunct professors to teach professionalism, and that was sort of implied in my first question, "can you teach professionalism or do you have to learn it by experience." We heard this morning that the ABA limits the use of adjunct professors; there has to be a certain ratio between students and full-time professors, I guess, and so the ABA limits the use of adjunct professors.

So the question I want to put to all of you is this: By limiting the use of adjunct professors and by saying that the adjunct professors are the ones

who are going to teach professionalism, are we sending a message to the students that professionalism is not as important to them as courses taught by full-time faculty members? Are we sending the wrong message by doing that?

Marty?

DEAN KATZ

Yes. So, what we have found is the best recipe for most types of teaching, but particularly experiential teaching involves practitioners and judges. Our favorite mix where we can do it and increasingly we are, is to create effective partnerships is between full-time faculty and adjuncts. The full-time faculty, of course, they are professional educators. Their expertise is the teaching side, and where we can partner full-time professors with those out in practice—I'll give you an example. I was a labor and employment lawyer for ten years, and—but then before I became Dean I was on the faculty for about ten years. And toward the end of that period I would be teaching labor and employment courses, and actually at times felt like I was becoming fairly close to Professor Malpractice; in the sense that there were just things that were part of day-to-day practice that hadn't been issues when I was practicing, or that I was far enough removed from practice that I felt out of touch with those issues. In such cases, I would bring in people from the community to team-teach with me on certain subjects.

And we find that in almost any classroom environment, that, that type of partnership, the students rave about it. Everyone walks away feeling good. It's particularly important when you are talking about trying to teach professionalism.

MR. SAUNDERS

Would you like to see the ABA limitations changed?

DEAN KATZ

Yes.

MR. SAUNDERS

John?

DEAN BRODERICK

Yes, I would, too. I think the ABA for the most part does a good job but I think it is often too granular in its governance of law schools and in law school teaching. We had a graduation a week ago.

We had the Solicitor General of the United States, Donald Verrilli, speak. And I was talking to him at lunch, and I said, "You know, it's odd to me, General. If you and 15 of your friends, probably very accomplished lawyers, retired and called me and said, 'you know, we'd like to come up and be

adjuncts at your law school for \$5,000 a course,' I couldn't have all of you come up. I couldn't do it based on what the ABA requires." The cost of law school, by the way, is related to that.

So, yes, would I like them to take a look at it? I would. I think I agree with Marty Katz largely because it's not either/or. You bring lawyers in to talk.

MR. SAUNDERS

Let me just interrupt you for a second. My understanding, and I may not have this entirely correct, is that the ABA rules encourage law schools to have faculty members from practice who are practitioners, but the ABA rules do not require it. If that's correct, would you like to see a change so that law schools were required to have a certain number of faculty members from practice?

DEAN BRODERICK

What I would like to see happen, and there are no bad guys in this equation, is for the ABA to continue its valued and important oversight of law schools and legal education but not in as granular a way as it does currently. I think American legal education needs greater flexibility and capacity to be entrepreneurial and adapt to changing demands in the legal marketplace.

I don't think every law school in America, for example, should have to be Harvard-Law-School-light. Most law schools aren't sending kids to Wall Street. We have to be able to be flexible, and so I think the ABA provides a very valuable function, but I think it's much too close to the ground for what law schools need to do, and adjunct professors may be one such example.

I think it depends. I mean, if Laurence Tribe wanted to be an adjunct at our law school and teach a first-year class, he couldn't do it. He's not allowed to do it. You cannot have adjuncts teach first-year courses. Why is that? Why is that, if Laurence Tribe wants to come and teach?

Those are the kinds of things we need to look at. I agree today with Michael, who said "change at the margin is not sufficient." He's right about that. I totally agree with him. And John Garvey from my own law school said we should reverse engineer what we expect. We are so granular about what we can do and not do. Entrepreneurial attitudes are killed, and opportunities to attain meaningful candor in American education are restricted. No one means it to be that way, but as someone who has been doing this work from practice and from judging for three-and-a-half years, in your world, in the world where you live and practice and succeed, you would have trouble in the 21st Century as heavily regulated as law schools are.

So, we do need a change, and I would love to see that discussion start, a broader discussion start on that, because we are talking about change at the margin, and change at the margin will not suffice to be successful in the 21st Century. It just won't.

MR. SAUNDERS

Myra?

ASSOC. DEAN BERMAN

Rather than wait for the decade or so which it took the ABA to make these changes, I think that we work with what we currently have, and what we currently have are professionals and practitioners out there who are eager to enter the law school and the academy in one form or another. We have a first-year program, for example, that from day one we'll be linking incoming students with practitioner mentors, and those practitioner mentors will follow that student throughout law school.

One of the things that you mentioned this morning, is that no student should graduate from law school without having created a will –

MR. SAUNDERS

Seeing a will.

ASSOC. DEAN BERMAN

Seeing a will. That should not happen. I agree 100 percent. And so if one of our practitioner mentors allows that student to shadow her for a day, and that attorney is doing a real estate closing, that student will have at least seen a real estate closing. That student will have at least seen the creation or the design of a will. So the practice mentors from day one are extremely important.

We also are a program that includes local alumni practitioners in the matrimonial bar to assist first-year students in eventually, by the end of the spring semester, meeting a real live pro bono “client” and assisting that pro se litigant, unrepresented litigant, in an uncontested divorce situation. So while they are not practicing law, they are actually meeting a client and being called upon to gather some intake facts, and then let a computer program convert that into legal documents.

The first year is an introduction to the creation of a professional identity through exposure, ongoing exposure to practice; not one-shot deals. Not just bringing in a practitioner to speak to the students on one evening, which we also require, but it's an ongoing and incremental exposure to what it means to be a lawyer. I think that's essential.

MR. SAUNDERS

So, Marty, when I first described the fact that you required experiential learning in some of the professionalism courses, you corrected me and said, no, you don't require that, you encourage it. So, two questions, I think I know the answer to the first question.

The first question is: Why don't you require it? And I assume the answer has something to do with academic freedom, but how do you encourage it?

DEAN KATZ

So, two answers to the first question. One is academic freedom—actually, three answers. One is academic freedom, the second is pick your battles. Why do I need to fight with every faculty member if I can get 80 or 90 percent of them to do what I want? Fighting with that last 10 percent is not going to accomplish that much. And third—and this is a constant issue for law schools—our students are adults, more or less—

AUDIENCE MEMBER

Sort of.

DEAN KATZ

They don't always act like it, but for the most part they actually are capable of making decisions. So we prefer avoiding making classes required, and then having a robust advising system so students can choose the courses that are best for them.

In terms of how you incentivize this for professors, to put this in context, when we started out five years ago, part of our strategic plan, part of our mission, was to try to make sure we could provide for any student who wanted a full year of experiential learning. In other words, 30 credits out of their law school career – one third of it – would be spent doing either clinics, externships or rich, full-course simulations. And our goal was also to expand some of these opportunities; for example, some of these externships would be full-semester, full-emersion type of externships. We call that our “semester of practice.”

Some of them would be deeply interdisciplinary. So, for example, through Becky's institute we do this thing where law students, social work students, students from the School of Psychology and a handful of business folks get together and advise folks, trying to navigate relatively low conflict divorces, which also gets cases out of the courts. So, our goal was to provide enough capacity for us to be able to offer a full year of this great stuff to every student who wanted it. We assume we had about an 80 percent take-up rate. So we needed to create enough course capacity to do that. And we have. Without making anything required. Actually, I wrote a piece on this for the Emory Law Journal, and what I pointed out is that professors actually respond to ridiculously small incentives.

MR. SAUNDERS

Parking spaces?

DEAN KATZ

It's all relative, that's right.

But it's fundamentally about providing small amounts of money and some course relief. So, for example, right now we provide course relief—most law schools in the country provide course relief for faculty who write scholarship. So we've also provided course relief for those who kind of teach this development, teach these types of courses.

Similarly, respect. Respect matters a whole lot in the academy. I would actually say far more than money. So for things like inviting faculty who taught this way to present to their colleagues, giving them money so that they can go out on the road to participate in conferences and talk about what they are doing. The same type of respect that for years and years we have accorded to our best scholars. It's simply a matter of taking those types of incentives and also providing them to our faculty that want to do this type of teaching.

Our hypothesis, incidentally, was that there was a large number of faculty that would be on the fence about this, look at folks who taught in this way and say, "Well, that looks kind of fun, but it's scary. If I had some support and incentive, I would get off the fence," and it turned out that two years ahead of schedule we built the capacity to offer these things to 80 percent of our students for a full year.

MR. SAUNDERS

So you alluded to the next subject that I wanted to raise, and that is the subject of scholarship, and I don't mean financial aid; I mean research and writing by faculty members, and that clearly has an important role in legal education in the academy. Some might even say it's the most important role, but however you characterize it, it clearly is an important feature of legal education, or the academy. So the question is: How can faculty scholarship be used to enhance the teaching of professionalism, or can it be? And the corollary question there is: Whose job is it to decide whether and if so, how faculty scholarship can be used to enhance the inculcation of professional values?

Dean Broderick?

DEAN BRODERICK

That's not a beach you want to die on, in my view, and it's a very difficult question because of academic freedom. And if you are the Dean of a law school and you are suggesting to the faculty what they might want to focus on, that probably would not be a productive conversation; that's my sense.

And I think the larger issue, and to be honest about it, I think some legal scholarship—and it's appropriate in the academic environment—is of interest to a small audience. Over time the thread may take you somewhere else. Some scholarship is immediately impactful, but that's really no one's choice other than the academic or the professor.

The larger issue, I think, and the more troubling issue, is who pays for it? When I went to law school as an out-of-state student at the University of Virginia, it was \$3,500 a year. You could make \$1,800 in the summer. University of Virginia today is about \$55,000 a year, and you are not making \$35,000 in the summer. So the cost of the product has gone up in a way that's disturbing to most young people, and when they find out that they are paying for the scholarship that's not particularly relevant to their experience, I think is your question, Paul, that's concerning.

MR. SAUNDERS

I didn't put it quite that directly, but that was certainly implied in my question.

DEAN BRODERICK

So I think the ultimate question is not can scholarship be directed—it can't be. It just cannot. I think maybe certain people can inspire scholarship, to go to your point, but I think that's not going to happen if the person writing it is not engaged.

I think the larger issue is: Who pays for it? In medical school, most of the scholarship is not paid for by the students; it's paid for through grants and third parties. In law school, the scholarship is paid largely through tuition dollars. That's a challenge. Not that scholarship is bad; it's not. It's just a question of whether or not students want to tolerate it when they are paying \$50,000 a year for law school. It's a problem. Law schools don't want to be trade schools, but they can't afford to be the Brookings Institution, either.

MR. SAUNDERS

If the students are paying for the scholarship, what do they get out of it? What should they get out of it?

ASSOC. DEAN BERMAN

I'll try to answer that. One, justification for the scholarship, of course, and this is commonly spoken about, is that scholarship by a certain faculty member enhances that faculty member's expertise in a particular area, and it's an area in which they teach. So the knowledge—

MR. SAUNDERS

At least in theory.

ASSOC. DEAN BERMAN

In theory, but I'll give you justification in a minute.

MR. SAUNDERS

Okay.

ASSOC. DEAN BERMAN

In theory, if from the podium I am teaching family law, and I study an issue in family law, I can bring more to the students from my knowledge of that particular scholarship issue.

But I want to go back to what you said about means-oriented professionalism and ends-oriented. I think it's a role of faculty, and I think faculty does assume this responsibility largely, to look at those ends-oriented professionalism values. If I'm a faculty member and I'm at the podium, and I want to talk about justice in a family law situation: one of our faculty members did some scholarship, joining with a practitioner, and they did a survey of what was going on in the child support parts with the magistrates, and determined there was "very little access to justice" (quote unquote), that was occurring in those parts, and how the unrepresented litigants had no clue as to what actually was going on, and that they were unrepresented for the most part.

So, the survey was done and results were obtained that confirmed that there was a need for legal reform in a particular area, and those results might have gone to OCA. So with certain kinds of scholarship, I think there is a direct link between the scholarship that the faculty member does, and remember, this was done in collaboration with a practitioner. There is a link between the scholarship and the ends of professionalism, when you look at the ends-oriented values.

MR. SAUNDERS

So, sort of the same question to Pat, and the question is: Given the fact that scholarship is with us—it's a fundamental part of the academy, that's not going to change—how can that be used to inculcate professional values in students, or can it be?

PROF. LONGAN

Well, first of all, I agree with the Dean that you can't try to make a law professor write about anything in particular. Talk about pick your battles; wow, I wouldn't even want to be in the same county when that battle started. But an individual faculty certainly can make the decision—I have—to make that the focus of their writing. There's a growing body of literature on exactly this subject, how to teach, or inculcate otherwise, professional values. Neil Hamilton is writing terrifically on this. Daisy Floyd, my friend and colleague is writing on it. I've written on it. So individual faculty members are focusing on it increasingly, which reflects, I think, the increasing attention and respect that this field is gathering in the academy.

So, to the extent I can bring you words of comfort from the academic side, I want to do that. It's not just that the faculties are resisting this—I think that many faculties are embracing it—they are trying to figure out how the heck to do it, but they are embracing it.

MR. SAUNDERS

Well, let's ask Marty, if the question is how do you do it, could you incentivize the faculty, or could the Dean incentivize the faculty in some way to produce scholarship that can be used to enhance the teaching of professionalism in law school?

DEAN KATZ

Absolutely, and Pat's being a little bit modest about some of his own work in this, but it's basically—part of this is just simply turning the paradigm a little bit. So, for a long time there were faculty people out there writing about teaching. And it's the perfect subject for scholarship. The whole definition of "scholarship" is, gee, maybe you can learn from what other people have done and then take it a step further. It is terrifically well-suited to writing about teaching and learning, and, in fact, there is this emerging field—well, it's not emerging; it's been around a long time, but it is starting to gain some traction—called "the scholarship of teaching and learning."

For the longest time there were a lot of law deans who I think would have said, "Oh, that doesn't count. We don't count that type of scholarship." So it's ridiculously easy just to—and we've done it—announce to your faculty, "No, in fact, we value that. And that research grant we gave you, or that course relief time, in fact, if you are going to develop for us—if you are going to get a grant to teach a new experiential course, we actually expect you are going to write about that. That should be part of your scholarship."

The other thing that I say about this is I totally get the cost idea, and if it weren't for the ABA and U.S. News, at least in theory, maybe we can tell every professor in the building I want you to stop writing, I don't think it would be a good idea for many reasons. But you could, in theory, say to your faculty, "I want you to teach twice as much, and now we're going to have twice the teaching capacity per faculty member, cut the faculty size in half, and charge half as much tuition." Maybe there's a world in which that could happen, but you said earlier that it's about what's available to us now. And even if that were a good idea, it is not available to us now.

I would say that the cause for optimism in this is that the people who are our best scholars are also our best teachers. I would be much more concerned if I felt that our very best scholars were somehow crummy teachers or not spending a lot of attention on exactly the things that we've been talking about here today, in terms of how you inculcate professional identity as part of your teaching.

I was an economist in a former life. I can't help myself. I actually sort of count and measure everything, and my faculty once a year when I do evaluations, throw up their hands and say "How can you measure all this stuff?" But I do, and I try. And I give out scores for scholarship and teaching. My faculty just must love that, but I do measure these types of things, and I track these types of things, and it turns out that the overlap between our best teachers and our best scholars is overwhelming. 85 percent of those who get our best scholarship scores also have our best teaching scores. So, in that sense, if you get past the idea of wholesale change to law school, I don't think it's a zero sum game.

MR. SAUNDERS

Let me just ask one final question before I open this up to questions from all of you, and that is: Assuming that we all agree that teaching professionalism is an important thing to do in law school, legal education, the question is when should we do it? Should we do it at the beginning of the law school experience? Should we make law students sign an oath in the beginning, or a white-coat ceremony like they do in medical school? Should we do it at the end of the law school experience when some law schools have told us that students are more ready to understand what it means to be a professional? Or, should we do it, as Justice Kourlis told us this morning as one of her seven principles, should we teach professionalism in every course? And if you agree with the latter, how do you do that? How do you enforce that? How do you bring that about, if you think that's the way it ought to be done?

Let me go right down the list, right down the panel.

DEAN BRODERICK

My simple answer, Paul, is it should happen to the extent it can throughout the law school experience, and I think I agree with Justice Kourlis as well, and I do think it's possible in every class and every course through problem solving to have a more nuanced understanding of what lawyers do and what the choices are.

So I think throughout all three years—in some ways experiential, some purely academic -- but I think it should be available and part of the curriculum, but not in a forced way. Maybe the faculty of Denver is much more amenable to being directed than the faculty at Denver, but it's hard to do that.

But every law school professor wants to make sure that they make an impact, and I do think the message is getting out that the issues Paul talked about are important issues, and it's not one classroom, one day; it's a three-year experience and a lifetime of practice.

MR. WICKS

I think, Paul, we heard both in the focus groups and leading up to the events of this morning, day one and throughout law school should be where professionalism is inculcated and introduced and developed.

In my law school, at the orientation, in fact, they tell the students, “Today is your first day of law school. You are a professional. Conduct yourself as such not only here in the law school, but when you are off campus. You are a professional,” and I think that sort of mindset is important throughout and, of course, after, through externships.

And just quickly on externships, they are great on developing professionalism, but it depends on who you hook them up with. It has to be the right lawyer or, law firm. Otherwise, you could in fact be training bad habits.

ASSOC. DEAN BERMAN

Yes, I also agree it should be all three years, but not just infused in every course in a more or less haphazard, independent kind of way, but in a sequential way. The first year, of course, I’ve already described some of the things that we do in the first year, but the first year is more of an exposure to professional values. And we do the oath at orientation as well, but it’s an ongoing exposure to professional values.

The second year is more of skills development and simulations related to the growth of professionalism; but the third year, which I am very happy to say we have just approved at Touro, the third year is an apprenticeship year of sorts, for us. It’s apprenticeship and licensure preparation. And so in that apprenticeship year, almost like a semester of practice, but not quite yet a semester of practice—although the pro bono scholar’s program that was mentioned this morning is an equivalent of a semester of practice. That’s where the primary focus shifts, really, from knowledge, as the skill that’s being focused on, to values and ethics and professional development.

So, I do think that the third year is the culminating year, or the capstone experience for our students, but it has to develop through all three years.

PROF. LONGAN

I think it should be taught in a serious and intensive way in the first year for two reasons: One is it sends a message to the student that this is important. We put important things in the first year when we know we’ve got your attention.

But more importantly than that is the kind of training we try to do at Mercer. It sets up the students to have a better experience when they get outside the building, because they have a vocabulary, they have a structure to think about, to talk about, to reflect upon the experiences they have. Even if they get the wrong placement, they can identify what’s wrong and talk about it

and reflect on it. They need that baseline, they need that foundation in the beginning, so I think it's absolutely essential to make the most of the experiential learning that they need. It's essential that they go into that with this training beforehand. It needs to be in the first year.

DEAN KATZ

I think it's got to be taught throughout. It's got to be taught in the first year. It's got to be something that the students get early and constantly—because as you said, their understanding of it evolves. So it's very important to immerse them in it in the first year.

We do that particularly through what we call our Lawyering Process class, which is sort of legal research and writing but much more; it's the beginning of that development process. We try to incorporate it in other courses.

In fact, in terms of your question, how you get people to do it within the academy, it's part of the annual evaluation questionnaire, "What did you do in your class," to cause the type of reflection that you are talking about.

The other thing that can help with this is Denver Law, like Touro, has a professional mentoring program. And as part of that we provide some guidance to our professional mentors. We have mentors that stay with their students—they can shift if they need to for some reason—but the expectation is that they will stay with the same student for the three years they are in school, and then the next two years, hopefully, as they go out into practice. And then during the mentoring sessions we actually provide guidance. And one of the things that we wholeheartedly encourage our professional mentors to do is to have the kind of reflective discussion you are talking about having.

MR. SAUNDERS

Well, let me now throw this open to the audience for questions, comments, observations, and you can put those not only to the people on this panel, but to the extent that the members of the morning's panel are still here, you can put the questions to them, too.

So, Justice Eng?

HON. RANDY ENG

I am not sure if this is an observation or a question or a rumination, but I used to do ABA site inspections, and I remember that I was at a school where I was asking the Dean about the various outputs, and the Dean was very happy about the Bar passage rate, very happy about the employment placement, but very unhappy about scholarship. The Dean told me that you could measure the annual output of scholarship with a micrometer. I didn't put that in my report, but this is what he said.

And I can understand, you know, the urgency regarding the scholarship and recognition, but let me ask this question: The things like

treatises, hornbooks, casebooks, do they count toward appropriate faculty scholarship? Is that a “yes,” is it a “no,” or “sometimes”?

DEAN KATZ

Yes.

HON. RANDY ENG

Yes. And the authors of those derive income from that; is that correct?

DEAN KATZ

Sometimes.

HON. RANDY ENG

Sometimes, all right. So in other words, in some of those activities not only is the school supporting a private entrepreneurial book so to speak, but it's not benefitting the school directly. I'm just wondering if that's encouraged, discouraged or if there's a neutrality about it, this kind of scholarship.

DEAN KATZ

For us, there's a neutrality. For us the real measure is sort of the glory that various forms of publications bring to the law school. If someone writes a treatise, it gets used a lot, that's glory for our law school. The same if they write a large article that then ends up being cited by the U.S. Supreme Court—

HON. RANDY ENG

That doesn't happen all that often anymore, the ranking of citations by law reviews.

DEAN KATZ

I am not sure how widespread it is, but many judges and justices have been very public in their complaints that they do not tend to find law reviews useful very often.

AUDIENCE MEMBER

Paul, I was encouraged, not surprised, to hear the panel endorse inculcating the concept of professionalism throughout law school, and also with the realization that that's just the beginning of the journey, that the development of professionalism is one that occurs throughout one's career and provides the satisfaction to the community and particularly to the lawyers. That was an observation.

My question is: Is there a role for the law schools to promote this after-graduation development by recognizing in some way those graduates who have really met those ideals, who can be held out as exemplars of what is so

important to our profession, and what the law schools, themselves, are trying to teach and to start for the duration of their—of a person’s professional career, and is it done?

PROF. LONGAN

Can I respond to a piece of that?

Your use of the word “exemplar,” I’m really glad you said that, because one of the things we’ve discovered—and it’s not just us, it’s in the literature as well—is that students need exemplars. They need not just definitions and not just academic training, they need to see and know about real lawyers, real judges who have lived lives worthy of admiration and are worthy of people trying to be like them.

We recognize them in a relatively informal but I think effective way, by inviting them into the classroom, the way I described before. These are almost all graduates of our law school, and they are only too happy to come back and share their stories. It really means a lot to the students. Not all of them will mean a lot to every student, but there’s going to be somebody in every series that it really speaks to every student. So that’s how we do it. There are other ways we could, but that’s how we do it.

DEAN BRODERICK

One of the things I inaugurated after I became dean was a series of lunches I called “Lunch with the Dean”. Students signed up on a first come, first serve basis. I invited guests to lunch from all areas of practice and from the bench to tell their stories. I found that the students were eager to learn how our guests went from law school to their current posts. Some of the shared stories were surprising and some inspiring but all were informative.

MR. SAUNDERS

Sir?

AUDIENCE MEMBER

I’d like to offer my definition of professionalism, the practice of compassion. “Compassion,” to me, is the essence of legal practice. It’s also the essence of religion. You have compassion as a standard for—in the Jewish religion, and the same in other religions—the standard for a form of action that is based upon, as synonyms, the act of charity and the act of righteousness. This leads to tikkun olam, or the repair of the world. These are the motives for legal action that define one’s purpose in the world.

Now, I see it’s a difficult time for the legal profession because on the one hand you have the idea of making money, and really, the profession today, from a public relations point of view within the profession, the idea is simply who makes how much, and that is defining part of the legal profession. The

other part of the legal profession is defined by the real profession, and that is going back to the values of prior generations when it really was a profession that was not just a business.

Today, part of any large law firm is the idea of individuals in the firm increasing their ability to buy more capital goods for themselves, but the real essence of law is lost in that. The translation has to be for a forum where the whole value system of the legal profession is, like today, enhanced by the care and consideration and the repair of the world, if you will, by means of the value system that the legal profession can use in leading the country to a better evaluation of the values of the country.

DEAN BRODERICK

If I could respond briefly, I think one of the things that I've learned in my three-and-a-half years at the law school is that this younger generation gets it. This younger generation is a remarkable generation; they don't get credit for it. But when I was in law school, the values and ideas that percolated through the hallways in our law school didn't often percolate the hallways of my law school. The goal was get a clerkship, the goal was to get a big job in a big city, and some have those goals, and they are fine. Many, many more students want to give back than I remember in my career.

So, I understand your concern, but I think this younger generation doesn't get the credit it deserves, and I think they are very committed to do big things, the kinds of things you are alluding to.

AUDIENCE MEMBER

I was fortunate to be at the right age at the right time. I was in Washington during the Kennedy and Johnson Administrations. That was the place for a young lawyer to be.

MR. SANDERS

Sir?

AUDIENCE MEMBER

Yes, like Judge Eng, I've done site visits over the years for the ABA. I come out of practice, and I am now a town judge, so I'm not from the academy, but when I've done the site visits, my focus has been on the students, and I am wondering how the students are adapting to the inculcation of these values in the curriculum? Do they have the right kind of faculty to be incentivized to take these types of programs or are they clamoring for it?

PROF. LONGAN

If they want to graduate, they have to take it. All roads to graduation lead through me.

AUDIENCE MEMBER

Those students demonstrating these values, are they being recognized by the school while they are in school?

ASSOC. DEAN BERMAN

I'll answer that really briefly. I know we're running out of time, but students don't need to be incentivized very much to take courses that are going to prepare them for practice. They love the courses that are going to prepare them for practice. We have clinics, numerous clinics; we have more than enough spots, we thought, for our students, and this year, one semester we couldn't accommodate all of the students that wanted to take a clinic.

We have externships, numerous students want to do the externships. The Pro Bono Scholars Program that was just created, we had far more students that asked questions about it and were interested in doing it, and I don't think it was solely because they could take the February Bar exam. My experience has been that they want to do it because it is the equivalent of a semester in practice, and they are very well aware that they learn how to be lawyers by practicing law under supervision by either a faculty instructor or field supervisor, who hopefully has been monitored by the faculty instructor as you (indicating) pointed out.

So I think they are eager to learn the practice of law through experiences.

MR. SAUNDERS

And I'll add to that from my experience as a visiting professor at Georgetown for the last ten years, and I would echo what Myra said, that the students are desperate for this kind of training. They recognize that this is going to characterize the rest of their career, and they really want to know how it's done, and they want to be seen to be part of the legal profession. And so, my experience is they really want this kind of inculcation, to use that word, education, experience. They really want it, because that's what they are there for.

Seth, last question.

MR. ROSNER

I was very interested in Jim's comment that you don't teach integrity in law school; hopefully, you bring that to your education, to your college and law school education from family and so on and so forth. But for that law student who may not have the kind of strong family background that hasn't inculcated that, can it be taught? Not just experientially, but consequentially?

MR. WICKS

I think you can identify it and it should be identified as a value both in law school and law firms. For instance, we don't tolerate at my firm somebody who doesn't have integrity, and we've, in fact, let go people who we thought didn't have integrity. And I think—yes, I think you have got to identify it, in my view. And whether it can be taught, I don't know.

MR. SAUNDERS

So, as a student of the Jesuits, we were taught first they tell you what they are going to teach you, then they teach you, and then finally, they tell you what they just taught you. So, the last element of our program today is the third one of those. We've asked Dean Matthew Diller from Cardozo Law School to tell us in his words what we just learned today.

CONCLUDING REMARKS

DEAN MATTHEW DILLER
DEAN AND PROFESSOR OF LAW,
BENJAMIN N. CARDOZO SCHOOL OF LAW

So I will try and be mercifully brief. The first thing I want to say is thank you and salute Dave Schraver, Paul Saunders and the Judicial Institute and the New York State Bar for bringing this program together in the first place. It has included a remarkable collection of speakers who brought a wide range of perspectives and; are engaged in fascinating things every day. So let me ask for a round of applause.

I know that this program didn't grow out of nothing. It is the culmination of an entire year's worth of activity. I know that Dave has made this an essential feature of his presidency. In preparation for today you held a series of focus groups around the State that brought together practitioners and academics to really have conversations in part on a more granular level, but they were also big picture, too, at four difficult locations—Buffalo, Albany, Long Island and New York City—to really get everyone engaged and get a lot of ideas out on the table.

I have had the benefit of reading the transcripts of those discussions, so I know that they were extremely rich and filled with a lot of great ideas and energy, and I think we should all be aware of the fact that this was quite an undertaking to bring this all together, and we all are the beneficiaries of it. I have learned a lot here today, and I'm sure you have, too.

So now I'll start again the way everyone else started, which is: What do we mean by professionalism? That question seems almost obligatory at this point. I am going to take it in the broadest sense of the term. One, it means a broad set of competencies, judgment, problem-solving, how to work with legal issues as they are situated in real life, which, is far messier and more multidimensional than they appear in the textbooks; how to understand people and their problems; how to listen and how to work in a teams. In sum, how to act like a professional in a professional setting.

And I have to say, all of those things on one level seem very basic. I hold focus groups with lawyers around New York City and I ask what are you looking for in law graduates when you go to hire? And this set of abilities is on the list of things I hear. I rarely hear "I want someone who knows a little more torts, or who knows the rule of perpetuities a little better." I rarely get that. Lawyers tell me "I want someone who can communicate as a professional, conduct themselves as a professional, who can listen and understand the problem they are being given and can use initiative and judgment." And so that's the task for legal education.

But there are other tasks as well. Values are critically important—integrity and honesty, but I take it more broadly to encompass a vision of what it means to be a lawyer in society. What is the responsibility of our profession to the public, to the courts, to our clients, and what are our aspirations? These values are also a key dimension of professionalism.

To me the question of aspirations is extremely important. Where do we want to go? What do we want our profession to be? What do we want it to look like over the years ahead? What should we hold out to our students? What can we hold out to them for the future? Enabling our students to grapple with these questions requires that we provide young lawyers and students with a broad understanding of their work so that they can be reflective, self-aware and hopefully contented professionals.

I think our goal in legal education is in part to teach them the rule of perpetuities and all of that, and in part it is provide practice-ready skills, as well, so graduates are of immediate value in the workplace, but it's bigger than that. Our goal is to set them up for an entire career that they can draw meaning from and orient their professional and their work lives which, as we all know, is essential to all of us. It's an essential part of our life and our existence.

And so therefore when I look at what we do in law school and this process we've been discussing all day, I don't view it as a narrow task, I view it as a broad task. I view it as an essential task for all of us, because I don't want our graduates, as happens too often, looking around five or ten years out asking "What am I doing?" "Why am I doing this?" "Why did it go to law school?" "What's the point?" "What's the value?" We cannot eliminate that entirely but I believe if we set them up in the right way we can reduce the incidence of malaise that stricken many in our profession. To me, self-awareness and reflection, and let me go beyond that, a passion for lifelong learning and a passion for justice are key aspects of professionalism and are critical.

One of the most important things we do in law school, or that we seek to do is to send our graduates out into the world stoked up with that kind of passion and fire to go out there and use their law degrees and their legal education to help make the world a better place, to help their clients, who are often in desperate and dire situations, and to move the ball forward for our society as a whole.

It's much easier to communicate the importance of the practice skills, and to communicate the importance of some of the values if students share a broader sense and understanding of how they fit into the world, how the legal profession fits into the world, and the possibilities for what they can accomplish with their degrees.

So that's the stake here, that's the turf that I think we should be setting our eyes on, and it's not a simple task. It's not like teaching someone that when you write a complaint, you number the paragraphs. I know I'm trivializing, but I want to say that this is a tough and difficult assignment.

I also come at this as a parent. And so from the parent's perspective, I have a deep well of life experience at this point. I know many things that my two lovely sons do not know. I tell them things, and I tell them things that I know are true, that I know will help them, that I know will help them achieve some end or stand them in a better stead. Look, they don't always listen to me.

So, it's not simply about creating an environment where we impart our wisdom or knowledge or we lecture to students about values; it doesn't work that way. It's something in the developmental process. To really understand it and absorb it in a deeper level that stays with you is complicated. It involves a lot of thought and a lot of energy, and it's worth the candle.

So, that's how I see all of this. And let me say I think all of us in this room start out with that goal. We all have common agendas. In my mind, the academy needs the profession; the profession needs the academy.

We are intimately interdependent and deeply interwoven. Some of these programs and initiatives that you heard about today suggest, yes, we are deeply interwoven already, and the trick is how can we be more interwoven in new and different ways that are beneficial to both of us, because in the end, we have to work together, because as Dean Broderick was saying, we on the law school side simply can't do it ourselves.

And there are reasons we can't do it ourselves. One reason is that we can tell our students things, but that doesn't actually mean that they absorb them. But there are other reasons we can't do it ourselves. We need the wisdom and judgment and life experience that practitioners bring to bear on all these problems.

And all of you out there in practice, I think you need us, too, because one way or another the students that we graduate are going to be your colleagues over the next however many years. They are the future, and getting it right is extremely important. It's not just that we create your pool of potential employees, it's also that we create your colleagues in the future. So, we really need each other, and we need to work together.

So having said that, I do think there is distrust, and I think we heard it at various points in the course of the day. One distrust I just want to get out on the table, because I think it lurked around a number of the conversations, is that there are great clinical faculty members, deans of experiential education, deans of law schools focused on all of these issues, and the rest of the faculty don't care about them. It wasn't said, but there's a view out there that a lot of law faculty are kind of pointy-headed theorists who are not engaged in these issues.

And let me just say, from my experience that's just not true. Law faculty care deeply about their students; they care deeply about the larger project; they care deeply about the issues of justice and the shape of the profession. Their professional lives means every bit as much to them as your work means to all of you, and they are passionate teachers.

And I hear over and over again from students not just at my own law school but at other law schools, that at the law school level they have experiences in the classroom that are simply an order and magnitude more engaging and grab them more than any other academic experience they have had up to that point, and that's really a special thing.

The ability to work with students in the classroom and to show them the possibilities of what law can achieve, to show them the importance of issues of justice in all sorts of different subjects, is just a precious and very important thing, and our faculty are deeply engaged in that.

In answer to some of the questions on scholarship, I reply our faculty are passionate about looking at the justice system, looking at our legal system and trying to understand it and make it better. And if they can communicate that passion to our students, which I think they are very successful at in many cases, that's great. Scholarship is a piece of that and it's interwoven with it. It's a way our faculty channel their study and examination of different legal systems. If we all think about individual faculty members, law faculty whose work we know, or faculty we studied with, I think we all have examples of that. That energy, that fundamental energy, has got to be a huge driver for us. It is a passion for our legal system, for justice, for making the world better, and I think that it is alive in today's law schools.

Yes, there are challenges. We all heard in the opening about the crises we face, and how they are extremely serious and urgent. There crises give an urgency to this mission of how we educate lawyers in the future. I won't go through it all, you all know the job situation, changing markets, declining applications, high tuitions. It's a tumble of issues that is not easy to untangle. I think these issues won't be untangled in one fell swoop; it is going to be step by step, and piece by piece as we feel our way into the future to find solutions and answers that work.

One of the great things about today is we heard a lot of great potential solutions and projects, and I think that they are going to work in one way or another to lead us forward in different ways, and so a lot of them focus as they should on new and different ways in which the Bar can work with the law schools. And that, to me as a Dean, is fantastic and incredibly exciting.

We heard it on an institutional level—I'm thinking of the work that Michael Cardozo did in Corporation Counsel. The Corporation Counsel in New York is virtually a teaching law firm the way some hospitals are teaching hospitals. There are students infused throughout the organization, not so much in random externships, but rather in structured programs run in partnership with different law schools around the City. And that's true in other government law offices in New York as well, and it is a way in which, as Michael said, the government side has been extremely receptive, as has the public interest side.

The Legal Aid Society in New York works with all the law schools in structured programs. I have yet to take an idea or proposal to either the

Corporation Counsel or the Legal Aid Society and have them say, “Sorry, we don’t have the time. We’re not interested.” Rather, those offices recognize that they, too, have a stake in what the profession looks like in the future, and they roll up their sleeves and work with our students, and that’s just phenomenal.

To me, the challenge is to get that attitude to penetrate throughout the Bar. There are additional challenges when you look more broadly to the private sector. Although it is more of a challenge we connect with the private bar in a wide variety of ways. Some of the ways were talked about here. Our adjunct faculty—we have great adjunct faculty as do all the law schools in the area—come in from the field and bring a sense of what’s going on in the real world.

Marty Katz’s programs of teaming practitioners with classroom faculty, is just fabulous. There are ways in which we draw on the practicing Bar all the time even apart from mentorship programs and summer jobs. In terms of institutional arrangements, the private bar is a harder nut to crack than the public sector—and I think there are good reasons for that—than on the law school side. I know that the City Bar is working on these issues as are a number of the deans of the law schools. To me, it remains one of the challenges.

And at the same time—there are dangers in all of this, too. One of the things that’s happened, if you look back to the 1950s to the ‘70s, an era that John Broderick was talking about, all law school did was teach the skills of critical analysis and close reading and interpretation that you get out of casebooks.

Law schools did not have any pretension beyond that. We’ve had a whole revolution over the past thirty years, really gathering steam since MacCrate, where what law schools do and what we expect of them has changed dramatically. The expectations placed on law schools have changed dramatically. The expectations we place on ourselves have changed dramatically. We have entered into the whole foray of professionalism education in a much more detail-specific, fine-grained way than in the past and that’s all to the better.

But at the same time the market has changed out there for our graduates. And what that means is that lawyers graduating from our schools—go to big firms, no longer have the expectation that they are going to stay in those firms for more than three years. That changes the relationship and the dynamic between the law firm employer and the new graduate. So the level of mentorship is really not the same, the investment is not the same, and, of course, as Michael Cardozo said, the clients are now sticking their noses in this, because they don’t want to pay for new lawyers’ training.

Looking back, clients hired law firms differently. When the client hired a firm, it was a longstanding relationship. The client had a stake in creating the next generation of lawyers. That’s no longer the case at all, and so the level of mentorship out there in the world has declined. In addition, as Justice Kourlis said this morning, most graduates are not going to go to big firms; they are

going to go to small firms or solo practice where mentorship is hard to come by. When you add that in, the level of mentorship out there in the profession is something to pay close attention to.

That is something we on the law school side can help with by engaging the Bar in providing mentorship, in structuring programs through alumni associations, through our schools and lots of ways to help keep the Bar focused on the task of mentorship. Now, we cannot do it alone. The Bar, itself, needs to focus on it.

One of the things that is clear today is the project of instilling all of those values and competencies that we've been talking about is not over after three years and is not something we on the law school end can do alone. We need your help. And I worry about the level of support out there when our students leave our doors. And the programs like Fred's incubator programs that we talked about, that's a direct way to address this issue. And so there's lots going on there that addresses it. There's a lot of hopeful positives going, but it's within this context.

A final cautionary word. One of the things that concerns me is that we not roll back to the limited aspirations for legal education that characterized the 1950s, '60s and '70s, because I see proposals out there that concern me. The two-year law school, which has been mentioned in passing here is precisely that kind of proposal. Under that proposal, we teach the doctrine in law school, and then it's up to the world of practice to do the rest.

And I submit that while that might have worked in the '50s, '60s and '70s, it does not work in today's world; and therefore, the task we have undertaken for ourselves in instilling these professional values in helping our students learn these basic competencies of what it means to be a professional, I don't think we're going backwards on that. If anything, the other message I get is we need to do it better, we need to find new ways to do it, but all of that means not retreating from the basic mission of legal education.

As I look around this room, many of you are experts on everything we have been talking about today, or substantial pieces of it, and so I hope you all get a chance to talk more afterwards, because I know there's tons of talent and commitment in this room.

Thank you all.

MR. SAUNDERS

Thank you very much, Dean Diller. That was, as I just told him, in the best Jesuit tradition of summing up at the end. It was excellent. I think what Dean Diller has made clear is that one of the great hallmarks of the legal profession exemplified today is the ability to examine ourselves, talk about ourselves, think about the issues that we deal with in this great profession that we all are a part of and love, and I think it's fair to say, at least from my perspective, that whatever changes are coming in legal education, they are going to make it better than it has been, and the inculcation of professional

values in legal education which we, in the Institute are very concerned about, is alive and well and is going to get better every day.

So let me first thank Dean Diller again, thank the members of the afternoon panel, Dean John Broderick, Jim Wicks, Professor Berman, Professor Longan and Dean Katz for a very interesting presentation this afternoon. Let me thank Fred Rooney and Judge Newton for their remarks at lunchtime. Let me thank the members of the morning panel, the Keynote Speaker and the others who spoke this morning; a special thanks to Judge Lippman for making a lot of this possible; a special thanks to the members of the committee, Eileen Millet, also from the State Bar Association, Dave Schraver, Ellen Kaufman, John Gross, Jim Wicks and Chris Chang from the Institute.

And last of all, let me thank all of you for your attention, for your participation, and let me thank you in advance for what I hope you will take out of this convocation and continue to make improvements that will affect our profession going forward, and make it continue to be the truly great, and in Judge Lippman's words, noble profession that it is. So thank you all of you for coming.

APPENDIX 1

A Joint Convocation

Convened by

The Judicial Institute on Professionalism in the Law

and

The New York State Bar Association and its Committee on
Legal Education and Admission to the Bar

*The Coming Changes to Legal Education:
Ensuring Professional Values*

New York State Judicial Institute, White Plains, New York

May 22, 2014

BIOGRAPHIES

Paul C. Saunders

Paul C. Saunders is Of Counsel in Cravath's Litigation Department. He retired from the Firm on August 27, 2010, and was named Of Counsel in the same year. Mr. Saunders's practice includes jury trials and international arbitration, primarily in the areas of antitrust, securities, intellectual property, and public and private international law.

Mr. Saunders speaks frequently on those and other subjects. Recently, he chaired the symposium "Raising the Bar—What Being a True Professional in the Practice of Law Means," presented by the President of the New York State Bar Association.

In 1995 and 1996, Mr. Saunders was national Co-Chair of the Lawyers' Committee for Civil Rights Under Law and in 2000, received the Whitney North Seymour Award from that Committee. He was also chair of the Board of Visitors of the Georgetown University Law Center and continues as a member of the Board. He received the John Carroll Award from Georgetown University and in 2006, he received the Paul R. Dean Award from the Georgetown University Law Center. From 1983 to 1989, Mr. Saunders was a member of the Board and Vice President of the Legal Aid Society. In 2000, he was appointed to the New York State Judicial Institute on Professionalism in the Law and currently serves as its Chair. Mr. Saunders has been a member of the Board of the Office of the Appellate Defender and was a member of the Board of Directors of Volunteers of Legal Service from 1996 to 2007. He is currently Director Emeritus of the Constitution Project, where he had been a member of the Board and previously served as its Chair. In 2011, Mr. Saunders received the Milton S. Gould Award for Outstanding Oral Advocacy from the Office of the Appellate Defender.

In addition, Mr. Saunders is a Fellow of the American College of Trial Lawyers, was Chair of its National Moot Court Competition Committee and its Downstate New York Committee, Vice Chair of its Committee on Special Problems in the Administration of Justice and is currently Chair of its Task Force on Discovery and Civil Justice. That Task Force recently proposed sweeping reforms in the civil justice system's rules of procedure. He is Vice Chair and a member of the Board of Directors of the Commonweal Magazine Foundation and was a member of the Board of Trustees of Fordham University until the end of June 2010, when he became a Trustee Fellow. He was also a member of the New York State Bar Association's Task Force on New York Law in International Matters and is a member of the British Institute of International and Comparative Law's Bingham Appeal Board. In 2003, Mr. Saunders was appointed Distinguished Visitor from Practice at Georgetown University Law Center, where he is currently on the faculty.

Mr. Saunders was born in New York, New York. He received an A.B. *egregia cum laude* from Fordham College in 1963, where he was elected to Phi Beta Kappa, and a J.D. from Georgetown University Law Center in 1966, where he was Notes Editor of the Law Journal. Mr. Saunders also attended the

Institut d'Études Politiques in Paris, France. From 1967 to 1971, he was on active duty as a Captain in the U.S. Army Judge Advocate General's Corps and was awarded the Meritorious Service Medal in 1971. Mr. Saunders joined Cravath in 1971 and was a partner from 1977 through August 2010.

David M. Schraver

David M. Schraver is the 116th President of the New York State Bar Association. He is Senior Counsel to Nixon Peabody LLP where his practice is concentrated on business and commercial litigation in state and federal courts. During his term as President of the NYSBA, he has made issues concerning legal education and the future of the legal profession a priority.

James R. Silkenat

James R. Silkenat is President of the American Bar Association. He is a partner in Sullivan & Worcester's New York office and is a member of the firm's Corporate Department. His primary focus is on international joint ventures, mergers and acquisitions, privatizations, project finance transactions (in developed and developing countries) and private equity investment funds. Mr. Silkenat has substantive industry experience in energy, hotels, manufacturing, transportation and telecommunications. Mr. Silkenat is a member of the Council on Foreign Relations and of the American Law Institute, has served as a Fellow in the U.S. State Department Scholar/Diplomat Program, and was a Fellow of the National Endowment for the Humanities. He is also a Life Fellow of the American Bar Foundation and has served as National Chair of the Fellows. In 2000, he received the Outstanding Alumni Award for Career Achievement from Drury University and in 2007 he received the Lifetime Achievement Award from the ABA Section of International Law. He received the Diversity Champion Award from the Association of the Bar of the City of New York in 2009.

Hon. Jonathan Lippman

Chief Judge Jonathan Lippman was appointed in February 2009 to serve as the Chief Judge of the State of New York and Chief Judge of the Court of Appeals, where he presides over New York's highest court while heading a statewide court system with a \$2.3 billion budget, nearly 3,400 state and locally paid judges, and over 15,000 non-judicial employees in more than 350 locations around the State. During his tenure on the Court of Appeals, Chief Judge Lippman has authored major decisions that have shaped the law of New York, the contours of state government, and the lives of all New Yorkers. As the State's Chief Judge he has championed equal access to justice issues and taken an active leadership role in identifying permanent funding streams for civil legal services, strengthening the state's indigent criminal defense system, addressing the systemic causes of wrongful convictions, responding to the increased numbers of foreclosure cases entering the courts, reforming New

York's juvenile justice system, and creating Human Trafficking Courts across New York State among many other areas. Recently, Chief Judge Lippman made New York the first state in the country to require 50 hours of law-related pro bono work prior to bar admission and established the Pro Bono Scholars program to help alleviate the crisis in civil legal services and accelerate bar admission.

From May 2007 until his appointment as Chief Judge, Judge Lippman was the Presiding Justice of the Appellate Division of the Supreme Court, First Department. Prior to that, from January 1996 to May 2007, he served as the Chief Administrative Judge of all New York State Courts by appointment of then-Chief Judge Judith Kaye. As the longest tenured Chief Administrative Judge in state history, Judge Lippman played a central role in many far-reaching reforms of New York's Judiciary and legal profession. Chief Judge Lippman's entire career in the court system spans four decades from his beginnings as an entry level court attorney in Supreme Court.

Judge Lippman is a member of the Board of Directors of the State Justice Institute, a former member of the Board of Directors of the Conference of Chief Judges, a former President of the Conference of State Court Administrators and Vice-Chair of the Board of the National Center for State Courts. He lectures and publishes frequently and has received many awards and honors, including the 2008 William H. Rehnquist Award of the National Center for State Courts and the Cyrus R. Vance Tribute of the Fund for Modern Courts, and in 2013, the American Lawyer named Chief Judge Lippman one of its Top 50 Innovators in Big Law in the Last 50 Years. He received his B.A. in 1965 from New York University and his J.D. from New York University School of Law in 1968.

Rebecca Love Kourlis

Rebecca Love Kourlis believes in the foundations of the American legal system and has dedicated her career, both in and out of the courts, to ensuring that the system provides justice for all. She served Colorado's judiciary for nearly two decades, first as a trial court judge and then as a justice of the Colorado Supreme Court.

During her time on the bench, Kourlis witnessed a system increasingly under attack from outside forces—one that was failing to deliver the justice she swore to uphold. So, in January 2006, she resigned from the Supreme Court to do something about it.

She established IAALS, where she serves as Executive Director.

Her work at the helm of IAALS is resolute in its focus of continuous improvement of the American legal system, and a logical off-shoot of her accomplishments on the bench where she spearheaded significant reforms in the judicial system relating to juries, family law, and attorney regulation.

Kourlis' legal expertise is rich and diverse. She began her career with the law firm of Davis Graham & Stubbs, and then started a small practice in

rural northwest Colorado where she worked in natural resources, water, public lands, oil and gas, and mineral law.

In 1987, Kourlis was appointed as a trial court judge with a general jurisdiction docket. She served as Water Judge and later as Chief Judge of the District. In 1994, Kourlis returned to Denver and worked as an arbitrator and mediator for the Judicial Arbiter Group. She was appointed to the Colorado Supreme Court in 1995.

Justice Kourlis accepted the 2007 Legal Reform Organization of the Year honor from the U.S. Chamber of Commerce. She has also received numerous individual honors, including the American Bar Association (ABA) Justice Center's 2012 John Marshall Award, the ABA Judicial Division's 2009 Robert B. Yegge Award For Outstanding Contribution In The Field Of Judicial Administration, and the 2008 Regis College Civis Princeps citizenship award. Kourlis and her husband Tom have been named the 2010 Citizens of the West by the National Western Stock Show.

Kourlis earned a B.A. in English from Stanford University and a J.D. from Stanford University Law School. She is a Colorado native and daughter of former Governor John A. Love.

Vincent E. Doyle III

Vincent E. Doyle III, has earned a statewide reputation as a leader in the New York legal community. He has held a number of leadership positions with state and local bar associations and has served on numerous government and independent panels seeking to improve the legal system. Most prominently, Mr. Doyle served as the 114th president of the New York State Bar Association. The 77,000-member association is the largest and oldest voluntary state bar association in the country. During his term as president, Mr. Doyle focused on efforts to improve the quality and availability of legal services, particularly to vulnerable populations such as veterans, immigrants, and poor people, as well as the State Bar's efforts to increase the diversity of the legal profession as a whole. As a result of his initiatives, the State Bar was honored with an American Bar Association Partnership Award for substantial and innovative efforts to advance diversity in the legal community. Mr. Doyle served on the board of directors of the Erie County Bar Association. He is a past president of the Erie County Aid to Indigent Prisoners Society, which administers the county's assigned counsel program. By appointment of the chief judge of New York State, he served on panels charged with improving the jury system, the criminal procedure law, and New York's sentencing laws. Mr. Doyle received the 2012 Lawyer of the Year Award from the Bar Association of Erie County, and a Distinguished Alumni Award from the State University of New York at Buffalo Law School. Mr. Doyle is a commercial litigator whose practice includes civil and white-collar criminal litigation and representation of professionals in disciplinary proceedings. He also advises on legal ethics matters. He is a fellow of the American College of Trial Lawyers,

has been recognized in the field of business litigation by the Super Lawyers magazine, and received the highest ratings for ability and ethics by the Martindale-Hubbell legal directory.

Michael Cardozo

Michael A. Cardozo is a Partner in Proskauer's Litigation Department and the former Corporation Counsel for the City of New York. As the city's 77th and longest serving Corporation Counsel, he was the city's chief legal officer, headed the city's Law Department of more than 700 lawyers, and served from 2002 through 2013 as legal counsel to Mayor Michael Bloomberg, elected officials, the city and its agencies.

Michael's experience managing large litigations in both the private and public sectors provides him with unique insight into litigation assessments, risk management and mitigation issues. In his role as head of the New York City Law Department, he effected numerous changes that resulted in significantly increased efficiency. He achieved this by greatly expanding the use of technology and statistical data allowing for effective risk/cost analysis of cases.

Michael set an impressive track record of reducing the city's payout of settlement and judgments by 14 percent and advised on scores of significant litigations, handling some of them himself. Under his direction, the Law Department brought landmark, successful suits concerning the illegal use of guns and the improper sale of cigarettes, and defended a major class action discrimination suit against the Fire Department, numerous challenges to the health care initiatives of Mayor Bloomberg, and steps taken in connection with the Occupy Wall Street and Republican National Convention demonstrations. Michael personally argued several high-level cases on the city's behalf including a real estate tax dispute with the government of India, in which he prevailed before the U.S. Supreme Court. He also litigated and won a \$2 billion bond case in the New York Court of Appeals. Michael's experience in representing virtually every city agency as well as his extensive dealings with the federal and state governments, has also given him a unique insight on the way in which the government operates. Prior to his leading role in the New York City Law Department, Michael was a leading litigator with Proskauer from 1967-2002 and counseled numerous sports leagues, including the National Hockey League, the National Basketball Association and Major League Soccer. He also was co-chair of Proskauer's Litigation Department and served three terms on the firm's Executive Committee. Long active in the public sector, Michael served as president of the 22,000-member New York City Bar Association from 1996-1998.

Michael is the former chair of the Fund for Modern Courts, a non-partisan citizen organization devoted to improving New York State courts, and previously chaired two court system task forces appointed by Governor Mario Cuomo and Chief Judge Sol Wachtler. He is also a fellow of the American College of Trial Lawyers and a member of the American Law Institute, the

Board of Trustees of the Lawyers Committee for Civil Rights Under Law, and the Anti-Defamation League. Michael earned his J.D. at Columbia Law School and is the former Chair of its Board of Visitors.

Among the numerous honors Michael has received are the Emory Buckner Award from the Federal Bar Council for outstanding public service, the Fund for Modern Courts Cyrus R. Vance Tribute for dedicated work towards judicial reform, the Columbia Law School Lawrence A. Wien Prize for Social Responsibility and the New York Law Journal's Impact Award.

John Burwell Garvey

Professor Garvey has directed the nationally acclaimed Daniel Webster Scholar Honors Program at the University of New Hampshire School of Law since the program's inception in 2005. He has over 35 years of practice experience, the first three of which were in the United States Navy JAG Corps. Following that, he practiced primarily in New Hampshire; he was the chair of the litigation department at Sulloway & Hollis, in Concord, NH, and was selected by his New Hampshire peers for *Super Lawyers* and *Best Lawyers in America*. Professor Garvey has received the Bill of Rights Award from the NH Civil Liberties Union, the E. Donald Dufresne Award for Outstanding Professionalism from the NH Bar Association, and was identified by *National Jurist* in 2013 as one of the 25 most influential people in the United States in legal education. He teaches *Evidence, Pretrial Advocacy, Advanced Pretrial Advocacy, Negotiations/Alternative Dispute Resolution, and Client-Counseling*; he is an active mediator and arbitrator, selected for inclusion by the National Academy of Distinguished Neutrals. John was recently selected by his peers in *Best Lawyers in America* as the 2014 Mediator of the Year in New Hampshire. John is the lead author of the recently released LexisNexis book entitled *ADR: Negotiation, Mediation, Collaborative Law and Arbitration*.

Robert Lapiner

Robert Lapiner has led large and complex non-profit academic institutions, seeking to expand educational opportunity and contribute to global understanding throughout his career. Professor of the Humanities at the New York University School of Continuing and Professional Studies (NYU|SCPS) since 2006, he served NYU in senior leadership as Associate Vice Chancellor for Global Continuing Education (2011-2013) and as Dean of NYU|SCPS (2006-2011) where he spurred the school's emergence as home to the university's fourth largest professionally-oriented graduate student community.

In Los Angeles from 1990-2006, Lapiner was Dean of Continuing Education and UCLA Extension (the University of California's single largest academic unit by student headcount), and was a faculty affiliate of the UCLA Center for International Development Education. His tenure at UCLA was marked by programmatic partnerships with professional schools and

universities and government agencies on every continent, and pioneering achievements in technology-enhanced education. He initiated UCLA Extension Online, then the largest educational program of its kind in the University of California system, providing credit-bearing faculty-led Internet-based post-baccalaureate and post-graduate professional development learning opportunities to tens of thousands of working adults yearly.

At both universities, he was an active member of the councils of professional school deans. He has chaired committees and served as elected commissioner in national and international professional organizations (like the Association of Public and Land-grant Universities), and held statewide office in councils of the University of California (system), the California Community College System, gubernatorial educational taskforces, and the Western Consortium for Public Health (since merged with the Public Health Institute). He was also a founding member of the European Association of International Education.

Lapiner worked in Europe and Central Africa first in the U.S. Foreign Service and then in the world of international not-for-profit organizations before moving to UCLA: In Paris, he had been Deputy Executive Director world-wide and Director for Europe for the Council on International Educational Exchange. He oversaw the exponential growth of the Council's presence in Europe, and its service to hundreds of universities and colleges in the U.S., Canada, Europe, Asia, Australia, and Latin America. He joined the Council after serving as a U.S. career diplomat in educational, cultural, and press affairs. He was the acting U.S. Cultural Attaché in Kinshasa, Democratic Republic of Congo (where he was also a visiting professor at the National University), and in Paris, France, he was appointed Washington's first-ever University Relations Officer.

Among other honors, for his innovative work in the Congo, Lapiner earned a Meritorious Honor Award from (what is now) the Bureau of Cultural Affairs in the Department of State. For exceptional achievements in educational public service to Southern California communities as dean of UCLA Extension, he received official commendations from the Los Angeles City Council as well as the Board of Supervisors of Los Angeles County.

Lapiner earned a B.A. from the University of California, Los Angeles (UCLA), and both an M.A. and Ph.D. in British and American Languages and Literatures from Harvard University.

Diane F. Bosse

Diane F. Bosse has devoted a substantial part of her professional life to bar admissions and legal education. She was appointed by the Court of Appeals to the New York Board of Law Examiners in 1998, after having served for 19 years as an assistant to the Board. She has served as chair of the Board since 2001. Ms. Bosse chaired the Board of Trustees of the National Conference of Bar Examiners in 2006-07, and served on the Board from 1999

to 2008. She continues to co-chair the National Conference of Bar Examiners Long Range Planning Committee. She is a frequent speaker at educational programs and academic support conferences sponsored by the National Conference of Bar Examiners. Ms. Bosse is the immediate past chair of the Accreditation Committee of the American Bar Association Section of Legal Education and Admissions to the Bar. She previously served on the Standards Review Committee of the Section.

Ms. Bosse is a past president of the Defense Trial Lawyers of Western New York, and a past member of the boards of directors of the Bar Association of Erie County and of the Western New York Trial Lawyers Association. In 2001, Ms. Bosse received the Award of Merit from the Bar Association of Erie County, and she received the Distinguished Alumnus Award for Public Service from the University at Buffalo Law Alumni Association in 2005. She was honored in 2006 as the Defense Trial Lawyer of the Year by the Defense Trial Lawyers of Western New York. In 2010, she received a New York State Bar Association Award for Excellence in Public Service. In 2012, the National Conference of Bar Examiners presented her with the Chair's Award. In 2013, Ms. Bosse received a Lamplighter Award from the Eighth Judicial District Gender & Racial Fairness Committee. She will be honored in June 2014 as the Bar Association of Erie County Lawyer of the Year.

Ms. Bosse is a member of the American Law Institute and a Fellow of the American Bar Foundation and of the New York Bar Foundation. She is Of Counsel to the law firm of Hurwitz & Fine, P.C.

Luke Bierman

Luke Bierman will become the Dean and Professor of Law at Elon University School of Law in Greensboro, NC, on June 1, 2014 after serving as the Associate Dean for Experiential Education and Distinguished Professor of Practice of Law at Northeastern University School of Law in Boston where he was responsible for School's innovative and unique curriculum, including its Cooperative Legal Education Program. Previously, Professor Bierman was the general counsel in the Office of the New York State Comptroller where he managed a legal staff that included 55 attorneys and was responsible for legal advice and counsel on all matters relating to the State Comptroller's constitutional and statutory responsibilities as sole trustee of the state's \$160 billion pension fund and chief fiscal officer of the state's \$130 billion budget, including fiduciary, governance, ethics, litigation, investment, pension benefits, state and municipal finance and legislative matters. Earlier in his career, Professor Bierman served as a fellow in government law and policy at Albany Law School; as director of the Institute for Emerging Issues at North Carolina State University, where he held the rank of associate professor of political science; as founding director of the Justice Center and special assistant to the president of the American Bar Association; as visiting specialist in

constitutional law with the rank of associate professor at The Richard Stockton College of New Jersey; and as law clerk to justices and as chief attorney of the New York Supreme Court, Appellate Division, Third Department. Professor Bierman also has taught at Northwestern University School of Law, the University at Albany and Trinity College in Hartford.

Professor Bierman earned his Ph.D. and M.A. in Political Science from the Rockefeller College at SUNY Albany; his J.D. from the Marshall-Wythe School of Law of the College of William and Mary in Virginia, where he was a member of the Law Review; and his B.A. magna cum laude with High Honors in Social Sciences from Colgate University, where he was elected to Phi Beta Kappa. Professor Bierman is a frequent lecturer and commentator about corporate governance reform, fiduciary responsibility and ethics, and justice reform. He was appointed by the Massachusetts Supreme Judicial Court to two Task Forces dealing with legal and judicial ethics and currently serves as a member of the ABA Task Forces on Legal Access JobCorps and on Financing of Legal Education. He is an elected member of the American Law Institute.

Honorable Juanita Bing Newton

Honorable Juanita Bing Newton is the Dean of the New York State Judicial Institute. Prior to her appointment as Dean in April 2009, Judge Newton served as Deputy Chief Administrative Judge for Justice Initiatives. She also served as the Administrative Judge of the Criminal Court of the City of New York. Judge Newton previously was the Administrative Judge of the New York County Supreme Court, Criminal Term and a felony trial judge. In addition to her trial and administrative experience, Judge Newton has been extensively involved in judicial education. She has actively participated in the Institute for Faculty Excellence in Judicial Education at the University of Memphis as a student, faculty member and advisory board member. During her judicial career, Judge Newton has served on numerous judicial, governmental and bar committees, including the Commission on Judicial Conduct, Advisory Committee on Judicial Ethics, Commission on Sentencing Reform, American Bar Association Standing Committee on Legal Aid and Indigent Defendants, New York County Lawyers' Association Task Force to Increase Diversity in the Legal Profession, Commission on Drugs and the Courts, Commission on Domestic Violence Fatalities, Franklin H. Williams Judicial Commission on Minorities in the Courts and New York State Judicial Committee on Women in the Courts. Judge Newton received her B.A. from Northwestern University and her J.D. from The Catholic University of America, Columbus School of Law.

Fred Rooney

Fred Rooney is the Director of the International Justice Center for Post-Graduate Development at Touro College Jacob D. Fuchsberg Law

Center. The mission of the International Justice Center for Post-Graduate Development is rooted in Touro College Jacob D. Fuchsberg Law Center's commitment to quality legal education that encourages students to examine the moral goals of the law while promoting social justice and community service. As a leader in promoting the moral and ethical responsibilities of the legal profession, Touro Law created the Center with an understanding that post-graduate legal education has proven to be an effective tool to enable new lawyers to deepen their commitment to social justice as they work to develop solo and small firm practice and not-for-profit organizations. Additionally, the Center is a logical next step or extension of Touro Law's commitment to preparing students for success in a challenging legal marketplace through experiential learning.

John T. Broderick, Jr.

John T. Broderick, Jr. became the fifth dean of the University of New Hampshire School of Law on January 28, 2011. He replaced retiring Dean & President John D. Hutson, who led the school since 2000.

Selected after a national search, Broderick served on the New Hampshire Supreme Court for 15 years, retiring this fall to join UNH School of Law. During his tenure as Chief Justice over the past six years, he was the administrative head of all the state's courts, in addition to his judicial duties, and became nationally known for reexamining the way the court system works and redesigning it to meet the challenges of the 21st century.

"I am genuinely honored to have been selected to lead the law school at this time of great opportunity and change. The affiliation with the University of New Hampshire will enhance and expand our reach and global influence, especially in the area of intellectual property," Broderick said. "The recently established Franklin Pierce Center for Intellectual Property, with a new director and building in the works, will be the catalyst for these efforts. I am also committed to maintaining and enhancing the law school's national reputation for pioneering legal education, as exemplified by its Daniel Webster Scholar Honors Program."

Under Broderick's leadership, New Hampshire established an "Access to Justice Commission" to help enhance programs that provide low cost legal services to poor and low income citizens. Broderick wrote, along with Ronald George, Chief Justice of the California Supreme Court, a 2010 New York Times op-ed lamenting the rise of unrepresented litigants and calling for an expansion of limited-scope representation. A frequent speaker around the nation on the need to improve and modernize our judicial system, Broderick was appointed by President Bill Clinton to the Board of the Legal Services Corporation (LSC), on which he served for 10 years.

Prior to serving on the Supreme Court, Broderick was a litigation attorney in the Manchester, NH, law firm of Devine, Millimet, Stahl & Branch, and was a founding shareholder of Broderick & Dean, Professional

Association (formerly Merrill & Broderick). He has also taught as an adjunct professor at the Amos Tuck School of Business at Dartmouth for over ten years. He is a graduate of the University of Virginia School of Law and, magna cum laude, of the College of the Holy Cross.

Broderick is the recipient of several honorary degrees, is a Fellow of the American College of Trial Lawyers, and recently became the only jurist ever to receive a Lifetime Achievement Award from the New Hampshire Business & Industry Association in recognition of his efforts to ensure that justice remains accessible, affordable, and understandable. He was President of the New Hampshire Bar Association from 1990 to 1991. Last year, he was presented with the Justice Williams A. Grimes Award for Judicial Professionalism and in 2007, he received the L. Jonathan Ross Award for Outstanding Commitment to Legal Services for the Poor. He was also recently inducted into the Warren E. Burger Society by the National Center for State Courts.

James M. Wicks

James M. Wicks is a commercial litigator who represents large and small businesses, financial institutions and individuals in federal and state trial court, as well as in arbitration and mediation. He also brings his experience to the classroom, teaching civil pretrial advocacy for almost ten years as an Adjunct Professor of Law. Jim litigates cases involving commercial, technology, real estate, insurance, contracts, banking issues, business torts, business dissolutions and breakups, franchise litigation, corporate governance and derivative and class actions. He also represents major telecommunication providers in a variety of disputes. Jim lectures, writes, counsels and litigates issues concerning attorneys, law firms and legal ethics. In addition to his appointment to the Judicial Institute of Professionalism, he was appointed to the State and Federal Judicial Advisory Committee and serves on the Grievance Committee of the Eastern District of New York.

Myra Berman

Professor Myra Berman is the Associate Dean for Experiential Learning and the Director of the Collaborative Court Programs at the Touro College Jacob D. Fuchsberg Law Center. Professor Berman is a relative newcomer to Legal Education, having attended Touro part-time while working as a senior executive of a not-for-profit family services agency. She has also been involved in undergraduate and graduate teaching. In addition to teaching law, she has taught English Composition, English Literature, and served as a Field Instructor to graduate level Social Workers. In her role as an Associate Dean and Director of Touro's court programs, Professor Berman has designed and assisted in implementing innovative, practice-based, skills-focused programs at the law school and continues to participate in the development of curricular options for Touro students.

Patrick Longan

EDUCATION: J.D., UNIVERSITY OF CHICAGO, 1983; M.A., UNIVERSITY OF SUSSEX, 1980; B.A., WASHINGTON UNIVERSITY, 1979

Professor Longan is a nationally recognized leader in the field of legal ethics and professionalism. Among other positions he holds, Professor Longan is the director of the Mercer Center for Legal Ethics and Professionalism and a member of the Georgia Chief Justice's Commission on Professionalism, the Advisory Board for the National Institute for Teaching Ethics and Professionalism and the Formal Advisory Opinion Board of the State Bar of Georgia.

Professor Longan teaches Mercer's first year course on professionalism, the upper-level Law of Lawyering course, Ethics in Federal Criminal Practice and Judicial Field Placement. He received the 2005 National Award for Innovation and Excellence in Teaching Professionalism from the Conference of Chief Justices, the ABA Standing Committee on Professional Responsibility, and the Burge Endowment for Legal Ethics. In his academic career, Professor Longan has also taught at Stetson University, the University of Florida, Southern Methodist University, the Charleston School of Law, John Marshall Law School, and Georgia State University. Before entering law teaching, Professor Longan served as a law clerk to Senior United States District Judge Bernard M. Decker in Chicago and practiced law with the firm of Andrews & Kurth in Dallas, Texas.

Martin Katz

EDUCATION: B.A., 1987, HARVARD COLLEGE
J.D., 1991, YALE LAW SCHOOL

Marty Katz currently serves as Dean and Professor of Law at the University of Denver, Sturm College of Law.

Dean Katz specializes in antidiscrimination law, both within constitutional law and employment law. His work on antidiscrimination law has been published in the Georgetown Law Journal, the Notre Dame Law Review, the Indiana Law Journal, the Hastings Law Journal, and the Yale Law Journal. His work on separation of powers has been published in Constitutional Commentary, a peer-reviewed journal.

His more recent work is in the field of legal education. His piece, "Facilitating Better Law Teaching – Now" appeared in the Emory Law Journal. And his piece, "Teaching Professional Identity in Law School" was featured in The Colorado Lawyer. Dean Katz is the co-author (with Ken Margolis) of a chapter on the role of administrators in facilitating curricular reform in the forthcoming book, "Beyond Best Practices." He has a forthcoming article on the costs of experiential curriculum in first issue of the peer-reviewed Journal

of Experiential Education, and another forthcoming article, “Analyzing Carnegie’s Reach: The Contingent Nature of Innovation” (with Stephen Daniels and William Sullivan) in the peer-reviewed *Journal of Legal Education*.

Dean Katz has lectured extensively on antidiscrimination law, free speech and religion, separation of powers, defamation, employment-related intellectual property law, and changes in the legal academy. He has made numerous media appearances in both local and national outlets.

Dean Katz serves on the AALS Curriculum Committee, and was elected as co-Chair of the AALS Section for the Law School Dean in 2014. He was selected #8 in the *National Jurist’s* 2013 “Most Influential People in Legal Education.”

Prior to teaching full time, Katz was a partner in the employment law group at Davis, Graham & Stubbs, and a law clerk to David M. Ebel on the U.S. Court of Appeals. In his spare time, he flies search and rescue missions for the Civil Air Patrol.

Matthew Diller

Matthew Diller, a prominent scholar of social welfare law and policy, has been dean of Cardozo School of Law since 2009. He is the recipient of the 2014 Rhode Award for achievement in public service education from the American Association of Law Schools. As dean of the law school he has championed a vision of expanding partnerships with the legal community in the New York region, to enhance opportunities for students to gain practice experience. Under his leadership the school has built a field clinic program that offers students opportunities to work in teams at dozens of legal offices in the region. His leadership has focused on growth fields of the law and he is currently overseeing an examination of the curriculum by faculty to develop new pathways for third year coursework. He has expanded clinical offerings at the school and developed a five year strategic plan to build new programs and centers as well as to expand the centers for which Cardozo Law is renowned such as Intellectual Property, Dispute Resolution, Comparative Law and Legal Ethics.

Dean Diller has lectured and written extensively on the legal dimensions of social welfare policy, including public assistance, Social Security, and disability law and policy. Dean Diller has published articles in the *Yale Law Journal*, *UCLA Law Review*, *Texas Law Review*, and *Michigan Law Review*. He received an A.B. in 1981 and a J.D. in 1985, both magna cum laude, from Harvard University, where he was an editor of the *Harvard Law Review*. He then clerked for the late Honorable Walter R. Mansfield of the U.S. Court of Appeals for the Second Circuit. He worked for the Legal Aid Society in New York, where he was a staff attorney in the civil appeals and law reform unit.

Dean Diller is a member of the Chief Judge’s Task Force to Expand Access to Civil Legal Services in New York and is chair of the Task Force’s Committee on Law School Involvement. He is also a member of the

Association of the Bar of the City of New York's Task Force on New Lawyers in a Changing Profession. He is a Fellow of the American Bar Foundation.

Dean Diller served as a member of the board of directors of Legal Services NYC from 1999 to 2009, serving as vice chair from 2003 to 2007. He was a member of the executive committee of the poverty law section of the Association of American Law Schools and was chair in 1999-2000. From 2000 to 2008, he was also a member of the board of directors of The National Center for Law and Economic Justice. In the fall of 1999, he was scholar in residence at the Brennan Center for Justice at New York University School of Law.

Prior to being appointed dean at Cardozo, he was associate dean for academic affairs at Fordham School of Law (2003 to 2008). He was the Cooper Family Professor of Law and co-director of the Louis Stein Center for Law and Ethics at Fordham, and was honored in 2009 with the Dean's Medal of Achievement. He received the Eugene Keefe Award for outstanding contributions to the school in 2002, and in 2000 he received the Louis J. Lefkowitz Award for the Advancement of Urban Law from the Fordham Urban Law Journal. Dean Diller began teaching at Fordham in 1993.

In 1991, the Association of the Bar of the City of New York honored him with a legal services award.

Dean Diller received his B.A. from Harvard in 1981 and a J.D. from Harvard in 1985. He lives in Brooklyn with his family, from where he bikes to school in good weather.

APPENDIX 2

A Joint Convocation

Convened by

The Judicial Institute on Professionalism in the Law

and

The New York State Bar Association and its Committee on
Legal Education and Admission to the Bar

*The Coming Changes to Legal Education:
Ensuring Professional Values*

New York State Judicial Institute, White Plains, New York

May 22, 2014

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**NEW YORK STATE JUDICIAL INSTITUTE ON
PROFESSIONALISM IN THE LAW
TOURO FOCUS GROUP**

**February 27, 2014 – Touro College, Jacob D. Fuchsberg Law Center,
Central Islip, New York**

INVITEES:

Jack Graves
Professor, Jacob D. Fuchsberg Law Center, Touro
College

Zachary Dubey, Esq.
Associate, Bracken Margolin & Besunder, LLP

Herbie Difonzo
Professor, Maurice A. Deane School of Law at
Hofstra University

Douglas Good, Esq.
Partner, Ruskin Moscou Faltischek, P.C.

Desiree Kennedy
Professor, Jacob D. Fuchsberg Law Center, Touro
College

Kristi DiPaolo, Esq.
Associate, Ingerman Smith, LLP

Andrew Simons
Vice Dean Emeritus, St. John's University School of
Law

Adam Rafsky, Esq.
Associate, Farrell Fritz, P.C.

Michelle Zakarin
Professor of Legal Process, Jacob D. Fuchsberg Law
Center,
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Lisa Monticciolo
Associate Dean for Students and Administration
Maurice A. Deane School of Law at Hofstra
University

MODERATORS: James Wicks, Esq.
Partner, Farrell Fritz P.C.

John H. Gross, Esq.
Partner, Ingerman Smith, LLP

Cheryl Sarles, Esq.
Associate, Ingerman Smith, LLP

Mr. James Wicks opened the meeting. He thanked the invitees for coming and gave a brief overview of what to expect from the discussion. John Gross gave a brief history of the Institute on Professionalism. He noted that the Institute was formed as a result of the Craco Commission, headed by Louis A. Craco. The primary result of the Craco Commission was modification of the Professional Code of Responsibility and the Statement of Client's Rights. Mr. Gross went on to say that the purpose of the Institute is to focus primarily on issues of professionalism, which also includes ethical issues. He commented that despite the relevance of the concept of "professionalism", the Institute has struggled with defining it. Mr. Gross noted that in May, the Convocation will consist of several speakers and two panels. The first panel, Mr. Gross indicated, will look directly at the issues regarding the structure of legal education, including a two-year law school model, pressure for practice-ready graduates, a move to the medical model, and/or internships in the students' third year and how those issues will affect the profession and professional values going forward. Mr. Gross invited all of the members of the panel to attend the event.

Mr. Wicks opined that the intention of the focus group is to have an open discussion and, with no lack of respect to the participants, everyone in the group for purposes of the discussion are to be considered equals in order to create a comfortable atmosphere. Mr. Wicks explained to the group that the moderators would be focusing the discussion on two areas: 1) the restructuring of law schools, and 2) the inculcation of professional values. The group kicked off the discussion with the restructuring of law schools.

Given that different models were being suggested, Mr. Wicks began the discussion with the topic of modifying law school to two-years instead of three. Herbie DiFonzo questioned if he could come at the topic from a different angle. Mr. DiFonzo suggested that a "quasi-medical model" structure could be beneficial. Mr. DiFonzo noted that such a structure would focus students on a clinical experience and suggested that it would generate experience that students could rely on in practice. Mr. Wicks posed the question: "Isn't it teaching students how to think like lawyers?" Mr. Douglas Good expressed that building in a clinical component would necessitate a restructuring of law school. Mr. Good also opined as to the importance of

keeping the law as a profession and to not let it become a business that any entrepreneur can get into and deliver legal services. Mr. Wicks questioned whether there really is a need for change, and what ultimately is driving that need—is it the lack of jobs, the low cost of law school, or the lack of professionalism. He further pondered whether there is really a need for restructuring. Mr. Graves noted that the cost of law school needs to be lowered and that the number of students attending law school has already started to fall dramatically because of the economic downturn. Mr. Graves queried whether an unmet legal need in the middle class truly existed. Mr. Wicks commented that he recently encountered a publication by the National Association of Graduate-Professional Students (NAGPS), which indicated that the NAGPS opposed changing the term of law school to two years because it would perpetuate sending untrained lawyers into a job market that is already difficult and basing such a decision on cost is a mistake. Mr. Graves concurred in the belief that law school did not necessarily need to be shortened in order to be more cost effective. He went on to opine that there should be a “more-for-less” challenge; a better job should be done delivering a legal education for less money, but not necessarily delivering less of an education. Mr. Graves then further questioned the two-year model and stated that he felt the premise can be confusing and added several clarifying questions—does a two-year program mean getting rid of summers? Would the same amount of educational content be delivered? Would less educational content be delivered?

Mr. DiFonzo did not entirely agree with Mr. Graves’ assessment and commented that he felt that the choices were not “either/or” and “change or not change”. Mr. DiFonzo noted that both the profession and law schools are undergoing dramatic change. Ultimately, the real question in Mr. DiFonzo’s mind is whether or not such an imminent change is being approached in an intelligent manner. Mr. Wicks questioned whether the change needed to be uniform. Mr. Simons commented that he has always been of the opinion that the medical model was a sound example for law schools; two years of school followed by an apprenticeship where a student can gain necessary practical experience. However, Mr. Simons further opined that he was unsure whether law schools can even support such an infrastructure. Mr. Simons additionally commented that cost is a real problem, but should not be the motivating force to change the program of education. According to Mr. Simons, each year his students undergo an incredible metamorphosis between their first year and graduation and that it takes students time to develop their skills throughout their years in law school. Mr. Simons agreed with the premise that a disconnect exists between lawyers claiming their graduates are not sufficiently trained and those who push to shorten the length of law school.

Mr. Gross remarked that he does not believe that small firms and solo practitioners have the economic wherewithal to take a student after two years of law school and have such a person immediately start making money. Mr. Gross further inquired as to how to square the market with an alternative law

school structure where clients will inevitably question being billed for the work of a student in an apprenticeship role. Mr. Gross opined that the realities of the marketplace also need to be taken into consideration in conjunction with a modification to the law school structure. Mr. Wicks commented that perhaps it would be best then, to pay a first-year lawyer “something less”. Mr. Gross did not necessarily agree, countering that the first-year lawyer needs to be able to make a living.

Mr. Dubey noted that determining whether law school should be two or three years is in fact, “putting the cart before the horse”. He opined that the first question should really be: “What are law students expected to know?” If that is determined, then the length of law school can be restructured around that premise, and shortening the length of law school would be feasible since the students would be versed in what the profession collectively thinks recently graduated students should know. Mr. Wicks inquired as to whether students need to be given practical experience in every area, even if they were never going to use such experience in the future. Mr. Graves responded to Mr. Wicks’ question and resolved that the Bar needs to be able to accept the idea of providing residency or incubator experience to students in law school or to new lawyers. He opined that this view is consistent with the Chief Justice’s perspective that an increase in services needs to be made available to the middle class.

Ms. Monticciolo opined that despite the value in an incubator program akin to a medical model, the problem potentially lies in the lack of “hospital-type” institutions to make the program a reality. She further commented that the difficulty with a two or three year program which includes internships, externships or pro bono work in the third year, is that it does not allow time for the development of students’ skill sets. Ms. Monticciolo was skeptical that this could be accomplished for all students in the amount of time given.

Mr. Wicks observed that “Tomorrow’s Lawyers: An Introduction to Your Future,” by Richard Susskind was prolific in predicating the needs of lawyers in the future. With respect to the group’s discussion, Mr. Wicks indicated that Mr. Susskind’s book lays out three drivers for “lawyers of tomorrow”. The first is the “more-for-less challenge” in which lawyers give better services for less money. The second driver is “liberalization”. Mr. Wicks explained that liberalization entails those things in law practices which are commoditized, but can be performed by non-lawyers. Lastly, the third driver is “information technology”, which includes computers and technology which will continue to drive the practice of law.

Mr. Wicks inquired as to whether Ms. Zakarin had any thoughts on the three drivers discussion, however, Ms. Zakarin requested to opine on the different law school models and the length of law school. Ms. Zakarin indicated that in light of the demand for schools to prepare students for the rigor of the Bar Exam, in particular the New York State Bar Exam, students are not exposed to the multitude of elective courses that are often available,

which help budding lawyers develop their interests. She further stated that although the clinical experience can be beneficial, she is concerned as to whether clients will want to pay for the “resident” over the “doctor in residency”.

Mr. Wicks and Mr. Gross felt that despite Ms. Zakarin’s sentiment, clients may prefer an experienced attorney over a newly admitted attorney and therefore, it still important for law schools to make sure that they are giving students the best opportunity to become great attorneys upon graduation. Further, both Mr. Wicks and Mr. Gross noted that if law schools shy away from providing practical experience to law students based on the premise that young lawyers are not as reliable as experienced attorneys, newly admitted attorneys will not only struggle to find jobs, but may resign to becoming a solo practitioner. Mr. Wicks observed that solo practice is where the most grievances against attorneys occur. Ultimately, Ms. Zakarin agreed that notwithstanding her concerns, a medical model-type program would be beneficial to students.

Mr. Simons commented that law students today are actually better trained than the legal educators participating in the round table. He indicated that St. John’s has expanded both its clinical education program and externship program over the years, which has allowed students to gain wonderful experience, such as arguing motions and negotiating settlements.

Mr. Gross queried whether the discussion ultimately came down to the fact that due to the difficult economic times that the country continues to face, the law firm model is no longer able to support the kind of economic investment that students make when attending law school. Mr. Good responded and agreed with Mr. Simons; there have been a lot of changes in legal education and that changes still need to be made. However, he inquired whether there is also a misapprehension that all new lawyers are unprepared bolstered by the State Bar’s requirement that new lawyers take Bridge the Gap CLE credits and the clients’ perception that they are paying law firms to train new lawyers.

Ms. Kennedy commented that during the time she went to law school and graduated it was a “de facto medical model”; you spent three year in law school, learned how to think and then the law firm would train you. Ms. Kennedy remarked that it appears that there is a lot wrong with that model because when a new attorney eventually gets to a firm, they learn the style and needs of the partner or partners they are working with. New attorneys are not necessarily empowered to learn a vast array of skills. Ms. Kennedy indicated that what is lacking in imposing a medical-type model in law schools is the broader perspective that law schools bring when training law students. She further stated that two years of law school is not long enough since attorneys are now required to bring legal services to a much wider array of clients, all of whom need access to lawyers. Further, attorneys are required to appropriately integrate technology into their practice, while utilizing the right skills and

appropriate knowledge base. Ms. Kennedy reiterated that the foregoing cannot be accomplished adequately in two years, but agreed that the third year should be utilized as an apprenticeship year. However, Ms. Kennedy also opined that even during an apprenticeship year, students would need to be supervised by faculty or individuals who can bring the students a broader perspective on the realities of practicing law.

Mr. Rafsky commented that there is a problem with looking at the issue(s) encountered by law schools, law students, practicing professionals, and clients with one-size-fits-all solutions. Based on Mr. Rafsky's own experience, he commented that having students engage in an internship during their third year is beneficial, but not as beneficial if the student does not know what type of law they want to practice in both type and scope. He further opined that without having direction, he is unsure if his own internship experiences would have been as fruitful as it turned out. Mr. Rafsky suggested that for students who are undecided as to the area of law they want to practice, the third year of law school is crucial.

Mr. Wicks and Ms. DiPaolo agreed with Mr. Rafsky to the extent that there is a major benefit in engaging with a law firm while still in law school. Mr. Gross inquired as to whether another model may be appropriate. Mr. Good suggested that splitting up law school could be a good option and gave an example of how people in China go to different schools to engage in different parts of the legal system. For example, students who want to become judges would not attend the same school as those who want to become defense attorneys. Mr. Good further speculated whether the reason that students are not as well educated as they could be is due to the superfluous information they are required to know for the Bar Exam, which is mostly unnecessary for their future practice of law.

Mr. Wicks questioned whether law schools are really teaching students to be competent in every area of the law and if law schools are not teaching basic competency, should a student be practicing in that area of the law. Mr. Graves opined that Mr. Wicks made a great point and perhaps the answer is to make the first part of law school general and allow for specialization in practice areas for the remainder of the time. He then pondered how that type of model could fit into a billable hour model and determined that the billable hour model is fundamentally flawed. He commented that one of the reasons the billable hour model is used resulted from when lawyers were generalists and would take whatever work would come in the door. Attorneys at that point in time were paid by the hour. However, tying the thought to his original comment, Mr. Graves opined that at the end of the day, if law students are sent out into the "real world" with an area of expertise, then the billable model may work because clients could be billed efficiently and graduates would be able to make a living.

Ms. Kennedy questioned whether students lack interpersonal and financial management skills and suggested that law schools could also engage in

teaching the commercial aspects of the legal business. Mr. DiFonzo agreed that one of the most important determinations that need to be made is what skills are considered “necessary” and what should be taught in order to help them succeed. Mr. DiFonzo stated that while schools are increasingly teaching skills, such as drafting, negotiations, and interpersonal skills, it is his opinion that many law professors are resistant to a more practical/interactive model.

On that note, Ms. Monticciolo sparked a discussion regarding the interposition of skills in first year courses. The panelists agreed and also concluded that, although some professors may not care to teach in such a manner or are not proficient in doing so, there is always an opportunity to bring in guest speakers who are practicing attorneys to assist with relevant practical skills. Mr. Gross then asked how often schools are encountering the issue of scholarship versus a clinical education. Mr. Simons and Mr. DiFonzo agreed that less and less tension exists between the two aforesaid ideologies towards teaching, but that it is a slow process to achieve that goal. Ms. Kennedy commented that she agreed that some scholarship was vague, but a lot of scholarship is also important to law reform and the testing out of new ideas. Mr. Gross and Mr. Graves agreed.

Mr. Gross then asked the group if it could comment on the economics of law school and how to begin reducing the cost that students have to pay. Mr. Gross advised the group that he was aware that law professors at National Law School-type institutions can be paid upwards of \$300,000 to \$350,000. Based on the fact that law schools make money for institutions, he queried how to make modifications to the programs that currently exist without subsequently having to charge students for those changes. Mr. Dubey suggested that clinics hosted by the law schools could produce revenue. Mr. Graves commented that such an idea has been suggested in the past. Mr. DiFonzo agreed and indicated that the Maurice A. Deane School of Law at Hofstra University has started to think about creating a family law center, which would require clients to pay. Further, the school’s new incubator project will also be funded in part by clients. Mr. Simons commented that based on the population of people that the clinics at St. John’s assist, including abused children and elderly people, it is not a fee-based enterprise.

Mr. Gross interjected with a question to the panel with respect to creating a synergy between the pro-bono clinics and the pro-bono requirement necessitated by Judge Lippman. Mr. DiFonzo thought that such collaboration will be beneficial because, from his experience, attorneys love coming to the classroom since it is a different experience than their normal day-to-day and as volunteers, they enjoy participating. Ms. Kennedy agreed.

Mr. Simons reiterated the importance of discussing how to make law school affordable and that, despite the attempt to do so by providing financial aid, the deans of his school spend a significant amount of time fundraising in order to reduce the cost component. Mr. Wicks questioned whether it would be possible to maintain a constant cost of law school. He provided an

example: “You go in [to law school], it’s going to be X dollars, and it’s going to be X dollars for year two and X dollars for year three”. Mr. Simons answered Mr. Wicks’ inquiry and indicated that St. Johns University School of Law has looked at using that type of model, but decided that it was not right for them. Mr. Wicks then pondered why law schools are so much more expensive in the last years than in the first year of school. It was Mr. Simons opinion that the cost of clinics contributed to the increase in costs because they are more expensive than the regular classes. Ms. Kennedy stated that it could be a supply and demand issue—the demand increased for law school, and as a result, schools were able to raise the price of tuition. However, as the demand has begun to falter, Ms. Kennedy opined that schools should consider reducing tuition and filtering out unnecessary things that the law schools are spending money on.

Another avenue suggested by Mr. Graves was for students, supervised by an experienced attorney, to provide low-cost legal services to the middle class. Mr. Graves believes that the opportunity would help cover some of the overhead undertaken by law schools. However, he commented that he felt the Bar was resistant to that idea.

Mr. Gross agreed with Mr. Graves, but opined that the model would also need to include the possibility of litigation and arbitration, which could be costly. However, overall there is agreement amongst the discussion members that it is important to take cost seriously and there should be an extensive effort to reduce expenses.

Mr. Wicks then directed the conversation towards Mr. Rafsky and asked Mr. Rafsky whether when he came out of law school he had a real sense of what being a “law professional” meant. Mr. Rafsky commented that while he was fortunate to work at both big and mid-size firms, during law school he was only required to take one semester of professional responsibility. Therefore, Mr. Rafsky concluded, if not for law firm experience, he is skeptical as to whether law students really understand what professional responsibility truly means. Mr. Wicks said that as an adjunct he tries to bring ethical issues into every class, but then asked the group whether they thought that classes should be bringing in more ethics issues. Mr. DiFonzo stated that he, like Mr. Wicks, already incorporates ethical issues into his teaching. Mr. Good commented that, in his opinion, it is not the number of courses that students take on professionalism, but the legal profession’s concern about money before regarding legal ethics.

Mr. Wicks queried whether then, it would be important to make students feel as though they were professionals at the outset – akin to giving medical students a white coat. Ms. Monticciolo stated that at Hofstra, this type of ceremony occurs on the first day, where students are required to take a professional oath. However, she also commented that she is unsure whether such a ceremony made a difference. Mr. Simons agreed that even though St. John’s also had such a ceremony, it is unclear whether the ceremony is

effective. However, Mr. Simons also opined that the concept of professionalism is really important to inculcate in the students from the beginning.

Mr. Gross agreed and asserted that professionalism in the legal field differs from the medical model because for lawyers it is the recognition that one is an officer with an obligation to the legal system and the client. With that also comes the recognition that personal interests must be put aside for the best interests of the client. Mr. Dubey opined that the crux of ethics training occurs after graduating from law school when taking Continuing Legal Education (“CLE”) courses. In practicing a substantial amount in front of the Bar Grievance Committee, Mr. Dubey explained that most attorneys appear to learn the grievance rules *after* a complaint is filed against them. As such, Mr. Dubey concluded that the best avenue would be for the State to require a greater number of ethics CLEs in the first few years of practice. Mr. Wicks inquired whether more should actually be done at the law school level so that before students graduate from law school they have a better appreciation for what constitutes professionalism. Mr. Wicks also noted the difficulty in teaching a “bedside manner” to law students.

Mr. Graves recapitulated the initial question at hand, if law school is shortened, is professionalism lost? Mr. Graves observed that the answer is “not necessarily” because the duration of law school does not determine the professionalism of the graduate—the nature of the experience does. Mr. Graves further recounted a personal experience with professionalism in which he cited to a piece of evidence which his client lied about. It was that experience, Mr. Graves expounded, which got his attention. Mr. Graves ultimately concluded that law schools can help students learn about professionalism, but that in order for that to occur, schools have to do a better job providing apprentice-type experiences for students. Ms. Kennedy agreed and added that a supervisor of a clinic, akin to a teacher, remains important in order to bring in concepts of professionalism and ethics, along with teaching substantive law and skills.

Mr. Wicks and Mr. Gross asked Ms. DiPaolo to detail her experience with professionalism after coming out of law school. Ms. DiPaolo commented that a lot of the students she went to school with were older and embarking on their second careers. It was Ms. DiPaolo’s impression that there seemed to be a difference in professionalism between students who just graduated from college and came straight to law school versus students who went back to school. Ms. DiPaolo indicated that students coming straight from college had a different mentality because their internship during law school or job after law school may be their first experience with employment. Mr. Rafsky echoed Ms. DiPaolo’s sentiments and also suggested that a cost efficient method to bring greater awareness of professionalism to the classroom is to include ethics and professional responsibility into 1L classes and also include practical skills components. Mr. Rafsky asserted that if exposure to ethics and professionalism

were constant, it would be more effective, especially in light of the desire to reduce the number of years a student would attend to law school.

Ms. Zakarin agreed with Ms. DiPaolo and Mr. Rafsky, but also thought that their perspectives are not broad enough to encompass the views of all incoming 1Ls, especially since both Ms. DiPaolo and Mr. Rafsky worked at firms during law school. Ms. Zakarin asserted that even if some of her 1L students started law school right after college, they do have some sense of what professionalism means. She gave the example of 1L students already knowing how to dress appropriately and professionally when they go on interviews. However, Ms. Zakarin also opined that she is unable to ascertain where those same students stand with regards to ethical issues. Mr. DiFonzo commented that even in light of not knowing where such students stand academically, he does not feel it would be difficult to “start that conversation”. Mr. DiFonzo gave the example that if he were in a litigation class, the class could be divided in half and each side could be given a bad fact. At the end of the exercise, the class could discuss the ethical problems associated with the bad fact and how the class felt about such a key fact being hidden from them. Mr. Simons agreed that professionalism can be taught in the classroom with the use of real world examples. Mr. Gross agreed and noted that some professionalism issues are not also ethical issues, and that an obligation exists towards students to provide them with this education.

In light of Mr. DiFonzo’s comments, Mr. Wicks opined that perhaps the focus group should consider providing students with a mentor throughout the law school process. Ms. Kennedy agreed that would help, but that students are often given opportunities throughout law school to explore the legal profession and develop their professional personas. Ms. Kennedy stated that she worries that cutting the amount of time students are in law school would prevent such development.

The session concluded with some comments by Mr. Difonzo in which he relayed that he is glad that the group and perhaps then the field is moving in a general direction towards change.

Mr. Wicks and Mr. Gross concluded the meeting by thanking everyone for coming.

End of Focus Group

**NEW YORK STATE JUDICIAL INSTITUTE ON
PROFESSIONALISM IN THE LAW
FORDHAM FOCUS GROUP**

February 27, 2014 – Fordham University School of Law New York,
New York

INVITEES:

Sarah Valentine
Dean for Academic Affairs, CUNY School of Law

Deborah Post
Associate Dean for Academic Affairs,
Jacob D. Fuchsberg Law Center, Touro College

Christopher E. Chang, Esq.
Law Offices of Christopher E. Chang

Ted Neustadt
Associate Director of Legal Writing,
Fordham University School of Law

James A. Beha II, Esq.
Allegaert, Berger, & Vogel LLP

Bruce A. Green
Louis Stein Professor,
Fordham University School of Law

Michael A. Cardozo, Esq.
Partner, Proskauer Rose LLP

Edwina Frances Martin, Esq.
Member, Executive Committee of the
New York State Bar Association

Tang Qionqiong
Shanghai University Law School
Visiting Scholar at Jacob D. Fuchsberg Law Center,
Touro College

MODERATORS:

Eileen D. Millet, Esq.
Epstein, Becker & Green, P.C.

Patricia A. Salkin
Dean and Professor of Law,
Jacob D. Fuchsberg Law Center, Touro College

Ms. Patricia Salkin opened the meeting by giving the invitees an overview of what to expect from the discussion and noted that the main focus of the discussion is “restructuring of legal education”. Ms. Salkin commented that she hopes the group discusses the changes in the legal profession and the demands on legal services that could be the driver(s) for law schools. She briefly opined about the importance of formulating a productive way of instituting systemic change and that the general barrage towards law schools from big law firms does not seem productive. Ms. Salkin then addressed the questions that were sent by the discussion group organizer and offered the first question for discussion: “Why is legal education so expensive?”

Mr. Cardozo stated that from both the private practice perspective and the government perspective, employers comment that new lawyers/law students are not trained the same they were 20, 30, or 40 years ago. Mr. Cardozo opined that a combination of economics and technology may drive this rationale and led him to query whether law schools can better prepare law students to practice law. He answered with what he felt is the most frequently cited response: clinical education. However, Mr. Cardozo further commented that clinical education, as he understands it, can be extremely expensive on a relative basis. Lastly, Mr. Cardozo questioned whether law schools can better partner with government agencies and law firms to allow students to spend more time working in real legal settings and enable the acquisition of hands-on experience. He went on to note that since law firms generally do not have young associates take depositions, at the Corporation Counsel’s Office, thousands of depositions are taken by junior associates pro bono – which, according to Mr. Cardozo, is exactly the type of program that needs to be explored and would not be extremely expensive for law schools to implement.

Ms. Salkin redirected the conversation back to one of Mr. Cardozo’s comments – “Can law schools better prepare students to practice law?” She expanded on the notion by asking whether the group can come to a consensus on what “practicing law” or “practice ready” means for recent law graduates.

Ms. Valentine first noted that clients like to push back on how expensive clinical education is. Second, she highlighted the concomitant problem of bar preparation and the difficulties in obtaining clinical educational experience in order to allow a student to appropriately “tackle” the NYS Bar Exam. Ultimately, Ms. Valentine opined that the elephant in the room is access and it cannot be ignored.

Mr. Neustadt opined that the Bar Exam and passing the Bar Exam are two separate issues. On the topic of clinics, Mr. Neustadt pondered whether, in light of all the conversations surrounding clinics, it was all related to litigation. In his opinion, the conversations always seem litigation-based. Mr.

Cardozo responded by commenting that the conversations really center around dealing with people and clients, whether you are an estate lawyer or a corporate lawyer. He then questioned what opportunities are available for third-year law students – which he espoused can help students fulfill the pro-bono requirement. Mr. Neustadt responded and commented that dealing with people and clients is another skill set of its own.

Based on the foregoing discussion, Ms. Post inquired “what is it that firms want”? She is unclear as to what they want law schools to teach students given that, in her opinion, it is the law schools responsibility to teach the student the basics, not how to practice at a large law firm. She then opined that the Bar Exam tests basic foundational knowledge. Mr. Green commented that it was hard to come up with a singular answer to Ms. Post’s question because firms will want something different based on their specialty (i.e. a public interest entity versus a litigation firm), which presumably requires different skills sets. Ms. Handy commented that she believes a continuum exists as to what skills were necessary for a student upon graduation from law school. She opined that it would be best to approach the topic from the different ends of the spectrum and noted that there is a lot to learn about why people did or did not pass the Bar Exam. Ms. Post observed that the Bar Exam, in fact, trains students to be practice in small, not large, law firms because it is set up for “everyday” issues that solo or small practitioners take on.

Ms. Post also asked why law schools do not endeavor to instill a more structured prelaw program, similar to what medical schools have. Mr. Beha responded, and first warned the group that he intends on being intellectually provocative and that he hoped the other members would not take offense. He remarked that big law firms are not truly interested in the courses that students take in law school and prepare to train young lawyers to become big firm lawyers. Mr. Beha further commented that in speaking to hiring partners in the past, it is his opinion that law students are hired for big firms based on their aptitude. In addition, big firms have summer programs which provide some information as to what summer associates/potential employees should be doing in their remaining years of law school. However, given that a majority of students do not go to those kinds of law firms, it is hard to determine “what the new lawyer should be”. Ms. Millet interjected to introduce Mr. Chris Chang to the conversation. Ms. Millet indicated that that Mr. Chang is a member of the New York State Judicial Institute and that the program the members are engaging in is a joint enterprise between the Judicial Institute and the New York State Bar. Ms. Millet wanted to give Mr. Chang the opportunity to tell the group about the purpose of the program and the roundtable.

Mr. Chang first sent regards from Paul Saunders, the Chair of the Judicial Institute on Professionalism in the Law. Mr. Chang then explained that focus groups are an integral part of the process when the Judicial Institute hosts a Convocation. The focus groups facilitate uninhibited discussions

regarding relevant topics in the law, and the record is provided to the Convocation's panel moderators for review. Essentially, the focus groups assist the moderators in developing and framing issues for the Convocation. Mr. Chang further noted that the outline provided to the discussion group is extremely brief in order to garner a wide range of opinions on the topic.

Mr. Cardozo picked up the conversation and commented that law firms, both big and small, want to know: "Could the graduating lawyer be made more ready to practice law?" Mr. Cardozo stated that the group has not yet began a conversation regarding the expense of law school and whether the changes proposed would either increase or decrease its cost. Mr. Cardozo further opined that law schools are not quite ready to go to the medical school model. Mr. Cardozo hypothesized that the utilization of the different legal institutions (big firms, small firms, government, legal aid) by partnering with them while students are in law school, can be beneficial. Mr. Cardozo indicated that such a program can potentially reduce the cost of law school, however can also have a ripple effect that results in a reduction in the number of professors.

Ms. Valentine responded by suggesting that the group review a study by Schultz and Deck. The study, which came out of the University of California – Berkeley, determined the 20 basic competencies of attorneys. Ms. Valentine then responded to Mr. Cardozo's suggestion of partnering with firms, legal aid and government agencies to create a more robust third year. She stated that in conjunction with the current American Bar Association ("ABA") requirements, the law school would need to be involved in some capacity – through a concurrent seminar or otherwise in order to make sure that the students are not getting lost. Further, law schools need to be involved in order to make sure that students are supervised at their placements. Mr. Cardozo quickly answered by pointing out that perhaps the ABA rules also needed to be re-examined because they are extremely constricted. Ms. Valentine agreed with Mr. Cardozo's sentiment.

Ms. Post acknowledged that supervision of students is an obvious factor that needs to be taken into account. She further stated that students are already getting this type of experience through Legal Aid, the District Attorney's office(s), the public defender's office(s), and law firms where students are currently placed and have apprenticeships. Ms. Post then commented on issues that she believes to be pervasive: (1) "How do students learn when they don't know the law?" and (2) "The writing issue". With respect to the "writing issue," Ms. Post indicated that firms and lawyers generally have qualms about students' writing ability when they come out of law school. Ms. Post observed that often law schools are tasked with "double duty" because they have to adjust for dealing with remedial writing issues, while simultaneously endeavoring to accelerate the process of learning in law school so that the students graduate with the ability to take on clients.

Ms. Millett asked Mr. Neustadt whether he felt that given his background as "the writing person", if students came to him more prepared

would that help translate into better written product. Mr. Neustadt responded that he believes that students' writing has always been a problem, but that there is no simple solution to the problem. Mr. Neustadt did opine that law schools should put more emphasis on writing and recommended that law schools institute a three-year writing program, which forces schools to commit to that type of instruction. Before concluding, Mr. Neustadt moved to the topic of the third-year of law school and stated that there can be twenty different answers to the same question without an appropriate or sound resolution.

Mr. Chang expressed that the literature promulgated by the Judicial Institute has interesting information about the comparison of medical schools to law schools. He further indicated that residency-type programs, which currently exist in medical schools, are absent from law schools and could be an explanation as to the proverbial "tension" that exists. Mr. Chang further opined that 75 percent of lawyers who practice in New York State work as solo practitioners or in firms with less than five (5) attorneys and, that as a member of the disciplinary committee, the number of complaints against first year attorneys (in the First Department) is a problem. He noted that one of the focuses should be on training young lawyers.

Mr. Green commented that if the profession needs "practice-ready lawyers", then it might serve well to rethink the State's unauthorized practice of law rules and allow people to train for very discrete roles in the profession. Mr. Green gave the example that in the state of Washington, a limited license can be acquired for persons doing work in the housing court. It was Mr. Green's opinion that this could help students become more practice ready after three years because they are training for a general license. However, he is not convinced that a law student being "practice-ready" is necessarily the true problem. Mr. Green also opined that cutting down law school to two (2) years would not garner good results and that in fact, would entirely jettison the notion of practice-ready lawyers. Mr. Green commented that during his research to the McCray report, it came to his attention that historically, the apprenticeship system did not work well for lawyers because there were minimal opportunities, discrimination, and exploitation. Ultimately, Mr. Green stated that if schools can afford to have everyone take a clinic, it would be the best alternative to externships because it would provide an invaluable educational component, which would not be offered in other roles, such as bartending. However, Mr. Green considered the tricky part to be balancing the money, time, and value.

Ms. Martin, counsel to City Council member Debi Rose came into the meeting late and introduced herself. Ms. Millet stated that Ms. Martin would be an important part of the conversation since the discussion of debt is so critical. In getting back to the discussion prior to Ms. Martin's entrance, Mr. Beha stated he has made two observations. The first observation is that based on his research (of asking around), a vast majority (approximately 80%) of law students in New York already take at least one clinical course. In light of that

view, Mr. Beha asked whether it would be important to ask law schools what they believe students are not learning that they must learn and what information are they not likely to obtain through a clinical course. Mr. Beha's second observation is that too many new lawyers are graduating, and there is no reason why such an enormous disconnect between the number of law school graduates and the number of lawyering jobs exists. As a result, students are saddled with debt and cannot take jobs unless they are able to pay off their debt.

Ms. Salkin inquired as to whether students in undergraduate and graduate school borrow more money than they need in order to pay their tuition and rent and then end up spending more than necessary because they are able to. Ms. Martin espoused that one of the reasons she came to the discussion group was to express her concerns regarding the juxtaposition between debt as a driver for shortening law school, with the students' ability to graduate with a professional attitude and understanding of the ethics of the profession.

Ms. Post stated that the benefit of a Juris Doctor ("JD") degree is that it qualifies students for a number of different career paths, including business, politics, and the practice of law. Further, she opined that there are a lot of things that one can do with a JD that you would be unable to do with other degrees. Next, Ms. Post agreed with the comments made by Ms. Salkin and stated that even before students go to law school they are saddled with debt from their undergraduate education, despite not being prepared for the type of rigorous training that law school requires. Ms. Post favors the idea of keying students' debt to their earnings instead of forcing students into public service positions so that their loans are repaid. Ms. Post then queried whether the group could discuss limits on licenses. Mr. Chang respectfully retorted by questioning whether this conversation would be taking place if the job market were better. He continued by commenting that from a medical model perspective, students in their fourth year essentially know what they need to know at that point, but in the fourth year students are flying around the country for job interviews and to be matched and therefore, the fourth year does not seem to be a waste. Upon that commentary, he questioned whether law students would feel the same if everyone was getting jobs. Ms. Salkin asked if she could jump in, and discuss the idea that the people who create the ranking/statistics for law schools in actuality determine what qualifies as a law job and thus, what jobs necessitate a legal education. Ms. Salkin gave the example of lawyers who go on a corporate track or jobs that entail compliance work and are just "JD-preferred". However, in taking those jobs, a person is not considered a lawyer because they do not have a legal job and are not somehow using their legal education, which is coopted by public perception, and whereas the ABA considers such persons "not employed". Ms. Handy questioned whether similar statistics, with regards to the lawyer population in the next five to ten years, exist for medical schools. Mr. Chang answered that

such information laid with the New York State Bar Association. Ms. Handy clarified her point by asking what the dearth of lawyers is predicted to be in the next ten years. Ms. Millett stated that she felt the Bar Exam was a better vehicle for those numbers.

Mr. Cardozo interjected and stated that he is disappointed by the responses from some of the academics because it is his impression that the group is aware that law school applications are dramatically down. He also commented that it is his understanding that the average LSAT score for schools is down, including the “elite” schools, and at the end of it all, jobs are down as well. However, Mr. Cardozo keyed to the fact that there are still a significant number of people who need the help of a lawyer or a quasi-lawyer, and nevertheless those needs are not being met. Therefore, Mr. Cardozo commented, it is not constructive to say that the colleges are not teaching students appropriately because it would not be feasible to change college education; however, changing the way law schools operate is not beyond the group’s mandate. Mr. Cardozo added that similar to changing colleges, the group would not be able to change the way big law firms engage either.

Ms. Martin pointed the group’s attention towards the potential model that Judge Lippman had announced. However, Ms. Salkin does not think that would necessarily reduce the cost of law school. Ms. Martin wanted to follow-up on the group’s discussion of loan repayment with a focus on federal loan repayment and insinuated that students should be more educated on ways to repay federal loans.

Ms. Valentine asserted that she believed there are ways to make legal education less expensive without reducing faculty member’s stipends for scholarship. She further stated that she believed there are several ways to address professionalism—by instilling professionalism and professional responsibility/ethical behavior from day one and having it culminate in a series of 12-16 credit clinics that require students to practice.

Mr. Green opined that the question: “[a]re there more lawyers than there are law jobs?” is both a national and international problem. It is his opinion that the market should take care of decreasing the number of students admitted to law school, not by making the Bar Exam more difficult. Mr. Green stated that the fact that applications to law school are down is a good problem to have and not necessarily something that needs to be cured. In addition, based on the comments from the group regarding the increase in complaints against young solo practitioners, Mr. Green noted that it could be beneficial to ask academics their view on the problems that arise in the legal profession, instead of inquiring from professionals as to the changes that need to be made to law school. In addition, Mr. Green indicated that the institution of specific programs may be helpful in this regard, including mentoring programs (akin to what the State of Georgia offers) or by looking at the rules governing discipline. Lastly, Mr. Green pondered whether the problem is really about inadequate education or inadequate regulation.

Mr. Chang agreed with Mr. Green; he too did not wholly believe that the concern of professionalism in the practice predominately started with law school. He opined that he thought the bigger problem is that the profession has changed from 25 years ago – now lawyers make more money than the clients.

Ms. Salkin brought the conversation back to the discussion regarding the downsizing of law schools and the lower rates of acceptance proportionate to the decrease in the number of applications. She also considered the debate surrounding lawyers of retirement age who do not retire and its role in the diminishment of jobs. Further, she drew attention to what she referred to as the “law school in terms of the business model”. Ms. Salkin’s point is that the “discount rate” for law school has gone up significantly because of the competition to fill seats. Said rate is coupled with the problem of the expenses paid to faculty members, which she deemed “the largest expense” and often reaches a point where it is difficult to change.

Ms. Millet suggested that legal education provide students with an opportunity for training prior to admittance to the Bar. According to Ms. Millet, the American Bar Association (ABA) is looking at two proposals: 1) a six-credit skills training requirement or a fifteen-credit skills training requirement and 2) administering the Bar Exam before the end of the student’s third year of law school (in February). Before concluding, Ms. Millet made a quick comment regarding the pro bono scholars program instituted by Judge Lippman. Her concern is that not everyone in law school wants to engage in public service work. Mr. Beha clarified that the proposal for the optional early Bar Examination was for the summer after the students’ second year of law school, whereas Judge Lippman’s proposal allows students to take the exam in February.

Ms. Handy opined that since the Bar Exam has not really changed, it is not reflecting the change that has occurred within the sphere of legal education, but has also taken the role as a tool for admissions in greater proportion. According to Ms. Handy, the impact is that the incoming 1L classes have become less diverse. Ms. Handy thought it would be beneficial to have a bar examiner as part of the conversation in order to comment on the information that is not taught in law school, but is tested on the Bar Exam.

Mr. Beha had questions pertaining to Ms. Handy’s comments. Mr. Beha queried whether there should be a route available to students to enable them to be admitted to the Bar without taking the Bar Examination and if so, what would be the route and circumstances. He then asked what happens to students who “don’t make it through the gate” (i.e. fail the Bar Exam on multiple occasions) and who bears the fault of that failure. Mr. Beha commented that by having such gates to get into the legal profession in general, the byproduct is less diversity. He opined that one answer to the problem could be different gates. Mr. Beha expressed his concerns that despite all of the debate with respect to changing the Bar Exam, the process has

essentially gone nowhere. In particular, Mr. Beha referenced the Kenney Committee Report, which ultimately concluded that the Committee could not agree on the best way to alter the Bar Exam.

Ms. Handy questioned whether a disconnect exists between what is taught during law school and what is being tested. Mr. Beha responded “it may”. Ms. Millet opined that the law examiners would respond to Mr. Beha by suggesting a uniform bar examination. Ms. Millet clarified that a uniform bar examination means that the examination would be “national”. She opined that that the uniform bar examination would be problematic for a whole host of reasons, but that the move towards such an examination is “inevitable”. Ms. Millet, going off of a comment from Mr. Beha, then discussed the uniqueness of New York’s Bar Exam, that New York caters to the international market, and that those persons generally end up taking the Bar in New York, even if they do not practice here. She then questioned how LLMs should be treated in regards to a skills program so as not to discriminate against them when taking the Bar. Mr. Beha opined that Ms. Millet was answering a different question and, putting LLMs to the side, he asked “If there is a group of people who go to law school, who have been admitted to law school and can’t pass the Bar Exam, what is wrong? Are we testing the wrong things on the Bar Exam, or should those students not have been admitted in the first place?”

Mr. Handy responded. He said that Mr. Beha did hit on the larger question; however, he commented that the issue is really about students who are able to pass the Bar Exam, but then are not able to truly practice. So the question becomes, “What competencies [is the Bar Exam] testing?” Mr. Beha clarified and asked whether Mr. Handy’s comment simply is that the Bar Exam is testing the wrong thing. Mr. Handy concurred. Mr. Beha indicated that he believes the other question Mr. Handy had laid out is very important—since law schools are very concerned with their Bar passage rates, are people who could be good lawyers being deterred from going to law school because they have to take the Bar Exam.? While acknowledging Mr. Beha’s comment, Mr. Handy ascertained that those students who Mr. Beha is referring to may not even get into law school because said schools are correlating success with a student’s LSAT score. Mr. Beha agreed. Mr. Beha then continued to discuss New York’s exam and circled back to the question that has been asked in New York and during the roundtable repeatedly, should the Bar be testing fundamental skills? It is Mr. Beha’s opinion that for New York, too many people take the Bar Exam and therefore, it would be impossible to have a something akin to a “simulated negotiation” as part of the Bar Exam. There was a quick group discussion about the Daniel Webster Scholars’ Program and its effects.

Ms. Martin then brought the conversation back to a discussion regarding Georgia’s program. Mr. Green, who had initially brought up the topic, noted that the court in Georgia helps to establish the program. Ms. Valentine expanded on Mr. Green’s comment and indicated that the program

has a lot of help from the two main law schools in Georgia. One school instituted a robust professional responsibility center and the school works closely with the court to set up and obtain participation from all of the Georgia schools. Mr. Green indicated that there are four Georgia Law Schools. Ms. Martin opined that despite the efforts of the New York State Bar to institute a mentorship, matching, and training program, said program has had limited success in the past. Ms. Millet inquired as to why Ms. Martin believes that to be the case. Ms. Martin indicated that although the committee members had good intentions, there was a lack of time to put together a successful and sustaining program. Ms. Martin indicated that she had headed a subcommittee within the membership committee, and the first thing that the subcommittee did was a focus group of all the sections that had created mentorship programs. The concerns raised by the focus group members were fairly uniform, which essentially entailed not having enough time to really make it work. Ms. Martin commented that, in her opinion, the most successful mentorship program is in the “young lawyers” section. She indicated that the section has even asked the State Bar for administrative help in order to be sustainable, but the State Bar did not have the ability to give substantial funds to such an endeavor.

Ms. Post opined that the entire conversation was dominated by judges, lawyers and those people who are already practicing law. However, even within the field, bias exists between types of lawyers (i.e. litigators versus corporate lawyers) and generally, the field has a high rate of attrition after five years of practice. Therefore, Ms. Post suggested that it could be helpful to present students in law school with more alternatives as to the types of career paths that may be available to students. Further, Ms. Post commented that the Bar Exam is more like a rite of passage since the questions are geared towards a student’s first year of law school (i.e. it is the basic knowledge).

Mr. Handy tried to comment on Ms. Post’s “broader perspective” analysis. Mr. Handy’s broader perspective is that the Bar Exam perhaps makes sense for the rest of the state, but not for New York City. Mr. Chang interjected and informed the group that there are other focus groups across the State engaging in similar discussions in order to cover the State geographically and get diverse opinions.

Mr. Cardozo pondered whether a related question that needs to be asked is whether employers are reluctant to hire individuals until *after* they have passed the Bar Exam and therefore, the incentive to take the Bar Exam early may actually be enticing *if* the student is also willing to do the required pro bono hours. Ms. Cardozo concluded by inquiring whether the State is slowing down students from obtaining employment based on the Bar admission process. Ms. Valentine agreed and commented that in most of the “western states”, students file their character and fitness on day “one” of law school. This creates the ability to address character and fitness issues throughout law school and, although students are required to take several ethics courses during

the course of law school, the character and fitness requirement is done before the student graduates. As a plus, once a student receives his or her results, if he or she passes, then they are “good to go”.

Mr. Chang offered that, in medical school, by the time the student gets to the fourth or last year, they have already taken 90 percent of the medical boards they are required to take in order to graduate. In other words, Mr. Chang indicated, that given the Bar Exam usually tests on information from classes that are taken in either the first or second year of law school, it would make sense to be able to take the Bar Exam at the end of the second year. Based on Mr. Chang’s comments, Mr. Cardozo questioned why the law, which allows newly graduated attorneys to practice with legal aid before passing the Bar, is not extended to small firm practitioners. Mr. Chang agreed. Mr. Green interjected with two points—first, he asked why students do not have diploma privilege (i.e. graduate and can practice) and in furtherance of that point, he inquired as to whether the industry “trusted law schools”. His point being that if the industry and others trusted law schools there would be no need for a Bar Exam. Second, Mr. Green commented that perhaps students should be re-certified in order to “weed out” the mediocre lawyers.

Mr. Beha agreed that it is increasingly difficult for young lawyers to get jobs, especially since they cannot practice until they are admitted. He also commented that even if you increased the students’ skills while in law school, that would not account for the number of jobs available for new graduates. Mr. Beha’s point is that the end result could be end be the advent of highly skilled graduates who nevertheless are competing for the same number of jobs. He therefore opined that the ability to take an early Bar Exam may give a competitive edge to new lawyers and law schools.

Ms. Millett expanded by explaining the lengthy procedure and process that students have to go through to get admitted in New York due to New York’s “unique process”. Although contrary to Mr. Chang’s question of whether New York’s process hinders administration of the Bar, Ms. Millet tried to explain that the provincial nature of the process is what often makes the process lengthy.

Ms. Post stated that having students submit their character and fitness on day one and taking the Bar Exam early are both good proposals. Mr. Green commented that the Bar can be shown to be irrelevant if students are being tested purely on doctrinal knowledge taught within the first two years of law school, without regard to lawyering skills or anything else necessary to be a lawyer. Mr. Beha contended that the Bar Exam did contain a performance section which required analytical thinking. Ms. Post agreed in part, but argued that the emphasis was not really “practice” but more “can you read a case and a reg[ulation] or an interview or, a deposition, and then do something with it”.

Mr. Beha then asked the group that if the diploma privilege was to be conferred, what law schools would receive such privilege. Mr. Green thought it should be all fifteen New York law schools, but was met with apprehension.

He defended his position by stating that the judges of the State could accredit the schools and impose requirements, and the same could not be said for all ABA accredited law schools.

Given the time of the round table was coming to a close, Mr. Chang began to wrap the session up and asked everyone to give their final thoughts on the impact the proposals and ideas discussed within the session had on the concept of professional values. He also inquired whether, similar to a “White Coat” Ceremony for medical school, law schools inculcate the concept of professionalism at the outset. Ms. Post and Ms. Valentine asserted that “they do”. Mr. Chang asked for examples to which Ms. Valentine commented that it is her understanding that most law schools in New York have an orientation program for first-year students and take a lawyer’s oath. She commented that it also “goes beyond that”, in which she recounted that most schools also have a series of classes for first year students or discuss professionalism and ethics in some other manner during the first year of school. She indicated that at CUNY, the school connects it to cross-cultural lawyering, and the privilege of serving those persons “shut out” of the justice system.

Mr. Cardozo asked to comment Mr. Chang’s question. He stated that one of the problems with inculcating professional and ethical values is that too often, those concepts are taught in the abstract in the law school setting and that it is hard to translate those skills when a law graduate becomes a practicing attorney. He added that he was making the comment in order to point out that one of the benefits of a student working in a real setting (government or law office) during school is the additional opportunity to expose the student to some of the ethical issues and to gain perspective from the real world. Mr. Cardozo believes that sort of experience could happen in a clinical setting, but it is more likely to occur in a law office setting at some point. Mr. Green agreed “110%”.

Mr. Green also added that the inculcation of professional values can be haphazard because it depends on the person’s practice settings. As a legal ethics teacher, Mr. Green indicated that his school has a robust ethics curriculum that is worth three credits, which boils down to about 40 hours total. However, a student’s exposure in a real-world or clinical setting would provide that much more exposure. Mr. Cardozo agreed, but also stated that students need to be supervised in their “real-world” setting in order to make sure that the student understands the professional or ethical moments that are occurring. Ms. Valentine agreed, but also thought that professional and ethical considerations should be placed in every single course that a student takes and not be limited; ethical undertones should permeate the entire school experience, even if only required for a certain amount of time by law. Ms. Millet commented that it is her experience that no one really cares about the pro bono hours completed by attorneys and that law firms need to figure out how to do so without it ending up in their paycheck. Mr. Beha countered finding that Ms. Millet’s comments were “unfair” to the law firms and legal

profession. He stated that lawyers do have swearing in ceremonies like medical schools and that most large law firms have pro bono programs that are active wherein attorneys are enabled to count pro bono hours into their total billable hours. Mr. Cardozo agreed and gave the example of the Golden Gavel Award given at Proskauer Rose for pro bono work.

Ms. Salkin brought the conversation back to Mr. Chang's original question regarding examples of what law schools are doing for ethics and professionalism. She stated that in addition to the oath, all law schools do an orientation. She also indicated that a clinical setting gives students interaction and because they have to take the oath to practice in the clinic, it brings together the oath taken at the beginning of law school. So, although there may be no white coat, law schools inculcate professional values throughout.

End of Focus Group

**NEW YORK STATE JUDICIAL INSTITUTE ON
PROFESSIONALISM IN THE LAW
ALBANY FOCUS GROUP**

February 28, 2014 – Albany Law School, Albany, New York

INVITEES:

Jim Ayers, Esq.
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Penelope Andrews
Dean and President, Albany Law School

Anne Reynolds Copps, Esq.
Partner, Copps DiPaola, PLLC

Christina Ryba, Esq.
N.Y.S. Appellate Division, Third Department
Board of Trustees, Albany Law School

Honorable William Carter
Albany City Court – Criminal Part

Alicia Ouellette
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Executive Director, Legal Aid Society of
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Alaina Laferriere, Esq.
Associate, Carter Conboy

Robert Rausch, Esq.
Partner, Maynard, O'Connor, Smith, & Catalinotto
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Troy Oechsner, Esq.
General Counsel, N.Y.S. Department of Financial
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MODERATORS: John McAlary, Esq.
Executive Director, N.Y.S. Board of Law Examiners

Mary Lynch
Professor, Albany Law School

John McAlary opened the meeting by thanking the participants and giving an overview of his background. He indicated that the purpose of this focus group is to provide commentary and insight to the panelists participating in the May 22, 2014 Convocation on Legal Education and Professionalism sponsored by the Judicial Institute on Professionalism in the Law. John McAlary then invited all the participants to introduce themselves. Mary Lynch further instructed the participants to highlight a specific talking point pertaining to legal education or professionalism that they wished to cover during the course of the focus group.

Jim Ayers noted the current crisis in terms of the gap between the number of law school graduates versus job positions, and the inability of our society to provide legal services to indigent clients. He noted that the medical profession has a number of different occupations and the legal delivery system only has one—the lawyer. Therefore, he suggested that the legal profession contemplate the creation of new law related regulated occupations, such as the lawyer’s assistant.

Penelope Andrews stated that in her opinion the training of lawyers is about the access to justice and the services that lawyers provide. She also agreed with Jim Ayers regarding the potential different models of delivery of legal services.

Robert Rausch commented that the emphasis on whether law schools produce graduates who are practice ready is the wrong question. Instead, he opined that the responsibility of producing practice ready graduates should be on the firm that hires them.

Christina Ryba expressed interest in discussing alternatives to scheduling the Bar exam. Specifically, if a student takes the Bar exam early, it may benefit the student and enable the student to secure a job earlier.

Judge William Carter emphasized the importance of students gaining practical experience and professionalism in the courtroom. He noted a technique mentioned in the materials that he also utilizes in his classroom called “litigation immersion”.

Lillian Moy expressed concern about the admission of African Americans into the Bar. Further, as a Legal Aid attorney, she expressed discomfort with the notion of learning to practice law by practicing on “poor people”. She noted that many firms use first and second year associates for pro bono work since paying clients will not pay for the associates work until he or she has experience.

Alaina Laferriere, an attorney who graduated five years ago, noted that many new graduates lack the “bare bones” basic aspects of practice, even with participating in clinics or being employed throughout law school. She also expressed gratitude that she was at a firm that provided guidance, however many of her fellow graduates, who also lacked the basic knowledge, did not have anyone to guide them.

Anne Reynolds Copps commented on the unemployment rate of graduates coming out of law school. She indicated that many of these graduates have an exorbitant amount of student loans and, as a result, these new attorneys hang their own shingle without having the knowledge or experience to be practice ready. She further highlighted a large group of people who are underserved in the legal community—those who cannot afford a lawyer, but do not qualify for low income services—and how those individuals need our help.

Alicia Ouellette discussed her extensive involvement in Albany Law School, both as a professor and administrator, and how the Law School desires to fill the justice gap without sending students out to commit malpractice before they even graduate. As a result, Albany Law School developed a pro bono program. She also stated that many of the issues addressed by the other participants are very important to the Law School.

Mary Lynch indicated that it is very difficult to require a law school, especially in New York, to engage in curricular reform or restructuring due to the amount of resources a law school needs to use towards Bar preparation. She noted that it is important to utilize those resources, especially if it is used towards student preparation of the Bar exam, which determines whether the individual should be licensed.

John McAlary kicked off the discussion and posed the following question to the participants—“What does it mean to be practice ready?” He stated that when he was a new law school graduate, he certainly was not practice ready and the argument that today’s graduates are not practice ready is not a new issue. However, he did note that the landscape has changed and where law firms once had the resources to train individuals, now there is the expectation that new lawyers need to be ready once they walk through the door. As a result, the burden has fallen on the law schools to ensure their students are practice ready. John McAlary then questioned whether law schools should bear this burden and, if so, should the model of legal education change?

Robert Rausch stated that he does not believe law schools can legitimately produce students who are practice ready and it might not be reasonable to expect a law school to do so. He noted the opportunities offered throughout law school, such as clinics and externships provide students with meaningful experience however, he expressed doubt as to whether a law school could teach someone to be practice ready. Finally, he stated that the goal of a law school should be to prepare its students to pass the Bar and the

obligation to make someone practice ready belongs to the employer and practicing attorneys.

Penelope Andrews posed the following question: “Practice ready for what?” She noted that lawyering is changing and that many graduates go into a vast range of fields, not necessarily the traditional practice of law. Therefore, law schools should determine whether there are a bundle of competencies and skills that are transferrable.

Jim Ayers interpreted a dual meaning to the term “practice ready”. He stated that initially he thought practice ready meant that as soon as you enter private practice, you are able to do everything that is asked of you. However, upon further review, he determined that practice ready means the core competencies that are necessary to be a good lawyer beyond those tested on the Bar exam or taught in law school. For example, good lawyers have the ability to negotiate or relate with clients and law schools need to focus on that as well.

Alicia Ouellette agreed with Robert Rausch, that law schools do not have the ability to make a student practice ready. Instead, law schools can try and graduate students who are “profession ready”. She stated that profession ready would include broader skills such as knowing when to ask for help or knowing when to call your professor or mentor. In agreement, Alaina Laferriere expressed how her experience with participating in a clinic during law school helped her to understand the value in asking for help when needed and creating a dialogue between students and practicing attorneys. Judge Carter also agreed with the notion of making students profession ready and noted that law schools need to instill an ethical obligation in their students to provide the client with the best representation and, if need be, decline representing the client when there is a lack of the requisite knowledge for effective representation.

Lillian Moy furthered this topic by mentioning the “California approach”. Before admission to the Bar, California requires fifty hours of pro bono service and fifteen hours of clinical experience. Further, there is a postgraduate mentoring process. She stated that these three requirements, used together, are aimed at making new attorneys more practice ready. Christina Ryba agreed that post graduate mentorship is essential to the profession and emphasized the importance of new graduates having a network of practicing attorneys that can guide them, especially those new graduates who immediately become solo practitioners. Anne Reynolds Copps stated that a post graduate, profession--wide mentoring program would also come with its own set of challenges and it would be a huge undertaking for the mentor, at the expense of that mentor’s own practice. She noted that many practicing attorneys informally mentor and assist young lawyers throughout the years.

Mary Lynch directed the discussion towards implementing requirements for practicing lawyers, not just law students. She suggested the possibility of requiring fifty hours of mentoring when attorneys renew their

registration with the New York Bar and the development of a strong mentoring system. Anne Reynolds Copps noted that the State Bar Association, through various sections, has attempted to implement a mentoring program for years with little success, but a more formalized requirement may help establish such a program. The participants then discussed how a formalized mentoring program, in theory, is a great idea; however the implementation may be difficult. The group raised the following questions: How do you define the mentoring? How do you regulate it? Not all lawyers would make good mentors/mentees and what happens if the relationship is unsuccessful? Mary Lynch mentioned different methods for formalizing a mentoring program such as getting credit for the work you do as a mentor or increasing the cost for attorneys to renew their registration and providing a reduced rate if the attorney participates as a mentor.

Alicia Ouellette then discussed a task force formed by Albany Law School which examined the issue of helping students who are going directly from law school to solo practice. The task force explored the idea of instituting an incubator program where attorneys, practicing or retired, would assist recent graduates in building a practice. However, this idea was met with resistance by the Albany Bar since such a program, which would provide low cost legal services, may create competition for other new graduates who need to build their businesses. Lillian Moy stated that such incubator programs would be valuable and have been successful in large urban areas. Other participants did not understand how the incubator programs would create competition since there is a large group of people who cannot afford legal services.

Penelope Andrews noted that the resistance to change is not only confined to the practicing Bar, but happens within law schools as well and suggested that the focus should be on the law students and instilling in them a lifelong commitment to service and pro bono work. Mary Lynch stated that clinics were initially met with resistance, but over time have developed.

Robert Rausch shifted the conversation back to the mentoring of students and new graduates and identified the issue of time. Practicing attorneys are busy billing hours, developing business, or attending functions. He opined that the practicing bar is resistant to a mentoring program due to a lack of time, even though such a program would be integral to the profession. Judge Carter mentioned creating an incentive to take on a student, such as creating a CLE out of the mentor/mentee relationship.

John McAlary directed the discussion to the topic of professionalism and his perception that there has been a reduction in the professionalism of recent graduates. He identified social media, emailing, and texting as possible reasons for this decline. Penelope Andrews mentioned that professors should be a model for professional dress and conduct for their students. However, she noted that it was her belief that a trend has arisen wherein professors are dressing more casually. Robert Rausch opined that today's society has affected law students, including their attire, articulateness, and quality of writing. Alaina

Laferriere observed that many students today treat law school as an extension of college and she noted that a difference existed in maturity level between students who attend law school immediately after college versus students who have prior work experience. To further instill professionalism in its students, she mentioned the implementation of a dress code for law students. Mary Lynch stated that she advises the students in her clinic to dress more conservative than anyone else in the work environment. Robert Rausch said that law schools need to emphasize basic skills, such as how to dress and speak professionally.

The participants also discussed internet usage in the workplace and how many employees utilize social media or other non-professional websites during the workday. As a solution to this problem, Penelope Andrews suggested focusing on time management and assigning tasks with a specific time frame so that the employee is forced to focus and execute the assignment in a timely fashion.

The discussion then focused on the cost of legal education. Anne Reynolds Capps stated that law schools now face a huge balancing act between reducing the number of graduates while still raising enough revenue to cover the costs of faculty, buildings, and programs. John McAlary noted that clinical programs require more supervision and personnel than a traditional course. Therefore, demanding more clinical and practical experience from law schools could potentially increase the cost for students. Penelope Andrews opined that clinics are not the only method of experiential learning. Christina Ryba stated the bigger issue is that the increasing cost of law school is not being met with an increase in salaries. This results in a salary that does not match the debt which has to be repaid. She further stressed that the legal profession is a great career, but law school should not be someone's backup plan. Alicia Ouellette emphasized the value in a law degree, but also stressed that law schools have the responsibility and duty to contain costs. She noted the juxtaposition between the large group of underserved people and students who want to help in said areas with the difficulty students face when they graduate with a very large amount of debt and they are inclined to take whatever job they can get. Alicia Ouellette further suggested loan forgiveness, with a shorter timeframe than what is already available, for graduates who commit themselves to public service. Robert Rausch opined that law school is a great investment; however law schools should improve their debt counseling.

The participants furthered this topic of discussion by pointing out the importance of living frugally while in law school to decrease the amount of borrowed loans. Mary Lynch noted the higher return on investment of a law degree versus a college degree. However, she observed that it can be difficult for recent law school graduates who come out at an age when they are getting married, having children, and making other big life decisions, which can be inconsistent with the amount of debt incurred.

Jim Ayers observed that the combination of the number of lawyers in the current workforce, limited availability of jobs, and large amount of student debt will result in a decline of law school applicants, which is already occurring. As a result of these market conditions, he surmised that some law schools will close. However, he noted that if that does occur, the unmet need for providing legal services to the indigent and people of modest means will only get worse. Jim Ayers then suggested that there needs to be a restructuring of legal services. For example, similar to a physician's assistant, the profession should construct a regulated, licensed occupation such as a "lawyer's assistant", who works under the supervision of an attorney. This position would enable a person to provide limited legal services, require less education, and would result in less expense. Penelope Andrews highlighted the deregulation of legal services in different countries such as the U.K. and Australia and how this deregulation provides access to legal services for a large group of people. A second concept she mentioned is the "chopping up" of the J.D.—if you have completed one year or do not want to complete your J.D. you can get a certificate and still provide legal services, but in a limited capacity.

Mary Lynch posed the following question—what would have to change in order to restructure the current administration of legal services? John McAlary stated that such a change would require legislation, especially in regards to the statutes pertaining to the unauthorized practice of law. Mary Lynch observed that with the "unbundling" of legal services comes the issue of what a person, such as a lawyer's assistant, can or cannot give counsel on and how to break that down when first determining what a case is about.

Mary Lynch then focused the discussion on the early administration of the Bar exam and Chief Judge Lippman's pro bono scholars initiative. The Committee on Legal Education and Admission to the Bar looked at the issue and proposed to allow individuals to take the Bar exam after their second year of law school. The theory behind this proposal being that if a law student has trouble finding a job after graduation, then they most likely had trouble finding a job between the second and third year. Therefore, that student may have the time to study for the Bar exam, get admitted and be ready to practice the day after graduation. John McAlary explained Chief Judge Lippman's 500 hour pro bono scholars program, where in exchange for allowing the student to sit for the Bar in February of their third year, the student would spend their last semester doing 500 hours of pro bono work. The participants then discussed the possible details of the program such as whether there would be a classroom component, how students would receive credit, and how students would complete the necessary classwork before their third year. However, such details still need to be determined.

Alicia Ouellette stated that changing the Bar exam, as well as how law schools admit students, may help bring in more diverse students. She noted the constant debate regarding the elimination of the admission of students below a certain LSAT range. However, she argued that every time the threshold is

raised for admission, it affects a law school's ability to admit minority students. She emphasized finding a way to measure a student's competency to practice law, rather than the ability to pass the Bar exam or a standardized test.

Christina Ryba suggested that an alternative to Chief Judge Lippman's pro bono scholars program would be to allow all students to take the Bar after their second year. That way the material would be fresh in their minds since the majority of information tested on the Bar exam is learned within the first two years. Christina Ryba stated that this method may help a student that is not at the top of the class become a more competitive candidate when searching for a job. Alicia Ouellette noted that the challenge in changing the date of the Bar exam is the content most students take New York Practice and other subjects that are heavily tested on the Bar exam in their third year. She stated that it would be difficult to fit all of the subjects necessitated by the Bar exam into two years of study. Christina Ryba suggested that students who are interested in taking the Bar exam early should continue their coursework during the summer. The student would not graduate early, but would focus solely on Bar courses during the first two years and graduate after the third year with everyone else. The participants noted that the early administration of the Bar would be optional, not mandatory.

Jim Ayers commented that perceived benefits of administering the Bar exam during the second year may not be realized since students will be spending a large portion of their time in law school studying for the Bar and not taking the classes or getting the experience that they normally would. He stated that before this idea is implemented, employers would need to be surveyed to determine whether it would truly provide an advantage to students. However, he ultimately concluded that taking the Bar exam earlier would enable employers to offer jobs earlier and allow students to start paying back their debt earlier.

Robert Rausch posed a question to the participants—is there any real hope to reform the Bar exam? He doubted whether the exam really tests how successful someone is going to be as a lawyer. Mary Lynch praised the Board of Examiners for the job that they do and the changes they have made to the Bar over the years. She noted that the purpose of this convocation is to identify the current problems and, no matter what the answers are, the profession needs licensing and a gatekeeper to protect the consumer. Troy Oechsner stated that the Bar exam felt more like a hazing ritual, rather than an actual test of competency. He highlighted the fact that people truly learn by doing and noted that when he hires, he looks for a candidate that can think, do, and act independently, rather than focusing solely on good grades. Judge Carter echoed the value of clinical experience and stated that when he had a senior appellate court attorney speak to his class, that attorney candidly informed the students that when a student has externship or clinical experience on their resume, it provides a leg up over other applicants.

John McAlary said that the Bar exam is only one component of competency and that legal education is still the major indicator of whether someone is competent to practice law. He suggested that the Court of Appeals should create a minimum number of clinical or externship credits, instead of limiting law students to a maximum of 20 credits for clinical experience. The participants emphasized the importance of practical experience for all students, even if it is not necessarily in the area that they want to practice in. John McAlary pointed out that law schools and the Bar provide a general license to practice law. After law school, graduates may find themselves practicing in a completely different area than what they thought they were going to practice when they were in their first or second year of law school.

Jim Ayers expressed concern regarding the grading of clinical experience. He questioned whether there would be enough consistency in the grading process across the board, rather than having it be a subjective process. Alicia Ouellette discussed the clinics and clinical grading at Albany Law School. She stated that the clinical professors have a meeting to ensure consistency in the grading process. They use a very specific rubric to they determine what is valuable and what is not. She also noted that field placements at Albany, as well as at most law schools, are pass/fail because much of the work is done off site, as opposed to in-house clinics where there is much more faculty contact.

Robert Rausch asked the maximum number of students a clinic can supervise. Mary Lynch noted that it would depend on the clinic but the apparent national standard was between six and ten students. She advised that going above the one to ten ratio would be very difficult. Robert Rausch stated that operating under those numbers would create ramifications for both faculty and students. Alicia Ouellette agreed and stated that resources are a huge issue. However, at Albany Law School if someone cannot get into an in-house clinic, the school helps the student secure a field placement.

Jim Ayers reintroduced the topic of professionalism, but focused on the two sides of professionalism—first in law school, then in private practice. In law school, he noted the difference between ethics merely being taught versus being pervasive throughout the entire law school career. In regards to private practice, he suggested that the Bar Association develop a manual on professionalism for law firms, coupled with programs that include presentations, hypotheticals, and self-evaluations. Although participating in such a program would likely be voluntary, he stated that firms can utilize their participation as a tactic for attracting new applicants during periods of recruitment. Mary Lynch questioned whether professionalism is pervasive throughout law school. Alicia Ouellette stated that Albany Law School works on professionalism from the moment of orientation, such as providing a swearing-in ceremony, follow-up programs and strict attendance policies, however some of it does “fall off”. Jim Ayers further stated that professionalism does not mean memorization of the Rules of Professional Conduct; instead professionalism is the quality of a virtuous and admirable

attorney. When professionalism is viewed in that light, he noted that it is much harder to define and teach. Alicia Ouellette opined that law schools need to continue to hold students accountable for professionalism throughout law school, not just during the first few days.

Penelope Andrews observed that this profession requires vigorous engagement in passionate discourse. She stated that law schools need to teach students to engage in challenging conversations with civility and professionalism. Robert Rausch stated that in a litigation dispute, you are in an adversarial relationship, but do not have to be adversaries. He observed that many new attorneys are much more aggressive than they need to be, and it takes a while to learn the lesson of civility. Mary Lynch expressed the importance of having role models in the community, like the individuals participating in the focus group, who act as examples on how to behave as an attorney.

Troy Oechsner emphasized that as an attorney your reputation has value; you can be a zealous advocate, but also refrain from dishonesty or misrepresentation. John McAlary agreed and said that ideology needs to be instilled in students from the first day of law school. He further noted that things a student may say or do while in law school, such as writing something on social media or getting into a bar fight, affect that student's reputation beyond law school and may also create difficulty in getting admitted to the Bar. Troy Oechsner observed that the aforementioned scenarios are extreme and stated that since the legal community is small, a student's reputation may be affected by something even more nuanced, such as a misrepresentation of facts. Either way, students need to understand the importance of their actions.

The discussion wrapped up with Mary Lynch playing "devil's advocate" in regards to what law schools teach students during the first year. She stated that when a law school teaches its student to "think like a lawyer", in reality the students are learning skills that a lay person may perceive as deceitful. For example, law students are trained to scrutinize and distinguish based on facts that may seem trivial to a lay person—"knowing where the out is". However, she noted that every time a law school teaches that strategy, it needs to reevaluate the implicit message it is sending to its students. She emphasized that that skill alone does not make a good lawyer.

In closing, Moderators Mary Lynch and John McAlary thanked the members of the focus group for their participation.

End of Focus Group

**NEW YORK STATE JUDICIAL INSTITUTE ON
PROFESSIONALISM IN THE LAW
BUFFALO FOCUS GROUP**

February 28, 2014 – Hodgson Russ LLP, Buffalo, New York

INVITEES:

Diane Bosse, Esq.
Of Counsel, Hurwitz & Fine
Chair, NYS Board of Law Examiners

Andrew Freedman, Esq.
Partner, Hodgson Russ LLP

Joseph Hanna, Esq.
Goldberg Segalla
Former President of the Minority Bar Association of
WNY

Christopher O'Brien, Esq.
The O'Brien Firm PC
Trial Advocacy Program at SUNY Buffalo Law
School
Member of the UB Council

Paulette Ross, Esq.
Former President of the Minority Bar Association of
WNY

Eileen Buholtz, Esq.
Connors & Corcoran
Past President of GRAWA
Past Officer of WBASNY

Gary Muldoon, Esq.
Partner, Muldoon & Getz

James Gardner
SUNY Distinguished Professor
Former Academic Dean at SUNY Buffalo Law
School

Emily Dinsmore
Editor in Chief, Buffalo Law Review

MODERATORS: Paul Saunders, Esq.
Chair, NYS Judicial Institute on Professionalism in
the Law
Cravath, Swaine & Moore LLP

Melinda R. Saran
Vice Dean for Student Affairs, SUNY Buffalo Law
School
Member, NYSBA, Committee of Legal Education &
Admission to the Bar

Paul Saunders opened the meeting. He provided the invitees with a brief history of the New York State Judicial Institute on Professionalism in the Law. He indicated that the purpose of the Institute is to study the issues of lawyer professionalism in a quasi-public way—to publish the results, hold town hall meetings around the State, talk to clients, talk to lawyers, talk to judges, and talk to the legal academy. One issue that has been very high on everyone’s agenda is the future of legal education, which includes the training of tomorrow’s lawyers and ensuring that the inculcation of professionalism is not lost in the changes being made to legal education. This focus group was intended to highlight the current issues and provide an open discussion of the subjects to be addressed at the convocation. Paul Saunders concluded his opening by thanking everyone for attending and giving an overview of his background. Each attendee in turn introduced themselves and provided a summary of their professional experiences.

Paul Saunders noted that clients are not willing to pay for work done by first-year associates. Clients believe that students fresh out of law school are not valuable and the client does not want to pay to teach the new associate how to practice law. Paul Saunders explained the history of the law school model—how law school was considered a trade school and that during the 20th century there was a push towards making the teaching of law more theoretical. However, the intellectual study of law as a theory does not help law students learn how to actually practice law. Many law schools also argue that it is not the law school’s job to teach law students how to practice law. Instead, that is the job of the Bar exam, the Bar examiners, the Bar exam preparation, or the law firms.

The conversation then turned to the completion of certain required courses while in law school. Paul Saunders stated that when he was in law school, most of the courses he took were required courses such as bankruptcy, corporations, wills and trusts, tax, constitutional law, evidence, etc. Electives were not an option until the end of his third year. He noted that today the only required courses are taken in the students’ first year, with the exception of professional responsibility. Paul Saunders also found this to be related to another hot topic—whether law school should be completed in two or three

years. He opined that law school should remain as a three year requirement in order to ensure students graduate with the “required competencies”. However, the following question was raised—how can a law school determine whether the “required competencies” have been met if the law school does not require any courses to be taken?

The law school model was then compared to the medical model. Paul Saunders explained that although doctors go through a residency program for further training after medical school, every doctor rotates through every discipline in medicine. Conversely, in law school, you can graduate without ever having seen a will, and yet once you pass the Bar you have no restrictions on what you can practice. Paul Saunders stated that the concept of having students complete law school in two years is unrealistic. Instead, the discussion should focus on how legal education needs to change to make it more relevant to the practice of law and to further ensure that the increased emphasis on the practice of law does not result in the potential loss of professionalism.

Andrew Freedman commented on how the work experience he obtained while in law school was invaluable to his success today. However, he also stated that the theoretical side of law school is necessary as well. Having both the practical and theoretical throughout law school is very important. Eileen Buholtz stated that she has interviewed and hired numerous people out of law school. She observed that new attorneys who recently pass the Bar Exam are scared and shy away from responsibility. Paulette Ross furthered that commentary and mentioned how the students graduating from law school lack practical experience, and as a result they are afraid and unsure of what they should be doing in the practicing world. Gary Muldoon noted that studying an area of law while in law school is only the beginning. Once you start practicing you realize how much more there is to learn.

Andrew Freedman stated that there is an importance for young lawyers to foster relationships, have a mentor, or engage with a network of practicing attorneys. It was his opinion that the more successful lawyers have a strong network. Paul Saunders commented that when the Judicial Institute of Professionalism did its study of the first seven years of practice, it found that young lawyers desired mentoring, supervision, and someone to tell them what was right from wrong. Diane Bosse commented on how the profession is letting lawyers down, and how the profession is expecting too much and at the same time not enough from law schools. She further stated that it is the responsibility of the law school to teach its students how to be lawyers, yet the profession also wants law schools to solve a multitude of problems, such as diversity in the profession and access to justice, while at the same time making its students practice ready. She opined that law schools cannot do it all.

Diane Bosse further communicated her experience of co-chairing a committee for the National Conference of Bar Examiners. During her time as co-chair the committee conducted a job analysis. The analysis indicated that new attorneys considered professionalism to be very important, however, the

ability to test a student on professionalism is an issue. She stated that experiential learning is not a risk to professionalism, but a tool in developing it.

Emily Dinsmore shifted the conversation and addressed what, in her opinion, is driving law student's fear. She indicated that the drivers of student's fear included the lack of available legal jobs and the fact that the legal profession is changing. Joseph Hanna went one step further and instead of discussing law schools and law professors, he wanted to highlight the law student's role in this discussion. He noted that students seem to be driven by grades, by the Bar exam, by their resumes and by fear, as opposed to gaining a deeper analysis and understanding of the material.

Paul Saunders addressed the possibility of having specialized legal education, based on particular interests, versus generalized legal education. Christopher O'Brien stressed the importance of a broader education and how it instills in students the ability to think and analyze like a lawyer. He relayed a personal anecdote of how he went through all of law school focusing on corporate law, but when he began to practice he realized it was not the area for him and instead switched over to litigation. James Gardner stated that under the current law school model, although not specifically required, most students take the courses that are conventionally understood to be obligatory, such as corporations or evidence. Beyond that students tailor their education to their interests at that time. He observed that the "required" courses seem to serve the purpose of establishing a foundation that every student needs and the choice is available for students to indulge in the particular interests they have.

Paul Saunders questioned whether there will ever be a time when people will be legally permitted to practice in a single area of the law, such as having a limited license to solely defend criminals, without taking a generalist bar exam. Diane Bosse stated that the legal profession is a unified profession—making a judgment at 25 years old should not determine your whole career and everybody should have a basic foundation of common knowledge. Gary Muldoon noted that many lawyers experience shifts in their careers, for example starting a career in real estate and then switching to litigation. As a result, it is necessary for lawyers to be resilient, have professionalism, and have a range of knowledge that is founded on a core curriculum.

Andrew Freedman directed the conversation back to a point made earlier—clients not wanting to pay for first-year associate work. He questioned why the issue is so prevalent now when the legal field has always had first-year associates. Is it because law schools aren't doing the right job or do law students not have the same work ethic as in the past? Andrew Freedman noted that lawyers have done well under the traditional law school teaching model and a radical change may not be necessary. Melinda Saran stated that today there is a focus on output and immediate results—students not wanting to put in the work or spend the time that is required and clients not wanting to pay for the work that is required.

Eileen Buholtz noted that today's clients continuously slash their bills. As a result, she pays her associates hourly, but cannot charge her clients for the work. Paul Saunders stated that over the last 10 to 15 years there has been an increased push to lower the cost of legal services and increased competition for legal services. This has resulted in much of the legal work today being "piecework"—a client only willing to pay "x" dollars for a motion to dismiss or "y" dollars for a motion for summary judgment. Paul Saunders also commented on how client loyalty does not really exist anymore, instead it is who will do the work for the lowest amount of money. Conversely, Paulette Ross noted the problem of attorneys taking advantage of their clients and overbilling or excessively billing. She commented on how clients have become more aware and critical of their billing. Paul Saunders observed that the profession uses detailed billing. As a result, billable hours have become very important and the practice of law, in some areas, has become a commodity. Gary Muldoon replied that the amount of time spent preparing a deposition, or a real estate closing, or a trial correlates to the type of results, rewards, and relationship the attorney and/or Firm has with the client. Eileen Buholtz said that an attorney still has to do all that and show their value, but now it is something that you may not be able to bill for since the competition for legal services is so stiff.

The discussion shifted back to competencies and whether law schools are requiring their students to obtain the necessary competencies. There was a debate over what constituted competency—James Gardner stated that, in his opinion, competency does not mean expertise in a particular subject matter. Instead, competency would be demonstrated through the lawyers' ability to extract a rule of law from a case or how to create a legal argument, which he noted is taught in almost all courses in law school and, therefore, is duplicative and inefficient. That point then focused the discussion on the business of law and the importance of training employees within any business. James Gardner introduced a theory based on the loss of industry revenue; partners shifting that loss of revenue to associates so they can retain the revenue, first by eliminating partnerships and then by creating low paying associate positions. Next, when that shift wasn't enough, firms shift the cost of running a law business to the law schools by insisting that the schools do things that firms should actually be doing.

James Gardner further noted that there has been a steady decline of preparedness and ability of students entering law school. Emily Dinsmore stated how some students enter law school lacking necessary skills, such as writing, due to the fact that many students can earn a bachelor's degree without doing much intensive writing. Furthermore, she mentioned that working before law school may help prepare students for the tedium of working, as well as make the transition to law school easier. Paulette Ross highlighted an issue with society and the educational system as a whole. That the educational foundation in today's society is weak and, as a result, students are graduating

high school and college without the proper skills. She also noted that many law students who lack these skills get into law school because they test well.

The discussion turned to what law schools should do to teach these students to be professional and competent attorneys. Melinda Saran mentioned mentoring programs. Andrew Freedman suggested a fourth-year residency program, which students would have to pay for, which led to a revived discussion of whether law school should be shortened to two years. Joseph Hanna voiced his concern regarding the contradiction surrounding the training of lawyers; firms not willing to pay for first-year associate work versus law school being cut down to two years. He inquired how can law schools be responsible within that short period of time for the training of these students? He further noted that if firms are trying to force law schools to teach the students how to be lawyers, then in reality law school should be eight years.

Paul Saunders stated how his firm, like many other large firms, provides their attorneys with internal CLEs. However, the group conversation shifted to a discussion of how most lawyers in New York are solo or small firm practitioners and how those types of lawyers receive the majority of disciplinary committee complaints. Gary Muldoon noted how many solo or small firm practitioners lack structure and mentoring, which can result in ethical problems. Eileen Buholtz mentioned how the State Bar and local bars are huge resources that provide mentoring and other tools, especially to new and solo or small firm attorneys. Since solo and small firm attorneys are a huge part of the profession, Paul Saunders asked whether law schools are doing enough with respect to that group. Christopher O'Brien stated that law firms are businesses and he is unsure if it is the law school's responsibility to teach its students how to run a business. Gary Muldoon said that he believes law schools do have a responsibility to make courses available to students who need that business understanding, specifically students who are going directly into a small or solo practice.

Christopher O'Brien asked whether the decrease in law school applications has resulted in major changes taking place in legal education. James Gardner expressed that law schools have been taken inside the umbrella of the university, so to a certain extent they are insulated from the market. However, in order to compete in the market, a school has to offer the proverbial "rock climbing wall" or other enticing feature in order to attract students. He noted that law schools are not immune to this and although students complain about rising costs, it is largely a response to market demands made by prospective students. Diane Bosse articulated that although the proposal to limit law school to two years would reduce the expense of legal education, it does not address the issue of ensuring whether students who enter the legal profession are prepared to practice law. She did not think the answer is to decrease the amount of legal education, but rather to look at what is driving the cost(s) of law school and remodel it. She further identified scholarship and the "rock wall", or the enticement of students via the physical

grounds and “extras” of law schools, as two things that drive up the cost of legal education. Andrew Freedman stated that if there is a concern about student quality, making law school two years would not result in a better student and since law school is only three years, every minute does count. He further stressed the need for the incorporation of practical experience and coursework into law school.

Paul Saunders asked the participants what would be the best way to teach professionalism in law school. Melinda Saran said that at Buffalo Law School the first-year students take an oath during orientation. She also mentioned how the Erie County Bar hosts a bridge the gap program for new attorneys, and although participation in such a program is not required in New York, maybe it should be. The program she referred to covers practical matters such as escrow accounts, grievance committees, and how the clerk’s office works. James Gardner noted that the teaching of professionalism occurs continuously and not just expressly through a class in law school. Professionalism occurs through mentoring and senior attorneys acting as role models for junior attorneys. Emily Dinsmore expressed the value in legal work experience during the summers between semesters. For example, through legal work experience, law students have the opportunity to attend court with supervising attorneys, attend client meetings, and observe how attorneys interact with clients and the support staff within the firm.

Paulette Ross directed the discussion to students that do not get the opportunity to work in a law firm or get clerking experience, especially minorities. Joseph Hanna stated that the Minority Bar Association of Western New York set up a program with Buffalo Law School to help minority students get placed in positions. The program has placed more than fifty students in judicial clerkships over the last three years, as well as about twenty-five students with in-house counsel and larger law firm positions. Joseph Hanna further identified the fundamental problem of twenty-two percent of African Americans failing the Bar Exam. Melinda Saran discussed how she encourages students who cannot find placements to use the opportunity to get their pro bono hours. She also noted that herself and another member of the administration of Buffalo Law School offer personal assistance to any student who did not pass the Bar Exam, including one-on-one reviews of the student’s essays. Both Joseph Hanna and Melinda Saran commented on the increased focus within recent years on Bar passage rates for Buffalo students, especially for minorities, and how that focus has resulted in higher passage rates.

The focus group wrapped up with a discussion about the practice of law in western New York. There was a general consensus amongst the participants that there is a close-knit legal community within the region, especially because so many of the attorneys have ties to Buffalo Law School. As a result, professionalism throughout law school and beyond is extremely important. Christopher O’Brien stressed that with so many Buffalo Law graduates practicing in the area, it is extremely important to both the local

practice and the good name of the law school to inculcate professionalism within the law school and also have the members of the profession be involved in that process.

End of Focus Group



NEW YORK STATE JUDICIAL INSTITUTE ON PROFESSIONALISM IN THE LAW

25 BEAVER STREET • NEW YORK, NEW YORK 10004

WEBSITE: www.nycourts.gov/ip/jipl • E-MAIL: professionalism@nycourts.gov**SAMPLE LETTER TO LAW SCHOOL DEANS WITH SURVEY**

DATE

[Dean Name]

[University]

[Address]

Re: New York State Judicial Institute on Professionalism in the Law

Dear Dean:

In March of 1999, the New York State Judicial Institute on Professionalism in the Law was officially brought into existence by an Administrative Order of then Chief Judge Judith Kay. Since then, the Institute has served as a permanent commission dedicated to nurturing and studying professionalism in the legal profession. It supports the organized bar, law schools and other institutions in undertaking effective programs for the promotion and study of professional behavior, and stands as a permanent forum in which the various constituencies of the profession can convene regularly to study and speak to issues pertaining to ethics and professionalism.

A decade ago, during the fall of 2004 the Institute embarked upon an examination of the inculcation of professional values through professionalism dedicated programs at the outset and during law school. This specific charge flowed from the Institute's First Convocation held in the fall of 2000 on the "Face of Profession." Almost unanimous agreement was evident among Convocation participants from the Bench, the Bar and the Academy that direct inculcation of professionalism values at the beginning of law study is critical.

The Institute conducted its Convocation in the Fall of 2005 to formally convene a conference where academics, practitioners and the judiciary gathered to study the inculcation of professional values during law school. The record of proceedings can be found at http://www.nycourts.gov/ip/jipl/JIPL-Winter2005_part1.pdf in digital format. As part of this effort, the Institute undertook a nation-wide survey of all law schools to review the then current

landscape in law schools regarding the inculcation of professional values. The results of the survey are attached to the record of the Convocation cited above.

In May of this year, jointly with the New York State Bar Association Committee on Legal Education and Admission to the Bar, these issues will be re-examined. Over the past several months, members from the Institute and the New York State Bar Association Committee on Legal Education and Admission to the Bar (CLEAB) have been working together to organize a 2014 Spring Convocation regarding the “Future of Legal Education”. There will be a total of two (2) panels that shall review the topics entitled, “Restructuring Law School” and “The Inculcation of Professional Values in law school revisited from 2005.” Specifically, the May Convocation will examine model “professional values” programs, whether students should be required to take an oath or ceremony on the first day of law school to adhere to professional values in their studies and thereafter in practice; how will the proposed changes to the structure of law school impact professionalism (e.g. early administration of the bar exam, changes to the curriculum, etc.); the pressures of student debt and effect on professionalism and the practice of law in general (e.g. the rise in complaints regarding the commingling of funds, proper record keeping, etc.); the impact of proposals to revamp law school third year, or the early administration of the bar examination on the inculcation of professionalism during law school.

The Institute believes that any discussion of professionalism should emphasize certain dominant themes:

- that Law is an inherently public calling which, by providing diligent service to clients, promotes important public interests;
- that Law is a helping profession;
- that lawyers, as custodians of the legal systems, have enhanced obligations of service to the community and promotion of justice through the rule of law.

The discussion of professionalism should further emphasize that these dominant characteristics of the legal profession requires lawyers to appreciate fully and develop certain important behaviors, including:

- Lawyer independence
- Ethical behavior
- Self-renewal
- Competence, excellence, responsibility
- Historical continuity and tradition of the profession
- Breadth and diversity of the profession

- Respect for client, adversary, and the court
- Societal context of the law

In an effort to determine current law school efforts, as it did in 2004, the Institute is now sending surveys to all law schools across the nation respectfully asking for assistance in sharing with us each law school's current approach to instilling professionalism in its students, and invited law schools to participate in filling out a survey.

In an effort to determine whether law schools have implemented change regarding orientation programs and the instruction of professionalism values since 2005, we respectfully request you cause the attached survey to be completed and returned to me prior to March 15, 2014. Enclosed for your convenience is a self-addressed, stamped envelope. I very much appreciate your efforts on our behalf.

Very truly yours,

JOHN H. GROSS
Enclosure

**LAW SCHOOL QUESTIONNAIRE ON
PROFESSIONALISM FOR INCOMING LAW STUDENTS**

1. Please describe the organization, content and length of your orientation program for incoming law students.

I am enclosing printed materials describing our law school's orientation Program.

I am attaching a brief written description of our law school's orientation program.

2. Does your state have a state mandated or suggested professionalism orientation program?

3. Please describe how professionalism/ethics are handled within your law school orientation program?

There is a professionalism/ethics orientation program that is conducted separately from the general orientation program. (Please attach a brief written description or enclose any descriptive printed materials).

There is a professionalism/ethic component that is a differentiated part of the overall orientation program. (Please attach a brief written description or enclose any descriptive printed materials).

Professionalism/ethics are discussed as appropriate throughout the overall orientation program but do not receive differentiated treatment. (Please attach a brief written description or enclose any descriptive printed materials).

Other. Please explain.

I am enclosing printed materials describing our law school's orientation Program.

I am attaching a brief written description of our law school's orientation program.

Mandated

Suggested

Neither

4. In what ways does your law school endeavor to instill a sense of professionalism in students throughout their law school experience? How, if at all, is your orientation program linked to these efforts?

5.a. Have practicing lawyers participated in orientation programs in the past and what were their roles?

b. Who were the speakers at your three most recent orientation programs and what were the topics upon which they spoke?

6. Are materials distributed to the students at the orientation programs? _____ (Please enclose any materials you believe are relevant to our inquiry).

- 7. Are videos shown? _____ If so, please briefly describe the subject matter of the video. (If practicable, we would be interested in receiving and reviewing a copy).

- 8. Please describe the nature and extent of new law student participation/interaction, if any, during the orientation program. For example, if there are breakout sessions, how are they organized and what is discussed?

- 9. Do students evaluate the program?_____. If so, would you be willing to share student feedback with the Institute?

- 10. Do you have a law school honor court and/or honor code?_____ If so, please provide any descriptive printed materials or attach a brief written description.

- 11. Do you have a written pledge or commitment to the honor code or to any standards of ethics or professionalism?_____ If so, please attach a copy.

12. Please include (or attach) any comments or suggestions you may have in connection with utilizing law school orientation programs to promote professionalism in new students.

SUMMARY OF LAW SCHOOL SURVEY RESULTS

ALABAMA

- **Samford University, Cumberland School of Law**, Birmingham, Alabama

Samford University Cumberland School of Law discusses professionalism/ethics throughout the overall orientation program but does not receive differentiated treatment. Samford University Cumberland School of Law endeavors to instill a sense of professionalism in students through their law school experience by requiring students to complete a course on legal ethics and a specially-designed course on professionalism. The professionalism course has a 90-minute introductory session at orientation. Practicing lawyers participate in the orientation program as small group leaders and speakers. In the most recent orientation programs, the U.S Attorney and Public Interest Attorneys spoke upon the topics of Entering and Preparing for Practice. Materials are distributed to the students during the orientation program. No videos are shown. Students are divided into small groups in several different sessions during orientation. Sometimes the groups are randomized (by birthdate, last initial), and others are assigned by section. Students evaluate the orientation program. Stamford University School of Law has an Honor Code, which covers all forms of academic misconduct. There is also a written pledge or commitment to the honor code or to standards of ethics or professionalism.

2005 White Paper

Samford University Cumberland School of Law did not respond to the previous survey.

ARKANSAS

- **University of Arkansas at Little Rock's William H. Bowen School of Law**, Little Rock, Arkansas

According to the University of Arkansas Little Rock's William H. Bowen School of Law (UALR), Arkansas does not have a mandated or suggested professionalism orientation program. Professionalism/Ethics at UALR is discussed as appropriate throughout the overall orientation program but does not receive differentiated treatment. However, UALR has eliminated orientation and instituted "First Week" in its place. According to the law school, "First Week is an extra week of one of the student's regular, first semester courses. The research shows that when students receive learn-to-learn instruction integrated into one of their regular course, they are more likely to change students' behaviors with respect to studying. Moreover, students' first experience in law school influences their sense of expectations..." During First Week, entering students are exposed to professionalism in a variety of ways. Most recently, students experienced keynote addresses by Michael Hunter Schwartz, Dean of UALR, Jim Simpson, President of the Arkansas Bar Association, Michael Barnes, President of the Pulaski County Bar Association, A. Felecia Epps, Association Dean for Academic Affairs at UALR, Amy Johnson, Executive Director of Arkansas Access to Justice Commission, Colette D. Honorable, Chairman of Arkansas Public Service Commission, and Annabelle Tuck, Former Association Justice, Arkansas Supreme Court.

In addition, students are invited to an Etiquette Dinner. In the past, the event has been hosted by the Honorable Mary Mel French, Former Chief of Protocol for the United States under the Clinton Administration. Additionally, students attend Faculty lectures, are administered an oath of professionalism, and engage in student safety and wellness presentations. UALR also has coordinated structured study groups for each first semester student. The groups consist of four (4) to six (6) students whom are all taking the same classes. Groups meet twice per week, except during First Week where they meet every day. The groups are facilitated by a "Dean's Fellow"-an upper level student who has been trained to facilitate such study groups. Further, students can enroll in a Professional Mentor Program in which they are enabled to work with their mentor in structured activities designed to explore career opportunities and develop core professional skills to begin job-seeking during the summer and second year of law school. Other professionalism related programs include, a "Dress for Success" event, seminars, and workshops. Additionally, the Assistant Dean for Career services sends every student "Etiquette Tips of the Week" via official law school electronic mailing list. The Faculty is also encouraged to integrate professionalism into student courses.

Materials are distributed to the students during the orientation program, including handouts for structured study group sessions and a graphic

organizer to accompany a presentation on Expert Learning Strategies. No videos are shown. First week is mostly comprised of large group sessions and formal classes, however, students breakout into their structured study groups as well as attending presentations and events. Students are asked to evaluate the program. UALR has a Code of Student Academic Conduct which can be found at <http://ualr.edu/law/faculty/faculty-handbook/code-of-student-academic-conduct/>. The Code of Student Academic conduct also contains information about the composition of the Honor Council. All entering students take an “Oath of Professionalism” which is administered by an alumnus who is either current or former justice or judge. Students must sign a statement that is kept on file affirming their willingness to abide by the provision in both codes.

2005 White Paper

University of Arkansas at Little Rock’s William H. Bowen School of Law did not respond to the previous survey.

CALIFORNIA

- **Pepperdine University School of Law**, Malibu, California

According to Pepperdine University, the state of California does not have a mandated or suggested professionalism orientation program. Pepperdine University's orientation program introduces students to the concept of professionalism. The Career Development Office provides several mandatory professional development presentations to first year students, as well as Pepperdine University's "preceptor program" that connects them to practicing attorneys and judges in a mentor-mentee relationship. Practicing attorneys also participate in the orientation programs, as both speakers and panelists. The speakers at the three most recent orientation programs included: (1) Charles Eskridge, "Finding Your Purpose in the Law", in 2011; (2) Jack White, "Welcome to the Legal Profession", in 2012; and, (3) Mark Hiepler, "Beyond Success: Pursuing Life with a Mission", in 2013. At the orientation programs, materials are distributed to the students and videos are shown. The "preceptor" video is shown and available on Pepperdine University School of Law's website: <http://law.pepperdine.edu/student-life/preceptor>. The chief opportunity for student interaction is the "Faculty Student Mentoring Program", when a small group of new students are paired with a faculty member and 2-3 upper-division students. Students have the opportunity to evaluate the program. Pepperdine University School of Law has an honor court and/or honor code. In addition, students take a Professionalism Oath. Pepperdine University made additional comments in the survey: "Orientation is a great opportunity for a strong first impression. However, it is a bit overwhelming for students, and lessons that are introduced must be reinforced later."

2005 White Paper

Pepperdine University School of Law did not respond to the previous survey.

- **Southwestern Law School**, Los Angeles, California

According to Southwestern Law School ("Southwestern"), the state of California does not have a mandated or suggested professionalism orientation program. Southwestern has a professionalism/ethics component that is a differentiated part of the overall orientation program. Professionalism and ethics are strongly emphasized at orientation, as Southwestern considers the students' first day of law school as the beginning of their legal career. All students end their orientation experience at a formal program, where they are asked to take a professionalism oath as new members of the law school and the legal community. During this formal program, as well as throughout various

parts of the orientation, the value of diversity in the profession, as well as the law school, is emphasized. Following the two-day orientation, but before the start of the full semester, the students go through an intense week of “Introduction to Legal Process”, and participate in a “Legal Analysis, Writing and Skills” course. During this time, the introductory focus on professionalism continues. For example, students learn about the legal profession in general and lawyers’ role in the profession; they learn about lawyers’ careers and building those careers and how to acclimate into the profession starting from the first year of law school. The first year Legal Analysis, Writing and Skills (LAWS) program lays a strong foundation in professionalism. The LAWS course includes a specific lesson devoted to professionalism, in a broad sense. There are two components to this lesson. The first is a pre-class survey of first-year students that requires them to consider challenging hypothetical situations. Survey results and the hypotheticals are discussed with the students, along with viewing a video about maintaining an impeccable reputation. The video includes advice provided by judges, experienced practitioners, faculty members, as well as upper-division students regarding the critical role that professionalism and developing an impeccable professional reputation play, starting with the first day of law school. LAWS also includes a component on mindful awareness practice, with expert speakers from UCLA Mindful Awareness Research Center, to educate students about managing stress and increasing attentiveness. The course also includes a court visit so that students can observe the “real world of practice” and allows for a discussion with the judicial officer and professor about the connection between lessons learned in the classroom and the students’ observations in court. Also, the LAWS program devotes one of its fall semester hypothetical legal problems to legal ethics. In 2011, students were required to complete an assignment that involved the ethical issues and professional impact of plagiarism. In the fall of 2012, students addressed the issue of what constitutes the practice of law in an out of state jurisdiction. In addition, Southwestern’s clinics, practicums and externships explicitly focus on professionalism. Students who participate in Southwestern’s externship program are required to meet with their supervising judicial officer or attorney and ask him or her about a situation that they have had to deal with that involved an ethical concern and then describe the situation as part of the guided written reflections component of the externship course and the lessons learned from the conversation. In the Children’s Rights Clinic, ethical issues are discussed generally throughout the semester. In particular, three (3) class components are devoted in-part to competence, scope of representation, diligence, communication, confidentiality, conflict of interests, duty to former clients, clients with diminished capacity, declining or terminating representation, duties to prospective clients, and communicating with represented parties. In the Amicus Project Practicum, because the briefs are written on behalf of clients in actual cases, close attention is paid to the potential that ethical considerations and professional obligations in a

representation applicable to a supervising practitioner may also extend to a student.

Professionalism issues remain an integral part of the dialogue in a number of other first-year and upper-division courses. Faculty members report that they regularly cover these issues in many courses. In some cases, faculty explicitly incorporate a professionalism provision into their syllabi and course expectations. Southwestern's orientation program is linked to these efforts since the expectation of professionalism in its widest sense is introduced at orientation and implemented and enforced every step of the way thereafter. Peer Mentors assigned to first year students are also trained in the topic of professionalism and have obligations to remind their mentees, especially during the first year, about general professional conduct in and out of the classroom.

Practicing lawyers also participate in Southwestern's orientation programs. A distinguished lawyer or judicial officer is invited each year as a keynote speaker for the Law School's formal program and to administer the Professionalism Oath. In the past three years, Southwestern has had the Hon. Deborah Brazil, the Hon. Tamara Hall and Shawn Holley speak at the orientation programs. Each speaker addressed the incoming class with stories about their own law school journey and steps they took to achieve and overcome obstacles to get where they are in their current positions. These stories were relayed in the larger context of the legal profession and the high level of obligations assumed by those entering the profession. Common topics have included law as a noble profession, serving the client, serving the community and public interest, appreciating the diversity of the profession, and the importance of continued development in legal knowledge, skills and professionalism. Students are provided with materials at orientation, and the Professionalism Oath is included in these materials. Videos are not shown.

Participation in the orientation program is mandatory. All students are organized and assigned to programs and breakout sessions by their class section. There are specific breakout sessions to encourage new student participation, including:

- Meet your Professors
- First-Year Academic Skills Session
- Lunch with Peer Mentors and Dean's Fellows
- SBA Club Fair

Students also interact with the student services staff at several presentations regarding financial aid, student life, and counseling, including:

- Administrative Tasks
- Student Life Presentation

- Financial Aid Presentation
- Public Interest Opportunities and the Public Service Program

Students evaluate the program, and according to Southwestern, such feedback is positive. Southwestern has an Honor Code, which is included in the Handbook. Before the start of courses, provisions of the Honor Code are discussed with the students. The students also take a Professional Oath at the end of orientation, which is administered by the keynote speaker that formally recognizes the new class as future members of the legal profession. Southwestern added,

“It seems critical to let students know from the first day that their law school education is very different from their prior educational endeavors and that they are embarking on a professional path that comes with tremendous privileges and responsibilities. To some extent, we start that conversation as part of our admissions process to educate prospective applicants about legal education in general and our school’s focus in particular. Once they start law school, we emphasize that professionalism, in its widest sense, doesn’t happen on its own and that training can’t start in their last year of law school or when they are preparing for the bar. Rather, it must be a deliberate component of their legal education that has to start from the first day, and their grasp of the foundational components of professionalism and professional conduct require study and practice (just like any other accumulation of knowledge and internalizing good habits”).

2005 White Paper

Southwestern Law School did not respond to the previous survey.

- **Thomas Jefferson School of Law**, San Diego, California

According to Thomas Jefferson School of Law, the state of California does not have a mandated or suggested professionalism orientation program. Thomas Jefferson School of Law has a mandatory week-long orientation program entitled “Week One”, which is comprised of two components: (1) Administrative and Introductory, which introduces students to the nuts and bolts of accessing resources and material as they begin law school, and (2) the Academic Success, which focuses on reading, study habits and test-taking skills that students need for success in law school. Week One addresses legal reading, legal analysis, note-taking, study skills and habits, exam study, and exam-writing skills. It also includes a professionalism component, which was created by and is led by interested faculty. All entering first semester students are required to participate, and full-time faculty members teach in the program. The program runs for four (4) full days, with optional academic activity on the fifth day for day-students. The program runs for two (2) days and two

evenings for part-time evening students. Thomas Jefferson School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program.

Thomas Jefferson School of Law also seeks to impart professionalism as an essential component of law school and the practice of law. The school begins their orientation program by reminding incoming students of this: “You are entering the profession on this day. Your actions must comport with ethical standards of the legal profession from this day forward.” The school has a Professional Identity Working Group that is made up of law school students, staff, faculty, and alumni, and is dedicated to advancing concepts of professionalism throughout the school’s student and alumni community. In addition to developing the professional identity component of the orientation, the Group hosts periodic extra-curricular programs throughout the year designed to build on concepts of ethics and professionalism. Individual professors build concepts of ethics and professionalism into a wide range of law school courses, including, but not limited to the traditional course in Professional Responsibility.

In past orientation programs, the school has relied primarily on faculty to participate in the orientation programs, many of whom practiced law extensively prior to teaching. In recent years, the school has incorporated practitioners into the professionalism piece. In the most recent orientation programs, faculty and instructional staff participated fully in the program, which lasted a week. Speakers have included tenured and tenure-track faculty, ASP staff, including several practitioners who recently joined the academic community. Topics included expert learning, learning theory, case briefing, exam taking, balance and professionalism. Because the professionalism identity involves small group discussions under the direction of experienced professionals, a relatively large number of lawyers have been involved. These include members of the law school faculty and staff, as well as alumni of the school from a wide range of practice areas. Materials are distributed to the students during the orientation program and videos are shown. The school makes use of the Wolters Kluwer “Ready for Practice” videos, which address a variety of issues including the misuse of technology, calendaring issues, and competence in practice.

The orientation schedule is different each day of the program. There are small group and large group sessions, and during one afternoon, students come together in a large group session to address professionalism. There, students hear about professionalism from speakers and work together in small groups to complete some problems together, which are debriefed as a whole group. Students are encouraged to evaluate the program. Thomas Jefferson School of Law provided feedback with its survey submission. According to the results, the majority of students (over 75%) felt that the Professional Identity portion of the week and Professional Identity materials were helpful, relevant and useful. There is an Honor Code and during the first week, students are

required to sign a certification that they have reviewed the Student Handbook, including the Code of Conduct. In addition, at the end of the professional identity session, students orally take an oath that is based upon the oath that attorneys must take prior to being sworn into the California Bar:

“I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of an attorney and counselor at law, to the best of my knowledge and ability. I will treat all people I encounter in my professional life with dignity and respect, and will not act in a way that would embarrass or disappoint the people I most respect and admire.”

Thomas Jefferson School of Law believes that orientation is a great opportunity to instill in students an understanding of their ethical responsibilities. However, the school added that exposure should not end with orientation, and the school presents other opportunities for students to address issues related to their professional identities.

2005 White Paper

In the previous survey, Thomas Jefferson School of Law responded that professionalism/ethics were not handled at all within the law school orientation program. The purpose of the law school orientation program was to introduce students to the academic program and to the law school. Lawyers did not participate. Materials were handed out, but no videos were shown. The law school had an Honor Code, but did not have a written pledge.

- **University of the Pacific, McGeorge School of Law**, Sacramento, California

The McGeorge School of Law has a professionalism/ethics orientation program that is conducted separately from the general orientation program. At the end of 1L Orientation, the Chief Judge of the Federal District Court for the Eastern District of California gives a talk on the importance of professionalism for all incoming students. Currently, that position is held by Judge Morrison England. The Chief Judge also administers the oath of professionalism to the students. Subsequent to Orientation, students are required to take a one-credit course entitled, “The Legal Profession” in which professionalism is a key focus of the course. The course description states in relevant part, “[s]tudents will learn the cultural values and work habits of successful lawyers and why they matter. These values and habits include, but are not limited to, diligence, timeliness, perseverance, civility, resilience, self-reflection, and self-awareness. Students will learn this important ‘set of dispositions’ through readings, guest lectures, interviews, and self-assessment.” Ultimately, the Law School indicated that the

course is designed to introduce students to the different roles lawyers play in society, as well as assist students in finding career paths which are closely aligned with their values. In addition, the course exposes students to the practicalities, emerging technologies, challenges, responsibilities, and privileges of being a member of the legal profession which includes learning about professional values and the work-habits of successful lawyers. Relatedly, the course requires students to learn “best practices” in job search activities, including resume writing, cover letter writing, social media, working with mentors, and networking. Moreover, some of the topics included in the course are, “The Role of the Modern Lawyer,” “The Future of Legal Services and Evolving Technology,” “Professionalism,” and “Introduction to Legal Practice Areas.” In particular, students are introduced to the most common ethical and moral issues that confront lawyers in practice. Students also learn about the particular economic climate and the many roles lawyers play as true “counselors” to their clients. Although the course is not intended to substitute as a Professional Responsibility course, students learn about the regulatory structure of the legal profession and are introduced to several key provisions of the Rules of Professional Responsibility that are related to contemporary professional issues, such as alternative business structures. Further, in the “Professionalism” section of the curriculum students are given the opportunity to learn the cultural values and work habits of successful lawyers and why they matter through guest lectures, reading assignments, interviews, and self-assessment. Lastly, all students are required to participate in a “Global Lawyering Skills Program”, which is a four-credit course for first year students, which emphasizes professionalism as part of the students training in legal writing and research.

The McGeorge School of Law endeavors to instill a sense of professionalism in students throughout their law school experience by requiring all students to take a two-credit course in Professional Responsibility which emphasizes the Rules of Professional Conduct and professionalism in general. Moreover, the McGeorge School of Law works closely with Sacramento’s American Board of Trial Advocates (ABOTA) Chapter, whose mission is to promote civility among trial attorneys. This organization speaks at the Law School’s campus nearly every year and students receive information about the organization during their Professional Responsibility course.

Practicing lawyers have participated in the orientation program as guest speakers and panelists. Students are given materials during orientation. The McGeorge School of Law has an honor code, a written commitment to the honor code, as well as a code of conduct which students must abide by.

2005 White Paper

University of the Pacific, McGeorge School of Law did not respond to the previous survey.

- **University of San Diego School of Law**, San Diego, California

University of San Diego, School of Law (USD) has a 4-day orientation program and utilizes its orientation as the first opportunity to introduce law students to the importance of professionalism and civility in the legal profession and in legal education. By weaving concepts of professionalism into the USD orientation program, it is USD's hope that students are mindful of the importance of professionalism, civility and student expectations throughout law school. Practicing lawyers and sitting judges participate in the orientation program every year and discuss professionalism and the importance of civility in law school and in practice. The three most recent speakers were Judge Robert Trentacosta, Judge Ronald Frazier, Ms. Lann McIntyre, and Mr. Chad Fuller. Every year, Judge Trentacosta attends the Dean's Welcome and Oath of Professionalism Ceremony. Judge Trentacosta discusses the importance of professionalism and administers the oath to the students. Materials are distributed to the students, but no videos are shown during orientation. Students participate in both large group presentations and small breakout sessions. Students do not evaluate the program. USD has an Honor Code, including sanctions and procedures, as well as an Oath of Professionalism. USD added, "Orientation is a valuable opportunity to introduce new law students to the importance of professionalism in legal education and in legal practice."

2005 White Paper

University of San Diego School of Law did not respond to the previous survey.

COLORADO

- **University of Colorado Boulder, Colorado Law**, Boulder, Colorado

Effective July 1, 2003, the Colorado Supreme Court amended and adopted Rule 201.14, an “Oath of Admission”, which provides for a mandatory, six-hour professionalism course worth six general credits. Every applicant to the Colorado bar must take the required course before taking the oath of admission. In addition, for the past two years, first year law students from Colorado have been required to attend the “For This We Stand” professionalism orientation. The program is an initiative of the Chief Justice Commission on the Legal Profession’s Working Group A, which focuses on opportunities for Colorado law students to engage with the larger legal community. Leaders in the legal community, including the Chief Justice of the Colorado Supreme Court, speak at the event. Each speaker shares their perspective on the meaning and importance of professionalism and challenges students to maintain the highest standards of conduct as they enter the legal profession. After the general session, judges, attorneys, and clients join students in break-away discussion groups and students have the opportunity to ask questions and share their perspective. In addition to this separate professionalism/ethics event, 1L students at Colorado Law also attend an ethics and professionalism session as a differentiated part of their orientation program. The differentiated program consists of a discussion of Professionalism Standards, as well as a discussion of Colorado Law’s honor council and honor code. Colorado Law’s Honor Council is composed of 12 students who conduct formal hearings, make factual and legal determinations, and recommendations for sanctions when there is an alleged violation of the honor code. Colorado Law’s honor code is available in its entirety on the school’s website at, <http://www.colorado.edu/law/academics/honor>. Students are asked to give feedback and evaluate the orientation program at Colorado Law.

Colorado Law tries to instill a sense of professionalism in their students by bringing in speakers to talk to students about professionalism. For example, during Colorado Law’s 2013 orientation program, Helen Norton, Associate Dean for Academic Affairs, Kristine Jackson, Dean of Admission and Financial Aid, and James Coyle, Attorney Regulation Counsel, spoke with students about professionalism standards. After orientation and through the rest of the students’ law school experience, Colorado Law endeavors to provide various opportunities for students to attend talks and panels on professionalism. Specifically, Colorado Law has a Professionalism series entitled “How To” in which each session in the series focuses on a different skill necessary for a successful professional future and provides a supportive environment for students to ask questions, increase their competencies, and connect with valuable professional resources.

Various practicing lawyers and judges speak and participate in discussion groups during orientation. Speakers from the last several years include Chief Justice Michael J. Bender from the Colorado Supreme Court, Judge Russell Carparelli, Colorado Court of Appeals, and Mark Fogg, Colorado Bar Association President.

Colorado Law strongly feels that allowing students to interact with other law students and professionals during the orientation program helps them to practice professionalism and observe first-hand the skills and traits necessary to be a legal professional.

2005 White Paper

Colorado Law did not respond to the previous survey.

CONNECTICUT

- **Quinnipiac University School of Law**, Hamden, Connecticut

According to Quinnipiac University School of Law (“Quinnipiac”), Connecticut does not have a state mandated or suggested professionalism orientation program. Quinnipiac’s current orientation program incorporates both professionalism and ethics components. For the past several years, Quinnipiac has invited a leading member of the bar to discuss professionalism – specifically to discuss the notion that professionalism begins in law school and continues throughout lawyers’ careers. In addition, a current member of the Connecticut judiciary discusses professionalism and civility in the legal profession and with respect to practice in the court system. Students are provided with a written professional oath and the professional oath is administered during orientation.

Quinnipiac offers several courses that address professionalism, including Lawyer’s Professional Responsibility, Introduction to Representing Clients, Therapeutic Jurisprudence, and Clinic and Externship seminars. Programming through the Quinnipiac’s Office of Career Development and Office of Students Services is also offered, which has included programming such as, “Orientation 2.0”, which emphasizes professionalism. Additionally, Quinnipiac has adopted an Honor Code, which mirrors and explicitly invokes the Model Rules of Professional Conduct, including a reporting obligation, so that students begin to appreciate the practice of law as a self-regulating profession. The Honor Code is introduced to students at orientation and its pervasive influence inside and outside of the classroom is emphasized. No materials are distributed to students during the orientation programs and no videos are shown. Students participate in break-out sessions and have various opportunities to interact with current 2L and 3L students, alumni, and faculty. The first session that students engage in is a meeting with their 2L and 3L mentors. Student mentors are provided with talking points, which include professionalism in law school. Students are also able to attend a “strategies for success” panel which includes faculty and current students. At this session, incoming students have ample opportunity to ask questions about academic honesty, standards of conduct, and expectations of professionalism in law school.

Practicing lawyers have participated in past orientation programs at Quinnipiac and have served as members of a Q&A panel for incoming students, participated in the administration of the professional oath, and staffed tables at the “Organization Fair”, which introduces students to various professional organizations, including Connecticut Bar organizations. Quinnipiac also has numerous distinguished members of the judiciary and Connecticut legal community speak with students and administer the oath, including the Honorable Bernadette Conway, an alumna of Quinnipiac, and Louis Pepe, the former President of the Connecticut Bar Association (CBA)

and former co-chair of the CBA Standing Committee on Professionalism and CLE.

In addition to the Honor Code, Quinnipiac requires its students to take a written pledge. Each student is required to date and sign the pledge indicating that they are responsible for all of the information contained within the Student Affairs Handbook, which includes the Honor Code and Student Conduct Code.

2005 White Paper

Quinnipiac University School of Law did not respond to the previous survey.

- **University of Connecticut School of Law**, Hartford, Connecticut

According to the University of Connecticut School of Law, Connecticut does not have a state mandated or suggested professionalism orientation program. Professionalism/ethics are discussed as appropriate throughout the University of Connecticut School of Law's orientation, but there is no differentiated program. Orientation at the University of Connecticut School of Law is a two-day event. Day one includes administrative/orientation and academic components. Welcoming remarks are given by the Dean, Associate Dean for Academic Affairs and the Assistant Dean of Students. Incoming students also take part in sessions on legal reasoning and how to brief a case. In 2013, orientation also included small group break-out sessions on the following topics: student services, library services, dean, SBA and Diversity Committee, pro bono work, and career planning. 1L students were separated into eight (8) groups of approximately fifteen (15) students and assigned to a room where presenters (one current student and one faculty member) would advise the group for approximately 15 minutes. Professionalism was addressed throughout the event such as in, the welcoming remarks, "how to brief a case" session, and the small group sessions.

Materials are distributed to students including, the University of Connecticut's Academic Misconduct Policy. No videos are shown. Students are asked to complete a survey after orientation. The University of Connecticut School of Law does not have a written pledge or commitment to the standards of professionalism, but each student is required to acknowledge receipt of the Academic Misconduct Policy. In addition, students are offered the opportunity to participate in a voluntary pro bono pledge program. The University of Connecticut has a Student Code of Conduct.

Practicing attorneys have participated in the University of Connecticut School of Law's orientation programs, serving as panelists and keynote

speakers. Since 2011, the following attorneys have participated in orientation: Mr. Mark Dubois, former Connecticut Chief of Disciplinary Counsel, Ms. Beth Griffin, Executive Director of Lawyers Concerned for Lawyers, Ms. Stacey Vilante Cote, Mr. Gavan Meehan, Ms. Illia O'Hearn, Ms. Mitzchka Ortiz, Ms. Jessica Stein, and Mr. Cecil Thomas.

In order to continue professionalism throughout a student's law school experience at the University of Connecticut, students are exposed to professionalism in their required courses. Such courses include the 1L "Lawyering Process" course and the required upper level "Legal Profession" course, as well as in the live clinic and simulation courses. The Law School also has a number of programs which endeavor to instill professionalism in all law students. In order to facilitate attendance, the students receive targeted email invitations for all programs. In addition, the Law School Dean has developed a series for all students with an emphasis on professionalism; Talks include: Getting Your First Job, Creating Your Elevator Speech, and Getting Your Second Job. In addition, the Career Planning Center hosts events on networking, interviewing, judicial clerkships, and preparing for the Bar exam. Student Services holds events on how to be a successful associate. Lastly, the University of Connecticut School of Law's externship program holds their own mandatory orientation where professionalism and ethics are addressed.

2005 White Paper

University of Connecticut School of Law did not respond to the previous survey.

FLORIDA

- **Nova Southeastern University Shepard Broad Law Center**, Fort Lauderdale-Davie, Florida

Nova Southeastern University Shepard Broad Law Center (“NSU Law”) responded to our survey by submitting the Henry Latimer Center for Professionalism Annual Law School Professionalism Report. During new student orientation, all students are required to attend a professionalism workshop. At this event representatives from the Florida Bar, the local bench, the local bars, and NSU Law faculty help students analyze scenarios that address professionalism issues that law students and legal practitioners can face. With the assistance of the panel, students identify challenges to professional conduct and discuss behavior that is not only ethical, but rises to the higher levels demanded by civility and professionalism. At the beginning of the event, all students are required to take the Florida Bar’s Oath of Admission, which details specifics regarding professionalism in the practice of law. NSU Law’s Career and Professional Development Office requires all students to sign a Student Professional Agreement. The agreement includes the following statement:

“Professionalism requires you to conduct yourself with honesty, reliability, and respect in your personal and professional endeavors. As an aspiring attorney, you should strive to exercise good judgment, demonstrate integrity, and promote civility. Throughout the application and interview process, take every opportunity to embrace the highest professional standards. Be conscientious and respectful of the time and efforts of others, and follow through as you say you will. Professionalism requires that, once you make a commitment, you must make every effort to act accordingly.”

All students are required to take the course Professional Responsibility (3 credits). The course also introduces students to the Code of Judicial Conduct. This course is required for graduation. Since June 2013, the course has been taught by the following professors: Judith Karp, Randolph Braccialarghe, Ishaq Kundawala, Megan Chaney, and Elena Langan.

Students take the course Lawyering Skills & Values (LSV) I & II. During the various stages, students are assigned readings which include various Rules that regulate the Florida Bar. In addition to the assigned readings, professionalism is also covered in many of the lectures. Students participate in both individual and group exercises. Quizzes are then administered to assess the student’s ability to recall and apply the professionalism rules. In LSV II, a copy of The Rules Regulating the Florida Bar Student Handbook is given to each student. Professionalism is integrated into every course through the inclusion of relevant RRTFB or Model Rules. The Rules are part of their reading assignments, and the Rules are discussed in class. Students regularly

receive handouts from the professor about cases, including either the case or an article about the case, where an attorney's conduct was not professional. These are frequently discussed in class or incorporated into a research and writing assignment. Students are given theoretical problems about an attorney's behavior, and are asked to determine which rules apply and what conduct would be proper and professional in the hypothetical. Professionalism rules are reviewed when teaching a lawyering skill and during students' client interviews and emphasis is made on the importance of confidential communications. It is stressed to students that candor to the court, professionalism with dress, speech, and interactions with opposing counsel are all requirements of professionalism. A discussion about the access to justice crisis is also broached, and the need for attorneys to serve the low and moderate income members of the community with pro bono or low bono services. Lastly, there is a discussion of the ethics of zealous advocacy, while still being truthful with an accurate representation of the law to the court. There are 15 professors who teach LSV I & II. Students can also enroll in Legal Malpractice. During this course, students develop a deep understanding of what it means to be a legal professional and the severe consequences that can result if one fails to act appropriately. The course complements NSU Law's mandatory course in Professional Responsibility and provides students with yet another opportunity to learn about the profession they plan to enter.

NSU Law's Career and Professional Development Office (CPDO) offers students weekly lunch presentations including "Workshop Wednesdays" and "Table Talk Tuesdays." These presentations consist of one to two speakers, who are practitioners with varied legal backgrounds and careers. During the presentation, the speakers discuss the nature of their practice, including the path to their respective career, the day-to-day work, as well as suggested courses for students who may be interested in pursuing a particular area of law. The CPDO encourages presenters to speak about ethical and professional issues that are common to their type of practice. They are asked to provide examples and stimulate student discussion regarding how those issues should be approached and resolved. During these presentations, students are encouraged to ask questions and participate in discussions concerning the ethical scenarios which have been presented.

NSU Law's Office of Alumni Relations sponsors seminars designed to promote professionalism by educating students, alumni, and other members of the legal community not only on substantive legal issues but also on the application of the law to practice. The lecturers at these seminars include practicing attorneys, judges, and members of the NSU Law faculty. Ethics and professionalism are discussed within the context of these topics.

The CPDO offers students counseling appointments for one-on-one mock interviews, and career and professional counseling. Each month, three students are invited to the Broward Bar Association Solo and Small Practice Dinner to meet members of the bar. The CPDO blog, Facebook, and Twitter

pages feature articles on professionalism. Additionally, the CPDO provides information on the student intranet, in their office, and on their electronic job board (Symplicity) on all aspects of professionalism.

The Handbooks are referenced during NSU Law's Advanced Legal Analysis (ALA) Workshop on the subject of professionalism. The Workshop is a required third-year course for all law students. The instructors in the Critical Skills Program and ALA workshop are evaluating the possibility of incorporating the Handbook into a lecture on professionalism.

NSU Law's Pro Bono Honors Program is a graduation honor that recognizes students who perform volunteer legal work with a public service or government organization while enrolled in law school. The goals of the Pro Bono Honor Program are to educate students about the role of public service attorneys, make students aware of critically unmet needs in their communities, assist agencies in trying to meet these needs, and build a tradition of pro bono work that will accompany students into their professional careers. Most students begin participating during the summer after their first year, although short-term opportunities may be available during the second 1L semester. Students often earn their pro bono hours as part of an internship with a qualifying agency such as Legal Aid, the Public Defender, the State Attorney, or Guardian ad Litem (among many others). Occasionally students have the opportunity to earn hours by taking part in short-term projects sponsored by the law school or an outside agency. Volunteering at a law firm does not qualify. Additionally, many faculty members encourage students to attend professionalism activities on and off campus and award extra credit points to those students that attend.

The CPDO office has a Mentoring Program and offers speed networking events throughout the year. NSU Law annually participates in the Kozyak Minority Mentoring Picnic. According to the School, the most important mentoring program for minority students is the annual reception by Berger Singerman and Kozyak Tropin & Throckmorton. In addition, the Gwen S. Cherry Black Women Lawyers Association regularly holds mentoring events including an Annual Law Graduates Breakfast.

Professors in the Lawyering Skills and Values program organized "The Importance of Professionalism in Adversarial Legal Writing: A Judicial Roundtable Discussion," at the Broward County Courthouse. This event reinforced the importance of professionalism in persuasive legal writing and targeted first-year students who struggle not only with the "nuts and bolts" of writing briefs but with striking the balance between zealous advocacy and unprofessionalism. At the event, panel of judges shared their collective wisdom, interacted with small groups of students during break-out sessions, and answered questions.

NSU Law participates in the local Inns of Court such as Stephen Booher Inns of Court Broward County Chapter, and The Craig S. Barnard Inns of Court Palm Beach Chapter, which also conducts activities with the

Martin County Inns of Court. By default, NSU Law's students have exposure to mentoring from those in Martin County.

NSU Law's Student Affairs Committee is a standing committee and is tasked with professionalism initiatives.

2005 White Paper

NSU responded to the previous survey. NSU responded that it had a professionalism/ethics program that is a differentiated part of the overall orientation program. Practicing lawyers participated in the orientation and, in the past, members of the Board of Bar Examiners addressed the incoming class. No materials were distributed, and videos were not shown. Students did have the opportunity to evaluate the program for the first time in 2004. NSU Law had an honor court, honor code, and a written pledge. NSU Law required a two-semester class entitled "Legal Skills Values" for first year law students (which is described above). Additionally, Professional Responsibility was also a required class for graduation (which is also referenced above).

- **University of Florida, Levin College of Law**, Gainesville, Florida

According to the University of Florida, Levin College of Law, the state of Florida does not have a mandated or suggested professionalism orientation program. There is a professionalism/ethics orientation component that is a differentiated part of the overall orientation program. As part of the Law School's orientation, students attend a one-hour session entitled "Professionalism in the Law School Community and the Profession" and another half-hour session entitled, "Academic Integrity." Students are able to interact through the help of assigned student ambassadors who plan opportunities for students to socialize in their small groups. Students are also assigned to work with students from other sections on the community service project. All students are also required to participate in a Community Service Day which occurs at multiple different sites. Practicing attorneys have participated in the orientation programs. In addition, alumni speakers give remarks that introduce students to the values of the legal profession and the responsibilities they will have as law students as well as lawyers. Materials are distributed to students during the orientation program, but no videos are shown. Students are not required to evaluate the program. University of Florida, Levin College of Law has an honor code and a written oath. The oath is typically administered by a judge to the class. The Assistant Dean of Students and Director of Student Conduct and Conflict Resolution present to students on the topics of academic integrity and the honor code.

Dean Robert Jerry provided a list of activities with which the University of Florida, Levin College of Law instills a sense of professionalism in students through their law school experience:

- **Professionalism Week:** Student organizations partnered with law school administration organized the third annual “Professionalism Week.” Events feature forums that enabled members of the legal community to share advice with students regarding the professional expectations of the legal profession.
- **Mentoring Program:** The law school hosts an alumni mentoring program that connects students and practitioners in order to further professionalism.
- **Eighth Judicial Circuit Bar Association (EJCBA) Professionalism Symposium:** UF Law has collaborated with the EJCBA to organize, host, and co-sponsor a professionalism program. The program provides CLE credits for lawyers and an educational opportunity for law students. The program features a keynote speaker as well as a series of panels and small group breakout sessions on various legal topics. The College and EJCBA work together to engage lawyers, judges, and professors from UF Law to lead breakout sessions
- **Introduction to Lawyering:** This is a required course and features materials, lectures, and speakers on professionalism and other related topics. The speakers included lawyers, judges, and directors of the Florida Bar.
- **Joe Little Pro Bono Endowment:** An anonymous gift has established an endowment that supports law student activities in pro bono legal work.
- **Community Service and Pro Bono:** Law students are encouraged to participate in community service and pro bono work. Each incoming class is required to participate in a community service project as part of their orientation. The experience has grown into the student body organizing on-going community service projects throughout the year.
- **Professional Development Fund:** This fund was established to reimburse law students for expenses associated with participation in off-campus professional activities. Law students have utilized this fund to attend conferences, bar events, job fairs, and CLEs. These funds are available to assist law students going “out” and engaging in activities to help them reach their professional goals.
- **Law and Justice Conference:** This partnership of UF Law Student groups and professional groups is led by the Josiah T. Walls Bar Association and enables law students to participate in a conference which targets young people and hosts them for a day of activities. The goal of the event is to equip youth

to become active agents for positive change in their communities.

- **UF Law NaviGators Program:** The Law School partnered with the Honorable Paul C. Huck to organize an event at the federal courthouse in Miami that allows current and incoming law students to meet with alumni and recruiters to get advice on how to “navigate” their professional voyage.

2005 White Paper

According to the University of Florida, Levin College of Law, the orientation program remains the same as it did previously.

GEORGIA

- **Atlanta's John Marshall Law School**, Atlanta, Georgia

According to the John Marshall Law School, the state of Georgia has a mandated or suggested professionalism orientation program. John Marshall Law School's professionalism and ethics program is sponsored by the State Bar of Georgia and is conducted separately from the general orientation program by the State Bar Committee on Professionalism and the Chief Justice's Commission on Professionalism. During the program, students are exposed to issues of ethics and professionalism through case studies and breakout sessions, moderated by members of the bench and the Bar. The program is designed to encourage an early awareness of ethical and professional responsibility. Each student is required to attend the orientation session and is responsible for signing a "Law Student's Oath of Professionalism" in which the students pledge to commit themselves to practice with integrity and without prejudice, to be a zealous advocate, but act with courtesy and cooperation, at all times conduct themselves in a professional manner, and conduct themselves in accordance with John Marshall Law School's Code of Student Responsibility.

John Marshall Law School endeavors to instill a sense of professionalism in students throughout their law experience by being dedicated to "preparing highly skilled, ethical, and professional lawyers who possess a strong social conscience." Therefore, in addition to the Orientation program, John Marshall students are instructed in ethics and professionalism through their legal education. Students are required to take a two-credit course in Professional Responsibility, which is required for graduation. The Professional Responsibility Course focuses on the ABA Model Rules of Professional Responsibility and also examines the attorney's relationships with society, clients, the courts, and colleagues. The course is offered in a seven-week format to permit students to complete the course and sit for the Multi-State Professional Responsibility Exam. The course is only offered after students complete two years of student resulting due to the Faculty's belief that the topic will be more thoroughly grasped by students if approached with a broad foundation in legal doctrine.

John Marshall Law School also holds a series of seminars on professionalism for all first-year students, which feature prominent lawyers, judges, elected officials, and members of the community from across the state. Recent topics have included: "Ethical Challenges for Lawyer and Law Students"; "Professional Responsibility: Ethics in Practice"; and "Professional and Ethical Dilemmas in Litigation". In addition to the aforementioned programs, the Law School and its faculty strive to instill professionalism in less formal ways through both the Bobby Lee Cook Symposium and the Fred Gray Social Justice Seminar, where practicing lawyers and judges speak about matters of professional duty and social justice.

Practicing lawyers participate in John Marshall Law School's orientation program. Some of the distinguished speakers include Attorney John T. Marshall ("Professional Behavior" and "Developing a Personal Identity"), Judge Rob Leonard ("Professional Behavior and the Importance of Reputation"), Attorney Raines Carter ("The Character and Fitness Process in Georgia and the Importance of Reputation"), Judge Jay Roth ("The Meaning of Professionalism and Developing Personal Identity") and Professor Jonathan Rapping ("The role of a Lawyer in Promoting Social Justice.") Additionally, John Marshall Law School has volunteer attorneys and judges facilitate interactive break-out sessions on ethics and professionalism. Students are given hypotheticals before the orientation program that raise professional and ethical issues and then are asked to discuss the relevant ethics rules implicated during the breakout sessions. Students are able to evaluate the program.

2005 White Paper

Atlanta's John Marshall Law School did not respond to the previous survey.

HAWAII

- **University of Hawaii at Manoa, William S. Richardson School of Law**, Honolulu, Hawaii

According to the University of Hawaii, Hawaii has a mandated or suggested professionalism orientation program. There is a professionalism/ethics component that is a differentiated part of the overall orientation program. Day Three (3) of Orientation is entitled “Downtown Day” and is separated into three (3) parts: 1) Learning Professionalism, 2) Living Professionalism, and 3) Commitment to Professionalism. During the first segment “Learning Professionalism,” students are addressed by the Associate Dean of Student Services, the Honorable Kirk Caldwell - Mayor of the City and County of Honolulu, and an alumnus of the University of Hawaii School of Law. Thereafter, students walk to the United States District Courthouse and engage in a Career Panel entitled “Living Professionalism”. After that session, students then walk to the Hawai’i Supreme Court and attend another session entitled “Commitment to Professionalism” facilitated by Chief Justice Mark Rechtenwald and Mr. Calvin Young, President of the Hawai’i State Bar Association. During this session, the William S. Richardson School of Law Student Pledge is administered by Chief Justice Rechtenwald. Students also receive a written pledge. The Student Pledge is as follows:

*In the study of law, I will conscientiously prepare myself;
To advance the interests of those I serve before my own,
To approach my responsibilities and colleagues with integrity, professionalism, and civility,
To guard zealously legal, civil, and human rights which are the birthright of all people,
And, above all,
To endeavor always to seek justice.
This I do Pledge.**

*Written by the late Professor Chris K. Iijima and formally adopted by the Faculty in 2002.

In addition, the William S. Richardson School of Law has a Student Handbook which contains disciplinary regulations and J.D., LLM, and other program rules. Law students must comply with the Student Code of Conduct that applies to all students at the University of Hawaii Manoa Campus.

Materials are distributed to students during orientation and videos are shown. The video presented chronicles William S. Richardson, the founder of the University of Hawaii at Manoa Law School and former Chief Justice of the Hawaii Supreme Court. Students also participate in break-out sessions within their 1L legal practice classes. Students are asked to evaluate the Orientation Program.

The William S. Richardson School of Law at the University of Hawaii at Manoa endeavors to instill a sense of professionalism in students through their law school experience by having students attend the aforementioned Professionalism Day in downtown Honolulu. As mentioned, the students hear from speakers from the legal community (whom are often Richardson Graduates) specifically on the topic of learning professionalism.

2005 White Paper

The William S. Richardson School of Law at the University of Hawaii at Manoa did not respond to the previous survey.

ILLINOIS

- **Northwestern Law**, Chicago, Illinois

According to Northwestern Law, the state of Illinois has a mandated or suggested professionalism orientation program. There is a professionalism/ethics component that is a differentiated part of the overall orientation program. Northwestern Law endeavors to instill a sense of professionalism in students throughout their law school experience through their general programming, speaker series and talks on professional standards. Practicing attorneys participate in the orientation program and serve as Professionalism, Organization, Team Advancement and Leadership (PORTAL) facilitators. Speakers at the 2013 student orientation program included James Lupo, Professor of Practice, who spoke upon the topic of, “The First Day of Your Professional Life in the Law”, and students broke out into PORTAL sections. Materials are distributed to the students for the PORTAL portion of the orientation program. No videos are shown. Northwestern has an honor code and has a written pledge or commitment to the honor code and/or standards of ethics or professionalism.

2005 White Paper

Northwestern did not respond to the previous survey.

- **The University of Chicago, the Law School**, Chicago, Illinois

According to the University of Chicago, the Law School, the state of Illinois has a suggested professionalism orientation program. There is a professionalism/ethics component that is a differentiated part of the overall orientation program. The University of Chicago, The Law School, endeavors to instill a sense of professionalism in students through their law school experience. The office of the Dean of Students runs a successful professionalism and leadership program that helps students learn and practice practical skills, and better prepares students for the workforce. The University dedicates an entire day during orientation to focus on professionalism and leadership. During that day, the University invites a panel of attorneys to speak about networking and also invites alumni to attend a lunch with students. During lunch, students are broken into groups depending on practice areas. The speakers at the most recent orientation programs included Justice Anne Burke, who spoke on professionalism, a panel of five (5) practicing attorneys, who spoke upon building a network of professional contacts and mentors, and an associate dean from the Booth School of Business at the University of Chicago, who spoke about influencing others and building relationships. Materials are distributed to the students at the orientation program, but no videos are shown. During the professionalism and leadership day, students

have lunch with two (2) different attorneys who practice law in an area of interest for the student. Students also participate in a communications training class. Students evaluate the program. The Law School does not have an honor court or honor code. However, students have a written pledge, and orally take a pledge administered by a judge.

2005 White Paper

The University of Chicago, the Law School, did not respond to the previous survey.

- **Southern Illinois University School of Law**, Carbondale, Illinois

According to Southern Illinois University School of law, Illinois has a state mandated or suggested professionalism orientation program. Their professionalism/ethics orientation program is conducted separately from the general orientation program. During orientation, practicing lawyers and judges have given the welcome speech to incoming students. Students break out in smaller groups to have lunch with their faculty advisor, take part in lawyering skills classes, and meet with their study group leaders. Students participate in an Orientation Service Project. Materials are distributed to students at the orientation programs. Students are not asked to evaluate the program.

Thereafter, first-year law students are enrolled in a Professional Development Program. The Professional Development Program includes the year-long course “Professionalism and the Law,” a Professional Responsibility Day, Oath Drafting Workshop, and an Induction Ceremony. The goal of the program is to enable students to gain a better appreciation for the values of the profession from day one. In the year-long course, students learn about the legal profession and their responsibilities through readings, discussions, and speakers. The Professional Responsibility Day brings together both medical and law students to discuss ethical issues they share such as confidentiality, risk of harm, client/patient autonomy, and when the client choses a course not in their best interest. In order to facilitate discussion, law students work in break-out groups with the medical students. During the Oath Drafting Workshop, students are first given an introduction to the core values of the legal profession. Subsequently, students work in small groups with members of the bench and bar to reflect on obligations to students’ future clients, profession, society, and themselves and prepare a Declaration of Professional Commitment. The Declaration is displayed next to the students’ class photo composite until they graduate. Lastly, at the Induction Ceremony, students are inducted as lawyers-in-training. An Illinois Supreme Court Justice presides over this annual event which is held during homecoming weekend so that family and friends may attend. The first-year students recite the Declaration of

Professional Commitment drafted earlier. The students receive a copy of the Declaration and a lapel pin as a reminder of their commitment.

Professionalism at Southern Illinois University School of Law is taught several times throughout a law student's educational career: at Orientation; in the Professionalism and the Law class; Professional Responsibility Day; in the Legal Profession course; and in all courses where concepts of professionalism and/or ethics are discussed.

2005 White Paper

Southern Illinois School of Law did not respond to the previous survey.

INDIANA

- **University of Notre Dame Law School**, Notre Dame, Indiana

According to Notre Dame Law School, the state of Indiana does not have a state mandated or suggested professionalism orientation program. The Notre Dame Law School has a professionalism/ethic component that is a differentiated part of the overall program. During Notre Dame Law School's orientation activities, students participate in a session which introduces the Notre Dame Law School's Honor Code and students are provided with general student handbook for the University of Notre Dame. In addition, the Associate Dean of Academic Affairs addresses the ethical and moral responsibilities of lawyers during his presentation to incoming students. Various other presenters also refer to the standards of professionalism and ethics during their presentations. Students are not given materials related to ethics or professionalism, but students are provided with access to relevant ethical standards, including the Honor Code. The Notre Dame Law School honor code is available on their website at: <http://www3.nd.edu/~ndlaw/currentstudents/honorcouncil/HonorCode7-1-13.pdf>. The Notre Dame Law School also has an honor council. There is no written pledge or commitment to the honor code. Practicing attorneys have not participated in Notre Dame Law Schools' orientation programs. No videos are shown. Although there are no specific break-out sessions during orientation, students are encouraged to ask questions and engage in discussion at all times, engage in the Law School's community service event and interact informally with the Dean, Associate Dean of Academic Affairs and 1L faculty during a reception for students at the end of orientation. Students are asked to evaluate the Notre Dame Law School's orientation program.

Notre Dame Law School aims to instill a continuing sense of professionalism through requiring all students to complete at least three (3) credit hours that provide substantial instruction in legal ethics. Currently, all students complete this requirement by taking a three-credit, upper-level Professional Responsibility course. In addition, Notre Dame Law School offers specific courses that address ethics and professionalism, including Jurisprudence, Lawyering Practice, and Legal Interviewing and Counseling. The Law School's clinical externship courses also include an ethics component. The Faculty address ethical considerations as appropriate in their respective courses.

2005 White Paper

The University of Notre Dame Law School did not respond to the previous survey.

KANSAS

- **University of Kansas School of Law**, Lawrence, Kansas

According to the University of Kansas School of Law, Kansas does not have a state mandated or suggested professional orientation program. The University of Kansas School of Law believes that the first step to providing a sense of professionalism for students is through orientation. Thus, KU's orientation program includes presentations from practicing lawyers on Character and Fitness, Professional Rules and Responsibility, the availability of Kansas Lawyers Assistance Program (KaLAP), and an extensive overview of the school's honor code. Practicing lawyers have participated in the orientation program and have been responsible for presenting on Character and Fitness, Professional Rules and Responsibility, and KaLAP. A judge also regularly participates to provide the convocation for students at the end of orientation. Materials are distributed to students and a video is shown by KaLAP entitled "Getting Healthy, Staying Healthy." KU does not have specific breakout sessions. Students are invited to take an online survey regarding the orientation program, but it is not required.

In response to how the University of Kansas instills a sense of professionalism in its students, the school replied:

"KU Law provides opportunity to develop a sense of professionalism in our students through the utilization of our Lawyering program, which teaches professional skills to our students to help them be successful in various pragmatic tasks a lawyer engages in. These tasks include writing to and speaking with clients, as well as engaging in professional dialogue with colleagues. Law students are also required to complete a course in Professional Responsibility – typically during their second year. This course covers professional misconduct, self-care, and managing stressful clients and caseloads."

The University of Kansas School of Law has an honor code and written commitment to that honor code.

2005 White Paper

The University of Kansas School of Law did not respond to the previous survey.

- **Washburn University School of Law**, Topeka, Kansas

Please note: *Washburn University School of Law's survey results are the same as the 2005 findings with the addition of an Oath of Professionalism and Acknowledgement of Professional Responsibility.*

According to Washburn University School of Law, Kansas does not have a state mandated or suggested professionalism orientation program. Washburn University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Washburn instills a sense of professionalism in students throughout their law school experience through the *theme of the School's orientation week*. *Washburn University School of Law has professionalism speakers throughout students' 3 years, including the Disciplinary Administrator for the state of Kansas*. Practicing lawyers participate in the orientation programs and a judge or justice always speaks on professionalism during the students' welcome lunch. Sometimes, the School will have a panel lunch. The School also always provides a presentation on the topic of Professionalism from the Clerk of the Appellate Courts, and also by one or both associate deans. The Dean also addresses the issue in his welcome speech. Videos are not shown. Students review and discuss the materials in groups of 3-5 with an upper-class (2L or 3L) mentor during 3-4 days. Students evaluate the program. There is an honor code and a written pledge or commitment to the honor code and/or professionalism. There is an Oath of Professionalism and Acknowledgement of Professional Responsibility signed by the student. The first week theme of law school is Professionalism in the Law.

2005 White Paper

According to Washburn University, the state of Kansas has neither a state mandated or suggested professionalism orientation program. Washburn University School of law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The law school included the following description of its orientation program: "Our orientation program is a week long program focusing intensively on academic issues. Students participate in extended classes, exercises and small group work in one subject area, e.g. Torts, Property or Criminal Law, logging at least 8 hours of lecture in that first week. Other components of our orientation include a basic writing skills test, compulsory community service event, the professionalism lectures described above and social events."

KENTUCKY

- **University of Kentucky College of Law**, Lexington, Kentucky

According to the University of Kentucky College of Law, Kentucky does not have a “mandated” program. However, the Kentucky Office of Bar Admissions and Kentucky Lawyers Assistance Program (“KYLAP”) have conducted a program for first year students for many years. This program takes place within the first month of the students’ fall semester and focuses on character and fitness requirements for the bar exam, as well as resources that are available for lawyers and law students who are struggling with mental health issues such as depression, alcohol, and drug abuse. In addition, the University of Kentucky College of Law has a professionalism/ethics component that is differentiated from the overall orientation program. During orientation, there is a presentation on the Honor Code. University of Kentucky College of Law has a written pledge and commitment to the Honor Code. Materials are distributed to the students at the orientation programs, including, a welcome letter, schedule, welcome letter from career services, information about required books, semester and final exam schedules, services related to the University’s Disability Resource Center, a roster of students, the Honor Code, academic success information, information about bar admission, health care information, maps, and cases for orientation study skills. No videos are shown. The University of Kentucky School of Law conducts breakout sessions related to classes, academic success and legal writing. Practicing lawyers have not participated in orientation programs in the past. Students are not asked to evaluate the program.

The University of Kentucky College of Law tries to instill a sense of professionalism in students throughout their law school experience in a variety of ways. In the first year Legal Writing and Research Course, there are specific points set aside for professionalism. The course syllabus makes clear that professionalism is expected in student interaction with professors and classmates. The syllabus states as follows:

“Moreover, as a future attorney, you are expected to act professionally at all times. Acting as a professional in all aspects of this Course is of utmost importance. We will discuss professionalism at relevant times during the Course. At a minimum, professionalism includes: coming to class on time, using computers in class only for legitimate classroom purposes, muting and putting away your phone during class meetings, submitting assignments that are timely and complete, being punctual and prepared for all conferences and meetings, communicating in a professional manner, both in person and via e-mail, and treating us and your peers with respect.

While certain criteria for participating and professionalism points may seem strict, the rationale is simple. This is a graduate program where you are taught not only

to think like a lawyer, but to act like one. Lawyers of all kinds must meet deadlines with the correct paperwork.”

The University of Kentucky College of Law also tries to instill professionalism in the students' upper-level curriculum. Students, of course, are required to take and pass a course in Professional Responsibility, which includes instruction in the Model Rules and other ethical areas. In addition, the faculty are to undertake the responsibility of teaching professional responsibility “across the curriculum,” particularly in capstone practice-simulation courses such as Litigation Skills, Civil Pretrial Practice, Advanced Estate Planning, or Business Planning. The University of Kentucky College of Law offers a legal clinic and many live-client field placements which stress professionalism as part of the required course work and evaluation.

2005 White Paper

The University Of Kentucky College Of Law did not respond to the previous survey.

- **University of Louisville, Louis D. Brandeis School of Law,**
Louisville, Kentucky

According to the University of Louisville, Louis D. Brandeis School of Law, the state of Kentucky does not have a mandated or suggested professionalism orientation program. There is a professionalism/ethics component that is a differentiated part of the overall orientation program. During orientation, an oath signing ceremony is held. During the first year, there is a lawyering skills curriculum/evaluation, which consists of a series of three (3) programs. During the second year, there is a professionalism program on financial responsibility. During the third year, there is a program on candor. Practicing lawyers participate in the orientation program and a judge administers the oath to 1L students and gives remarks. During recent orientation programs, Judge Denise Clayton and Judge Lisabeth Abramson have led the oath ceremony and spoke on the values of the profession. Materials are not distributed and videos are not shown during orientation. Students do not evaluate the orientation program. University of Louisville, Louis D. Brandeis School of Law has an honor code and a written pledge or commitment to the honor code.

2005 White Paper

The last survey indicated that written materials *were* distributed and students evaluated the orientation. The Honor Council was a student board that was responsible for administering the honor code. The school continues

to have an Honor Code Certification that the students sign. The law school replied, “Students must complete thirty hours of public service in order to graduate. Students must take the required course of Professional Responsibility.” Students also attended Student Day to discuss ethics.

MASSACHUSETTS

- **Boston College Law School**, Newton, Massachusetts

According to Boston College Law School, the state of Massachusetts has a mandated or suggested professionalism orientation program for new lawyers. Supreme Judicial Court Rule 3:16 mandates a “Practicing with Professionalism” course for new lawyers within eighteen (18) months after admission to the Bar. Boston College Law School has a professionalism/ethics component that is a differentiated part of the overall orientation program. The orientation program is required and monitored. The Boston College Law School is rooted in the Jesuit tradition of service to God and to others. According to the School they, “seek to train a diverse student body not merely to be good lawyers, but to be lawyers who lead good lives.” Boston College Law School introduces the mission to its students from the moment their orientation program begins. Practicing lawyers participate in the orientation programs. The Chair and the Executive Director of the Board of Bar Examiners speak at an orientation session on admission to the bar with particular emphasis on the character and fitness requirement. Boston College Law School’s legal ethics orientation consists of a role playing demonstration in conjunction with lawyers from the Boston Bar Association, and the program is introduced by the President of the Boston Bar Association. The cast for the role play in the past included representatives from the Bar Counsel’s Office, local firms and the SJC rules committee. Materials are distributed during orientation. Videos are not shown. Some years the program has included breakout sessions, but generally the students engage in informal discussions of the issues presented in the role playing exercise and share their insights and comments with the group. Students evaluate the program on a ranked scale. Boston College Law School does not have an honor court or honor code. Boston College Law School has a detailed Academic Code Handbook. There is no written pledge or commitment to the honor code or to any standards of ethics or professionalism.

2005 White Paper

Boston College Law School did not respond to the previous survey.

- **Boston University School of Law**, Boston, Massachusetts

Boston University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Boston University School of Law’s 1L Orientation incorporates professionalism through myriad discussion topics including ethical requirements of members of the Bar, professional behavior, and etiquette with social media.

In addition, the Associate Dean for Student Affairs, Christine Marx, has given a talk entitled “Life As You Know It Has Changed-Becoming A Lawyer.” Ms. Marx’s discussion stressed that there are two (2) components to becoming a lawyer: 1) the academic preparation and 2) the character and fitness/ethical obligations. The talk focused on the latter. Ms. Marx emphasized that a law student’s reputation is extremely valuable and the importance of treating *everyone* with respect from day one. The discussion also included a focus on decorum and professionalism in oral and written communications in which Ms. Marx showed students, using slides, a professional and an unprofessional email to a Professor and tries to make clear that using a cogent, professional argument in lieu of angry, inflammatory language, is appropriate. Ms. Marx’s talk also covered disciplinary regulations and the disciplinary process. Students are reminded that both they and the law school must complete character and fitness forms for the student’s admission to the Bar and disclose any disciplinary violations relating to the student’s character and fitness. Therefore, honoring deadlines, commitments and following the school code of conduct are imperative for students. The talk further covered possible reasons students face discipline or engage in conduct that could be considered unprofessional. This has led to a broader discussion of University and community counseling resources that can help students with mental health issues or substance abuse problems. Lastly, an Assistant Director in Boston University School of Law’s Career Development Office discusses the professional and unprofessional ways of using social media.

During Boston University School of Law’s 1L Orientation, there are no specific break-out sessions and no materials are distributed to students. No videos are shown. Boston University School of Law does not have an honor code, honor court or a written pledge or commitment to the standards of ethics or professionalism. However, the Law School has Disciplinary Regulations which are included in the Law Student Handbook. The Disciplinary Regulations state that “unprofessional conduct may be a violation of the regulations.”

Boston University School of Law endeavors to instill a sense of professionalism through a student’s law school experience by requiring students to take a Professional Responsibility course after their first year. In addition, a number of students engage in Clinical Externship Programs, which include instruction in ethics and professionalism.

At the end of the program, students are encouraged to evaluate the program, but it is voluntary to do so.

2005 White Paper

Boston University School of Law did not respond to the previous survey.

- **Suffolk University Law School**, Boston, Massachusetts

According to Suffolk University Law School, Massachusetts does not have a mandated or suggested professionalism orientation program for law school students. Suffolk University Law School has a professionalism component that is a differentiated part of the School's overall orientation program entitled "Professionalism & Career Development". During this portion of the orientation, students are shown a presentation about why professionalism matters, the character and fitness review, accountability through communications (email, online posting, phone calls, letters and meetings), what constitutes professional behavior, and "pitfalls to avoid." All orientation programs are mandatory for new students. Students also participate in break-out sessions with approximately 20 other students and upper class students to discuss and reinforce the professionalism topics discussed at orientation. Although materials are distributed at orientation, videos are not shown. During orientation, students are given a copy of the Oath of Professionalism and stand and repeat this oath at a ceremony at the conclusion of orientation. This oath is administered by a notable professional in the Boston Community, including members of the judiciary. Suffolk University has a Student Code of Conduct. Practicing lawyers have presented at orientation. Suffolk University invites young alumni to co-present with a Dean at the new student orientation session on Professionalism. Suffolk University asks young alumni to attend in order to "bridge the gap" with the new students' experience.

Suffolk University endeavors to instill professionalism throughout a student's law school experience, including a mandatory first year practice skills course, programs run by Suffolk University's Office of Professional and Career Development, a mandatory 2L "orientation" in which students are provided with information about Bar Admissions, the Bar Exam, and professionalism, and a professionalism graduation requirement effective as of the 2014-2015 academic year.

2005 White Paper

Suffolk University Law School did not respond to the previous survey.

- **Western New England College School of Law**, Springfield, Massachusetts

According to Western New England College School of Law, the state of Massachusetts has a mandated or suggested professionalism orientation program for *new lawyers*. Supreme Judicial Court Rule 3:16 mandates a "Practicing with Professionalism" course for new lawyers within eighteen (18) months after admission to the Bar. Professionalism/ethics are discussed as

appropriate throughout the overall orientation program, but are considered the cornerstone of first-year orientation. “Professionalism: From the Classroom to the Courtroom” is the theme of the keynote address given each year by a judge. Students are also shown a presentation which speaks specifically to “Professionalism from Day One” and the students are introduced to the rules of professional conduct, the honor code, and the character and fitness requirements of bar admission. Videos are not shown during orientation. Students are asked to evaluate the orientation program.

Western New England College School of Law seeks to instill a sense of professionalism in students throughout their law school experience by offering a multitude of programs to students in their first year of school and thereafter. The programs include:

- **“Professionalism: Prepare to Practice Series”:** A series of workshops addressing issues of professionalism and practice;
- **Law Mentor Program:** Members of the Bench and Bar serve as mentors who share their expertise and help introduce students into different aspects of the profession, provide general advice, and support;
- **Speaker Series:** Includes “Career Conversations” and “Color of Law Roundtable” which hosts speakers who discuss their career paths and professional development in a variety of practice areas;
- **Continuing Legal Education:** Each year a series of continuing legal education programs are held at the law school and students are encouraged to attend; and
- **Law and Business Center for Advancing Entrepreneurship:** Hosts its own program that include resources that are helpful the practice of law.

The Western New England College School of Law integrates professionalism into courses and plan to integrate new courses over the next few years which will serve to introduce students to professionalism and various aspects of professional practice. One such course, which will be offered in 2015, will provide simulated exercises involving problem-solving in the context of a lawyer-client relationship. Practitioners will also participate in this course.

The Western New England College of Law has a written honor code.

2005 White Paper

Previously, Western New England College School of Law divided students into small group breakout sessions with faculty facilitators. Topics included: diversity, professionalism, characteristics of a good lawyer, classroom

professionalism, law student as a lawyer in training, and a comparison of the Rules of Professional Responsibility with the honor code.

LOUISIANA

- **Paul M. Herbert Law Center at Louisiana State University**, LSU Law, Baton Rouge, Louisiana

According to LSU Law, the state of Louisiana has a suggested professionalism orientation program. LSU Law has a professionalism/ethics orientation program that is conducted separately from the general orientation program and professionalism/ethics are discussed as appropriate throughout the overall orientation program. The professionalism/ethics component is conducted predominately by the Louisiana State Bar's Committee on the Profession. The program was implemented fourteen years ago and is designed to introduce the concept of professionalism to first year law students. Volunteer lawyers and judges participate in the program. In a plenary session, LSU Law students are introduced to the professionalism component by the Louisiana State Bar Association (LSBA) President and a Supreme Court Justice. Thereafter, students, volunteer lawyers and volunteer judges are placed in break-out groups of between 10-25 students and are asked to discuss professionalism issues detailed in certain hypotheticals previously given to students. LSU Law mandates all 1L students attend the orientation program. Materials are distributed to students during the orientation programs. Students are not required to evaluate LSU Law's orientation program, however, the LSBA conducts its own evaluation of the professionalism/ethics component they provide.

LSU Law endeavors to instill a sense of professionalism in students throughout their tenure in law school by providing continuing education opportunities for students. LSU Law provides a regular course of instruction in legal ethics and professionalism as part of a required two-credit Legal Profession course. In addition to the program provided to students in the fall, the LSBA also conducts programs to educate students about bar admissions in the spring of the students' first year. LSU Law continues to provide programmatic opportunities for students in both their 2L and 3L years. The LSBA conducts a Character and Fitness program for upper-class students, which includes video and discussion elements. Further, LSU Law offers clinical courses which involve representation of actual clients; professionalism and ethics are instilled during these experiences. LSU Law has a multifaceted Public Interest Law Society (PILS) program which gives member of the LSU Law community various opportunities to provide law-related and other services to individuals and the community. This also helps instill professionalism values – specifically, values associated with pro bono work. LSU Law's Volunteer Income Tax Assistance (VITA) program provides comparable opportunities to provide legal assistance in the area of tax law.

LSU has a student code of conduct which can be accessed through their website at <http://www1.law.lsu.edu/academics/codeofstudentconduct/>. There is no written pledge or commitment to the honor code. However, the

LSBA has its own code of professionalism and lawyer's oath that is administered to students during their professionalism/ethics component.

2005 White Paper

Paul M. Herbert Law Center at Louisiana State University, LSU Law, did not respond to the previous survey.

MICHIGAN

- **Thomas M. Cooley Law School**, Lansing, Michigan

According to Thomas M. Cooley Law School, the Michigan State Bar urges all Michigan law schools to offer the Professionalism in Action program with State Bar officials as speakers. Thomas M. Cooley Law School has a professionalism/ethic component that is a differentiated part of the overall orientation program. The orientation program is provided over the course of two days. During orientation, students are introduced to the professionalism program and how it will unfold throughout their enrollment (the professionalism program entitled “Your Journey to Professionalism” was provided, along with the Law School’s original professionalism plan, and a draft of the Law School’s newest professionalism plan: “The Second Decade”). Practicing attorneys participate in the orientation program as discussion leaders of small groups of incoming students to discuss professionalism problems. The speakers at the most recent orientation programs included State Bar Executive Director Janet Welch, U.S. Court of Appeals for the 6th Circuit Judge Richard Suhrheinrich, and Julie Fershtman, President of the State Bar of Michigan. Materials are distributed to students (*i.e.* students receive the brochure, the original professionalism plan and the professionalism problems). No videos are shown. Students are randomly assigned to break-out discussion groups with two (2) lawyers and 5-10 students. The groups discuss the professional problems. Students evaluate the program. Thomas M. Cooley Law School has an Honor Code and also has a Commitment to Honor pledge. Thomas M. Cooley stated: “That [orientation] is the best place to get them started out on the right foot.”

2005 White Paper

Thomas M. Cooley answered the previous survey. The orientation was two days long, and the original professionalism plan was in effect. In addition, the Honor Code was the only material distributed to the students. Today, the brochure, the original professionalism plan and the professionalism problems are provided to the students. The law school also had a pledge during the time of the first survey.

- **Michigan State University, College of Law**, East Lansing, Michigan

According to Michigan State University College of Law, the state of Michigan has a state mandated professionalism orientation program. Michigan State University College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. This program, entitled “Professionalism in Action” is a mandated part of the College of Law’s student orientation and focuses specifically on ethics and professionalism. It is an

initiative first introduced in 2009 by the State Bar of Michigan Past President Edward H. Pappas. Students are welcomed to the Professionalism program by the Dean of the College of Law, Joan W. Howarth, which takes place during the Law School's "Immersion Week." Thereafter, students and group discussion leaders are introduced. Students are then given a program history, some remarks, and the administration of the Professionalism pledge by the President of the State Bar of Michigan, Bruce A. Courtade. Closing remarks are provided by the Dean of the College of Law and students are required to attend break-out sessions. During the break-out sessions students are paired with a discussion group leader and discuss professionalism problems. Each hypothetical has "questions to consider," and group discussion leaders have notes and prompts by which to lead the discussion. Group leaders are also provided with the relevant Professional Rules of Conduct to facilitate appropriate discussion. The break-out sessions are followed by a Professionalism reception. Notably, students are urged to dress in professional attire for the Professionalism in Action Program.

Practicing lawyers have participated in the orientation programs by leading small group discussions during the "Professionalism in Action" portion of orientation. Students are not given materials during orientation programs and no videos are shown. Students are asked to evaluate the "Professionalism in Action" part of their program. According to information supplied by Michigan State University College of Law, approximately 70% of students felt that the overall program was "Excellent." Students also commented that "the overall program was effective to emphasize the importance of ethics and professional responsibility" and the "small group discussion was the best part..."

The College of Law has a written pledge to the honor code which, as mentioned previously, is administered at the Professionalism in Action program by the President of the State Bar of Michigan. In addition, the College of Law has adopted an Academic Hearing Procedure (AHP) for adjudicating academic grievances and complaints. In accordance with AHP, a Hearing Board is made up of three (3) students and three (3) faculty who hear allegations of student academic rights violations or academic misconduct (academic dishonesty, violations of professional standards, or falsifying academic and admissions records).

Michigan State University College of Law seeks to endeavor to instill a sense of professionalism in students throughout their law school experience by requiring first year students to enroll in a one-credit, seven-week Lawyer & Ethics course in addition to the Professionalism in Action program during Orientation. In addition, the Office of Student Engagement for the College of Law has produced several character and fitness online videos that can be accessed by law students throughout the year. Conduct that could trigger an investigation and factors that influence a character and fitness determination are discussed in the video. The videos are found at

<http://www.law.msu.edu/engagement/academics.html>. Additionally a lack of professional decorum is subject to a violation of the Code of Student Discipline.

2005 White Paper

Michigan State University, College of Law did not respond to the previous survey.

- **University of Michigan, Michigan Law**, Ann Arbor, Michigan

According to the University of Michigan, Michigan Law, the state of Michigan has a mandated professionalism program. Practicing lawyers and judges participate in the orientation program. Materials are distributed to the students at the orientation program, but no videos are shown. Students evaluate the orientation program and according to Michigan Law, the evaluations are overwhelmingly positive. However, Michigan Law runs the State Bar of Michigan's program in the middle of the academic year, rather than at orientation. There is a "Professionalism in Action" program that is conducted separately from the general orientation program. Dozens of lawyers and judges participate in the Professionalism in Action program. There is also a professionalism/ethics component that is a differentiated part of the overall orientation program entitled, "commitment to integrity program/ceremony." The words recited at the law school's commitment to integrity ceremony parallel the language in the law school's standards of conduct. A judge is the keynote speaker at the commitment to integrity ceremony. The law school has had several different judges participate over the years. Each year, Michigan Law runs two speaker series: (1) Anatomy and Ethics of a Case; and, (2) Experts in Ethics Civility and Professionalism. Lawyers talk about cases and issues with a distinct focus on ethics. Michigan Law does not have an honor code per se, but the school does have standards of conduct and a set of disciplinary procedures. Michigan Law added that the commitment to integrity ceremony is appropriate for the orientation program. Professionalism in Action, which calls for more direct and substantive student participation, works best after the students have studied some law and have some background/context. The school believes the students would get less out of this program if the program took place during orientation week.

2005 White Paper

University of Michigan, Michigan Law did not respond to the previous survey.

MISSISSIPPI

- **Mississippi College School of Law**, Jackson, Mississippi

Mississippi College School of Law has an orientation program for four (4) days. According to Mississippi College School of Law, the state of Mississippi has a mandated or suggested professionalism orientation program. Mississippi College School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. During orientation, sixty (60) judges and attorneys head small groups to discuss factual scenarios. In addition, professors weave the topic of professionalism into their instruction throughout the students' law school experience. Videos are not shown, but materials are distributed to the students during the orientation program. Students do not evaluate the program. Mississippi College School of Law has an Honor Code and Professionalism Oath.

2005 White Paper

None of Mississippi's law schools responded to the previous survey.

- **University of Mississippi School of Law**, University, Mississippi

According to University of Mississippi School of Law, the state of Mississippi has a mandated or suggested professionalism orientation program. University of Mississippi School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The University of Mississippi School of Law requires a 3-credit ethics course for all students and has a speaker series required for all 1Ls. The skills session required for all three years incorporates professionalism. Practicing lawyers participate in the orientation programs. The required 1L speaker series involves presentations by the Mississippi Bar, as well as judges. The Chief Justice of the Mississippi Supreme Court speaks prior to the breakout ethics and professionalism sessions. Materials are distributed to the students before the orientation program. Videos are not shown. Students are expected to examine hypothetical problems regarding ethics and professionalism. Students evaluate the program, and the University is willing to share such feedback with the Institute. University of Mississippi School of Law has an honor code, a lawyer's creed provided by the Mississippi Bar, Code of Professionalism and Principles of Civility, Integrity and Professionalism. The University of Mississippi School of Law suggested that the program is actually more effective when 3Ls participate before graduation because 1Ls have very little context.

2005 White Paper

None of Mississippi's law schools responded to the previous survey.

MISSOURI

- **Washington University in St. Louis – School of Law**, St. Louis, Missouri

Washington University in St. Louis indicated that Missouri does not have a state mandated or suggested professionalism program. The law school has a professionalism/ethics component that is a differentiated part of the overall orientation program in which students are engaged in research and discussions regarding “Professionalism and Accountability,” “Professionalism and Diversity” and attend a Professionalism Panel. This panel generally includes practicing attorneys, partners, and has included the Honorable John F. Garvey, Associate Circuit Court Judge in St. Louis. In addition, practicing lawyers also serve as facilitators for small-group, problem-based professionalism discussions. Students are broken out into ten (10) discussion groups with about 20-25 students to discuss hypotheticals problems based on the ABA Model Rules of Professional Conduct. The law school’s goal is to help students understand that questions of appropriate professional behavior deserve careful attention and respect. In recent years, the Honorable Shirley Padmore-Mensah, the Honorable Sharon Johnson Coleman, and the Honorable Zel M. Fischer have also spoken on the topic of professionalism during the 1L orientation program. Students are asked to evaluate the program. Washington University in St. Louis provides students with both a written honor code in which professional misconduct is discussed and prohibited. In order to endeavor to instill a sense of professionalism throughout a student’s law school experience, Washington University in St. Louis inculcates professionalism throughout the academic year and 1L intersession, and faculty members are expected to address professionalism in class. During orientation, the Law School instructs students that this is the beginning of their professional careers as lawyers.

2005 White Paper

Previously, Washington University in St. Louis was in the process of revising their honor code. Students were also responsible for creating a “Statement of Professional Commitment” in which the completed version was given to all students so they may refer to it throughout their professional lives. Similar to Washington University in St. Louis’s practice now, students were divided into problem-based group discussions concerning issues of professionalism. However, whereas the school currently has practicing attorneys facilitate discussions along with faculty and students, as of the first survey, only law school faculty facilitated such discussions.

NEW MEXICO

- **University of New Mexico School of Law**, Albuquerque, New Mexico

The University of New Mexico School of Law did not indicate whether the state of New Mexico has a mandated or suggested professionalism orientation program. However, the University did indicate that the State Bar of New Mexico requires all new lawyers to participate in their “Bridge the Gap” Program. The University of New Mexico School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. There are two ethics/professionalism components to the orientation program. First, a presentation is made by the Assistant Dean for Student Services and Student Bar President on the Honor Code and Administrative Due Process Policy and Procedure. There is also the Hugh Muir Oath Project which requires students to write an oath, promise, poem or other reflective paper about how they will live as lawyers. A local judge introduces the program and he or she is also tasked with reading all of the papers submitted by students. The local judge returns in the second month of school to have a lunch session with the students to talk about their oaths and the importance of professionalism. The oaths are also discussed as part of the 1L’s Practicum class. Judge Stan Whitaker has been the Hugh Muir Oath judge for the past five years.

A component of the students’ mandatory clinic class, which they take in their third year, covers professionalism and professional identity. In addition, the New Mexico State Bar President speaks at orientation and includes a discussion of professionalism in his presentation. The University of New Mexico School of Law has also had numerous lawyers and judges as guest speakers for the required Practicum course. These have included New Mexico Supreme Court Justice Gene Franchini, attorney Randi McGinn and other local attorneys and district court judges. All speakers stress the importance of being professional and developing good reputations.

No videos are shown during orientation. Students do not evaluate the orientation program. The University of New Mexico School of Law attached a copy of their honor code and the Administrative Due Process Policy and Procedure materials on professionalism from their handbook and also attached their Bulletin of Policies. A copy of the entire handbook is available at <http://lawschool.unm.edu/academics/index.php>. In addition, the students are required to write an oath as part of the Hugh Muir Oath Project.

2005 White Paper

None of New Mexico’s law schools responded to the previous survey.

NEW YORK

- **Fordham University School of Law**, New York, New York

Fordham University has a three-day orientation program for both evening and day students. The school did not indicate whether New York has a mandated or suggested professionalism orientation program. Fordham University holds a program on their last day of orientation where Fordham Alumni, some of whom are members of the judiciary, speak to the entering 1L class. The 2013 distinguished speakers included Honorable Denny Chin, United States Circuit Court for the Second Circuit, Honorable Sherry Klein Heitler, Administrative Judge for Civil Matters for the First Judicial District of the New York Supreme Court, Honorable John W. Sweeny, Jr., Associate Justice Supreme Court of New York, Appellate Division, First Department, and Mark J. Hyland, Partner and co-head of Seward & Kissel's Litigation Group. Students are given a pamphlet on professionalism which includes a short biography of the speakers and Fordham's professional oath. Practicing lawyers also participate in the orientation program. The President of Fordham's Alumni Association welcomes the incoming class and on the last day of orientation, moderates the professionalism program. Although Fordham provides students with materials at their orientation program, no videos are shown. Students are asked to evaluate the program and the school's feedback indicates that 95% of students found that the information on Professionalism at least useful or effective, with 35% of students finding the information provided was "extremely useful/effective." Fordham has both a written honor code and pledge to the standards of ethics and professionalism.

2005 White Paper

Previously, Fordham's professionalism/ethics component of their orientation consisted of breakout sessions in which practicing attorney's would act as facilitators for small group discussion and the program's main speaker was a practicing attorney. In addition, students received a copy of the book entitled *The Moral Compass of the American Lawyer*, in which the Author, Richard Zitrin would supervise large student discussions. Similar to Fordham's practice now, students were able to evaluate the week's events. In addition, at the time of the first survey, Fordham indicated that that the law school selected approximately 20 students to participate in the Stein Scholar Program in Legal Ethics, in which the students became facilitators of brown bag lunch sessions on the subject of ethics. There was no indication whether this practice is still in effect.

- **New York Law School**, New York, New York

New York Law School has a professionalism/ethics component which is a differentiated part of their overall orientation program. During New York Law School's orientation, students engage in a program entitled "Day One @ NYLS." During this program, students are exposed to remarks from the Office of Career Planning regarding engagement in the community from "Day One," practice area exploration, a review of job postings for students and recent graduates, resume growth, and what to expect in the future. In addition, New York Law School has a series of professional development workshops entitled, "Professional Development 101 Workshops." The workshops provide students with a platform to start thinking about legal career planning early and to help students develop a smart strategy for obtaining internships, externships, and summer associate positions. The workshops, which take place throughout the entire school year, include: "Introduction to the Practice of Law," "Persuasive Advocacy – Resumes," "Cover Letters," "It's Who You Know: Creating and Nurturing Professional Relationships," "Persuasive Advocacy-Job Interviews," "Writing Samples," "Self-Assessment & Leadership," and "Putting Professional Skills into Practice This Summer." In addition, each student is responsible for assignments which must be completed by set dates. These assignments include having students: setup a meeting with their individual career counselor to prepare a resume; interview at least three (3) attorneys and write a short profile on the attorneys; read *Strength Based Leadership* and complete the survey to determine their top five (5) strengths.

The New York Law School endeavors to instill a sense of professionalism in students throughout their law school experience through a required Professional Development Seminar that is part of the first year Legal Practice Course. The "kick-off" to the Seminar is the "Day One" Session (discussed above) during the "First Week" Orientation Program. Recent graduates of New York Law School participate in a video presentation and in the past, a recent graduate was the keynote speaker at the School's welcome event. At the three most recent orientation programs, Dean Anthony Crowell (the Associate Dean for Professional Development) and an alumnus from the 2004 graduating class were speakers. The topics presented were "Why Law School?" "Getting Involved", and "Getting Engaged." Students are given materials during orientation and asked to evaluate the program at its conclusion. New York Law School has a Code of Conduct and Academic Responsibility which holds students to the highest ethical standards. The Code of Conduct is introduced during Orientation at a mandatory session entitled, "Admission to the Bar". New York Law School does not have a written pledge or commitment to the honor code.

2005 White Paper

The last survey indicated that New York Law School's orientation program was entitled "Advance Week" which was expanded in 1999 from two (2) days to one week, in part to devote more time to professionalism. Students were required to read "Law School: A Primer in Law Student Professionalism," which was specially developed for orientation week by members of the law school faculty. Faculty who taught during Advance Week would use the primer to supplement their discussions. New York Law School incorporated professionalism throughout the law school curriculum by means of different courses offered, including a first year required course, same as today.

- **St. John's University School of Law**, Jamaica, New York

According to St. John's University School of Law, the state of New York has a suggested professionalism orientation program. St. John's University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program which continues through a student's first week. In addition, 1Ls will have periodic meetings throughout the year which focus on career choices, wellness, and professionalism. Practicing lawyers have participated in orientation programs in the past and have led students in hypothetical discussions regarding ethical and professional issues. On day two of the orientation, representatives from grievance committees, alumni and faculty remark on professionalism and jurisprudence. For the fall 2013 first year orientation, Gary L. Casella (Chief Counsel of the State of New York Grievance Committee) and several other distinguished faculty and partners at New York law firms addressed the students on professional issues. During the orientation program, students are broken into their four (4) course-work sections and it is in these sections in which the students engage in a discussion and analysis of professionalism in the law. Students are not required to evaluate the program. St. John's University School of Law has a Code of Student Professional Representation; however, they do not have an honor court or honor code. St. John's University School of Law believes that promotion of professionalism and ethics throughout the students' first year is most effective and that model promotes sustained professionalism by the students.

2005 White Paper

The last survey indicated that approximately five years ago, St. John's began to concentrate on the profession's core values. They had a one day orientation in which students were encouraged to interact through question and answer sessions and panel sessions. Students were also invited to interact during social receptions. St. John's had an honor code and honor court.

- **Touro Law Center**, Central Islip, New York

Touro Law Center has a professionalism/ethics component that is a differentiated part of the overall orientation program. All students are required to take part in a “Professionalism and Ethics” session during orientation, as well as a required Professional Responsibility course, and are given materials in an orientation handbook. In the introduction of this handbook, there is a section entitled “Professionalism and Justice” which informs students that the law is “a profession, not a job” and that as a student and a lawyer, they will have responsibilities to clients, courts, the profession and the community such as compliance with formal codes of behavior and a moral obligation to seek justice. The handbook also contains a description of Lawyer Professionalism, the American Bar Association, Young Lawyers Division Pledge of Professionalism, Student Responsibilities with respect to Professionalism, Rules of Confidentiality to use in conjunction with a video, and a Legal Journal article entitled “Thinking Like a Professional” by Joshua E. Perry. At orientation, students are required to take the Touro Law Pledge of Professional Responsibility. During their tenure in law school, students are required to take a Professional Responsibility course. Touro Law Center also requires any student who participates in a clinic to take an oath and be installed as a student lawyer by a judge in order to remind the students that they must always exhibit professional and ethical behavior. Practicing lawyers have participated in past orientation programs, including Leslie B. Anderson, Principal Attorney for the Grievance Committee, 10th Judicial District, which handles disciplinary matters relating to attorneys in Nassau and Suffolk County. Ms. Anderson speaks on professionalism, ethics, and being honest and forthright in the character and fitness evaluation for admittance to the Bar. At the end of the orientation program, students are asked to evaluate the program. Touro Law Center has a Code of Conduct as well as a Touro pledge, which details a student’s commitment to the honor code. The Touro pledge is distributed as a bookmark to all incoming students. During orientation, Dean Patricia E. Salkin tells the students about the importance of professional and ethical behavior as a law student and is accompanied by five volunteers that lead the rest of the incoming 1L class in the pledge. The students are encouraged to read along with their classmates

2005 White Paper

Touro Law Center responded to the previous survey. The orientation was five-days long, as it presently is and contains nearly all of the same components as it previously did, including workbook assignments and an emphasis on professionalism from the first day of orientation.

- **State University of New York – Buffalo Law**, Buffalo, New York

Buffalo Law has a six-day professionalism orientation program called “Legal Profession and Ethics” which is a professionalism/ethics orientation program conducted separately from the general orientation program. All students are required to participate in the program and are graded on a “satisfactory/unsatisfactory” basis. Students are provided with program specific syllabus which entails readings, discussions, a trip to the New York State Supreme Court house, a review of the general law school rules, including a specific dialogue about Buffalo Law’s Code of Conduct and the school’s General Academic Requirements and Guidelines. Students are also afforded the opportunity to participate in breakout sessions, which requires students to engage in role-playing. The role-playing exercise is used as a way to facilitate commencement of the process of developing students’ empathy skills and to understand the connection between the work lawyers do and the critical role they play in the lives of others. In addition, a video is shown to students about the school’s prestigious 125 year history. Buffalo Law endeavors to instill a sense of professionalism in their students throughout their law school experience by requiring a dress code and reciting an oath of professionalism at orientation, creating a student code of conduct, and reviewing character and fitness requirements for the Bar early in the fall term. Buffalo Law has had practicing lawyers participate in orientation programs in a variety of ways, including welcoming students to Buffalo Law at orientation, hosting a welcome reception for students, and assisting students in a 1L mentoring program. Moreover, Buffalo Law has a written honor code. Ultimately students are asked to evaluate the program and give feedback to the administration.

2005 White Paper

Previously, Buffalo Law School had a four-day professionalism orientation program called “Introduction to Law” which remains, as it does today, separate and apart from the orientation program. The law school noted that the first year orientation program included speakers such as State Supreme Court Justices. In recent years, the school has had their Vice Deans speak to the students on the topic of professionalism. Buffalo has had an Academic Standing and Standards Committee to deal with honesty and required a Legal Profession and Ethics three-credit course for first year students.

- **Yeshiva University, Benjamin N. Cardozo School of Law**, New York, New York

Cardozo School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Cardozo presents a panel during orientation that is specifically focused on professionalism.

Members of the panel of include: a faculty moderator (who works in the area of Professional Responsibility), the Dean of Students, the Vice Dean of Students, a professional from the school's counseling center, and a member of the NYC New York Lawyer's Assistance Program. During the panel, students are provided with materials which include: a refrigerator magnet listing free resources for students in need, selected pages from the New York State and New Jersey Bar admissions applications, a brochure from the New York Lawyer Assistance Program, and a brochure advertising a student emergency fund. The Panel engages in a discussion of the following areas, which includes, but is not limited to:

- Professionalism and how it is relevant beginning on day one of law school;
- Pitfalls to avoid (examples include, unauthorized practice of law, breach of confidentiality, and the lack of civility and respect within the legal field);
- How a student's present behavior can be an issue for the character and fitness review and Bar admission. The duty and need for full disclosure throughout the admission process. Relatedly, the need to follow the "law" at law school, including, the disciplinary code, memos, emails, plagiarism, deadlines, and honesty; and
- The potential impact of substance abuse/mental health problems and resulting behavior.

In addition to its stand-alone professionalism program, Cardozo Law also provides the students with speakers during orientation and luncheons that touch upon issues of professional responsibility. Incoming students are shown a video entitled, "William Kunstler: Disturbing the Universe". After the viewing, students are broken down into small discussion groups to focus on important aspects of the film, including professionalism. The break-out sessions are facilitated by faculty members and key administrators. Cardozo also distributes the student handbook to students, which includes the law school's disciplinary code. Students are required to sign and submit a student affirmation acknowledging the code and its contents, upon entering Cardozo Law. Students must also sign a certification, in which they confirm their obligations as to any adverse changes or material misrepresentations relating to their law school application. In addition, Cardozo Law students must take a professionalism oath at the end of orientation which is administered by the Dean of the Law School.

The Cardozo Law Student Oath states:

“As a student entering the Benjamin N. Cardozo School of Law, I understand that I am joining an academic community and beginning my professional career. In doing so, I commit myself both to the profession’s special responsibilities to the public, including promoting justice and pursuing the truth and fairness, and to upholding the principles of honesty, integrity, civility, and respect.”

Cardozo Law indicates that practicing lawyers have participated in orientation programs as both keynote and professionalism panel speakers. Speakers have included Avrom Robin, Esq., Maria Matos (Secretary to the Committee on Character and Fitness Appellate Division, First Judicial Department), Gary Reing, Esq., and Meredith Heller, Esq. Keynote Luncheon speakers have included Zachary Carter, NYC Corporation Counsel, the Honorable Jenny Rivera, Associate Judge of the NY Court of Appeals, and Grace Meng (Class of 2002), Congresswomen.

In addition, Cardozo Law seeks to instill a sense of professionalism in students throughout their law school experience by integrating professionalism training throughout the students’ three (3) years. First, the school offers a range of courses specifically focused on professional responsibility. These courses include, a simulation-based program, Ethics for Business Attorney, Ethics in Criminal Advocacy, Ethics in Litigation, Professional Responsibility, and Selected Problems in Professional Responsibility. In addition to these courses, Cardozo employs a first-year Lawyering and Legal Writing Program, Clinical/Experiential Programs, and sponsors a wide range of programs through the School’s various centers (including, but not limited to, the Jacob Burns Center for Ethics and the Public Service Program). Finally, many of the traditional courses offered by Cardozo Law integrate professional issues into their doctrinal analysis.

Cardozo Law states that students evaluate their orientation periodically.

2005 White Paper

The Benjamin N. Cardozo School of Law did not respond to the previous survey. However, the law school did have the opportunity to share its program during a round table discussion held with the Working Group on June 28, 2002. Cardozo Law, represented by Leslie Salzman indicated that the fall of 2002 was the first time a portion of the orientation was dedicated to ethics concerns. Cardozo Law continues that practice today. At the same

time, the school made a first attempt to discuss students' responsibility to public service. Lastly, Ms. Salzman commented at the time that the Law School had no formal policy or obligation to address professionalism in the classroom, and that it was left to the teachers to incorporate professionalism into their substantive courses.

NORTH DAKOTA

- **University of North Dakota School of Law**, Grand Forks, North Dakota

According to the University of North Dakota School of Law, the state of North Dakota does not have a mandated or suggested professionalism orientation program. The University of North Dakota School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. The University of North Dakota School of Law also has a new 1L course for students. Practicing lawyers have participated in orientation programs in the past and provide sessions on professional reputation, the State Bar Association, and Bar admission requirements. In addition, a State Supreme Court Justice conducts a presentation at an oath ceremony. Videos are sometimes shown by invited speakers. The University of North Dakota School of Law did not indicate whether or not written materials are provided during the orientation program. Students evaluate the program. The University of North Dakota School of Law has an honor code. In addition, the students execute a written pledge of professionalism.

Interestingly, the University of North Dakota School of Law's Class of 2016 has the distinction of being the first class to experience the benefits of a newly reconfigured and expanded first-year curriculum. The faculty adopted these changes in pursuit of the goals expressed in the University of North Dakota School of Law Curriculum Mission Statement, with its overriding objective "*to produce competent and ethical lawyers with entry level proficiency and professional self-sufficiency in any setting...*" A centerpiece of these new changes will be a new two-credit class called Professional Foundations. The University of North Dakota School of Law attached parts of an article entitled, "Professional Foundations: An Innovative Component of the First Year Curriculum." The full article can be found at: <http://law.und.edu/students/general/profound.cfm>.

2005 White Paper

The University of North Dakota School of Law did not respond to the previous survey.

OHIO

- **Capital University Law School**, Columbus, Ohio

According to Capital University Law School, the state of Ohio has a mandated or suggested Oath of Professionalism. Students take an Oath of Professionalism and are later instructed by ethics attorneys. Practicing attorneys participate in the orientation program during the Professionalism part of orientation. The speakers at the three (3) most recent orientation programs were: the Honorable Sharon Kennedy (Supreme Court of Ohio); the Honorable Terence Kemp (U.S. Magistrate for the Southern District of Ohio); the Honorable Yvette McGee Brown (Supreme Court of Ohio). All the above-mentioned speakers spoke about “Thoughts Upon Entering the Noble Profession”. Videos are not shown during the orientation program, however, materials are distributed to the students. Students engage in breakout sessions with practitioners to discuss law school hypotheticals and how they might relate to the practice of law. Students do not evaluate the program. Capital University has a law school honor code. Capital University has a pledge or commitment to the honor code or to the standards of ethics or professionalism, but it is not written.

2005 White Paper

Capital University Law School did not respond to the previous survey.

- **Case Western Reserve University School of Law**, Cleveland, Ohio

According to Case Western Reserve University School of Law, the state of Ohio does not have a mandated or suggested professionalism orientation program. During Case Western Reserve’s orientation program, professionalism/ethics are discussed as appropriate throughout the overall orientation program. However, the professionalism/ethics components of the orientation program are mandatory. The orientation program is one week long and materials are distributed to the students. Some of the professionalism/ethics components include, “Improv Sessions” in which students discuss the issues facing lawyers, highlight dilemmas that students may face in law school and in the real world, how to maintain high standards, how to navigate conflict and several other areas within the professional/ethics realm. In addition, students attend break-out and report-back sessions in which students are asked to discuss hypothetical dilemmas in small-group and large-group settings. Case Western Reserve introduces students to professionalism during orientation in order to instill a sense of professionalism throughout their law school experience. Case Western Reserve also integrates professionalism in their lawyering skills program with topics such as “ethical obligations to disclose adverse facts and authority in briefing,”

“professionalism in writing style,” and “conduct in front of a judge”. Practicing lawyers have participated in the orientation program in the past and their roles were to engage in Case Western Reserve’s mock trial and appellate argument portions of orientation. Other than alumni panels on general law school and career issues, Case Western Reserve generally does not have outside speakers at orientation. No videos are shown. Students are asked to evaluate their orientation experience and program. Case Western Reserve indicates that their evaluations are overwhelmingly positive. Case Western Reserve has a law school honor court and/or an honor code, but does not have a written pledge or commitment to their honor code.

2005 White Paper

Case Western Reserve University Law School did not respond to the previous survey.

- **University of Akron C. Blake McDowell Law Center**, Akron, Ohio

According to University of Akron C. Blake McDowell Law Center, the state of Ohio does not have a mandated or suggested professionalism orientation program. Akron School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program, which is mandated for the school. The orientation program is approximately four days long. Akron distributes materials to the students during the orientation program, but no videos are shown. Practicing lawyers participate in the orientation program. Students are provided with a survey to evaluate the orientation program. Akron has an Honor Code and students are required to sign the pledge on every exam. In addition, the students take an Oath of Professionalism, which is given on the first day of orientation:

“I, _____, understand that I am joining an academic community and embarking on a professional career. I acknowledge and privileges inherent in becoming a lawyer and willingly accept the responsibilities entrusted to me by the bench, the bar, and the public. I promise to uphold the ideals of my chosen profession and standards of academic honesty and ethical practice throughout my training and professional life. To strengthen the law school community, I will conduct myself with dignity and civility and will treat all of my colleagues—students, staff and faculty—with kindness and respect. I vow to be a person of principle, compassion, strength, and courage. I take this pledge freely and upon my honor.”

Akron Law School endeavors to instill a sense of professionalism in students throughout their law school experience by programming through the Miller-Becker Center For Professional Responsibility, by offering doctrinal

classes and emphasizing participation in clinics. Speakers in past orientation programs have included various professors.

2005 White Paper

In the past, the *Moliterno* book was distributed to students during orientation and the video *Alloway Garage* was shown. Students did not evaluate the program at that time. The school had an Honor Code pledge and students were required to sign the pledge on every exam (as is the practice today).

OKLAHOMA

- **University of Tulsa College of Law**, Tulsa, Oklahoma

According to the University of Tulsa College of Law, the state of Oklahoma does not have a mandated or suggested professionalism orientation program. University of Tulsa College of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. Every year, the University of Tulsa College of Law has a mandatory professionalism requirement. The course, titled Professional Responsibility, is required and throughout the year, the Professional Development Office hosts speakers and events that focus on professionalism. Practicing lawyers serve as speakers during orientation and mentors throughout the law school experience. The speakers at the most recent orientation programs, that spoke on professionalism, included the Honorable John Dowdell, Jamie McDonald, prior law clerk to Chief Justice Roberts and the Honorable Jane Wiseman. Materials are distributed to the students at the orientation program and videos are sometimes shown. Documentaries regarding Enron and Hot Coffee have been shown. There are no student breakout sessions during the orientation program, nor do students evaluate the orientation program. The University of Tulsa College of Law has an honor court/honor code and a written pledge or commitment to the honor code. In addition, the University of Tulsa College of Law has a law student Oath of Professionalism.

2005 White Paper

The University of Tulsa College of Law did not respond to the previous survey.

PENNSYLVANIA

- **Drexel University Thomas R. Kline School of Law**, Philadelphia, Pennsylvania

According to Drexel University Thomas R. Kline School of Law, the state of Pennsylvania does not have a mandated or suggested professionalism orientation program. The law school has a professionalism/ethics component that is a differentiated part of the overall orientation program, which is mandated by Drexel Law. Drexel Law focused on three areas of professionalism in the August 2013 orientation: (1) Professionalism in the Community: Character and Fitness for the Bar; (2) Professionalism in Pro Bono Placements at the Workplace; and (3) Professionalism: Networking with Judges, Attorneys and Alumni. The professionalism presentations are a combination of large group lecture and discussion, as well as small groups of 10-15 led by professionals. Practicing lawyers participate in the orientation program. In the beginning of the second semester, when 1Ls return early for a week-long class on Interviewing, Negotiating, and Counseling, a professional is invited to come in to reiterate the professionalism message by speaking specifically about effective communication. Conversations about professionalism happen on an on-going basis. Each year, ten attorneys from different practice areas meet with groups of students to discuss the professionalism challenges in their areas of specialty. Drexel Law has done this for several years, and these attorney-led, hour long discussions are very popular with the students. The speakers at the most recent orientation programs that spoke on professionalism included: (1) the Dean of Students and Director of Student Advising, who spoke on Professionalism in the Community: Character and Fitness for the Bar and Professionalism in Pro Bono Placements and the Workplace; (2) the Associate Dean for Career Strategies, who spoke about Professionalism: Networking with Judges, Attorneys and Alumni; and, (3) Cheryl Cutrona, the Executive Director of Good Shepard Mediation, who spoke on Communication and Conflict Management Skills. The students are not given any specific materials about professionalism during orientation. However, the presentations are posted on the school's intranet. Videos were shown in the past, but Drexel Law now uses its own materials (slides and discussion). Students evaluate the orientation. Drexel Law operates under a Code of Conduct but does not have a written pledge of commitment to standards of professionalism or conduct. Drexel Law added that a written pledge of commitment may be a worthwhile consideration.

2005 White Paper

Drexel University Thomas R. Kline School of Law did not respond to the previous survey.

TEXAS

- **St. Mary's University School of Law**, San Antonio, Texas

According to St. Mary's School of Law, the state of Texas does not have a mandated or suggested professionalism orientation program. During the overall orientation program, there is a professionalism/ethic component, but such component does not receive differentiated treatment. St. Mary's is working to endeavor to instill a sense of professionalism in students throughout their law school experience via the assessment process. Practicing lawyers participate in the orientation program and provide a general welcome to the profession. The speakers at the most recent orientation programs included local alumni and the President of the Alumni Board, who gave a general welcome. Materials are distributed to the students at the orientation program, but no videos are shown. The nature and extent of new law student participation/interaction during the orientation program includes a general discussion organized by section. The students do not evaluate the program. St. Mary's School of Law has an honor code.

2005 White Paper

St. Mary's University School of Law did not respond to the previous survey.

WASHINGTON

- **Gonzaga University School of Law**, Spokane, Washington

According to Gonzaga University School of Law, the state of Washington does not have a mandated or suggested professionalism orientation program. Gonzaga University School of Law has a professionalism/ethics component that is a differentiated part of the overall orientation program. All 1L students are required to take and complete two courses that incorporate professionalism: Litigation Skills with Professionalism Lab and Transactional Skills with Professionalism Lab. Representatives of the State Bar regularly participate and discuss professionalism during the orientation program. Materials are distributed to the students at the orientation program, but no videos are shown. During the orientation program, students are randomly assigned to breakout sessions. Students evaluate the orientation program. Gonzaga University School of Law has an honor court and/or honor code. There is no written pledge or commitment to the honor code or to any standards of ethics or professionalism.

2005 White Paper

Gonzaga University School of Law did not respond to the previous survey.

WASHINGTON D.C.

- **Georgetown University Law Center**, Washington, D.C.

According to Georgetown University Law Center, the school has a professionalism/ethics component which is a differentiated part of the overall orientation program. Georgetown Law's orientation is a week-long program with various mandatory, recommended and optional events. All entering J.D. candidates, both full-time and part-time, must attend four (4) mandatory sessions scheduled for their sections. The entire entering class is also invited to various other events throughout the week. Required events, in which attendance is mandatory for all students, includes: Welcome, Registration, and Financial Aid Section; Introduction to Law School; Introduction to Professional Responsibility; Legal Ethics, and Professionalism; and an overview of the Georgetown Law Library and Technology Resources. Optional events allow students to experience the D.C. cultural sites, learn about orientation service projects, and have dinner with peer advisors.

The "Introduction to Professional Responsibility, Legal Ethics, and Professionalism" session includes two (2) components: (1) a discussion with a Professional Responsibility faculty member and, (2) a presentation by Deans from the Georgetown Law career services, public interest, and clinical programs & experiential education offices. For the first half of the session, the incoming 1L class engages in a discussion of professional responsibility with a faculty member using case studies of lawyer/client interactions with potential ethical concerns. This discussion introduces some of the most common ethical concerns shared by lawyers and gives students a sense of the potential conflicts and issues they will face in the profession. For the second half, the Deans help students understand that as law students they have already entered into the legal profession, share information on student programs focused on professional identity, and give guidance on basic professional courtesies. In addition, students are required to attend, "Introduction to Law School" which provides students with a general introduction to classroom expectations, required preparation, and important student resources.

In the last three years, each section has attended mandatory sessions with the following speakers:

- **"Introduction to Law School"**: A faculty member teaching in that section, the Dean of Students, a Counseling and Psychiatric Services clinician, the Director of Disability Services, and the Director of Student Life; and,
- **"Introduction to Professional Responsibility, Legal Ethics, and Professionalism"**: A faculty member teaching Professional Responsibility courses, the Assistant Dean of Career Service, the Assistant Dean for Public Interest and

Community service, and the Assistant Dean of Clinical Programs and Experiential Education.

Georgetown Law's orientation programs are conducted by the faculty and administration, a number of whom continue to practice law at the highest levels. Adjunct faculty who are also practicing lawyers occasionally participate in the orientation programs. Students do receive materials at orientation, including information on classes, registration, financial aid and other resources. Other notable literature includes, Academic and Counseling Resources, Counseling and Psychiatric Services, Sexual Assault and Relationship Violence Services, Office of Disability Services, and D.C. Lawyer Assistance Program. Students also have the opportunity to engage with faculty during "Faculty Talks" – a series of discussions on current legal trends. No videos are shown and Georgetown Law does not have an honor code or a written pledge of commitment to any standards of ethics or professionalism.

In the curriculum, all students must take at least one course from a myriad of professional responsibility courses offered at Georgetown Law. Students are also given the opportunity to select a course from Georgetown Law's vast experiential learning curriculum, which includes externships, practicums, and clinics. In all of the experiential learning settings, considerable attention is paid to the ethical and professionalism issues that are either arising or could arise in a particular workplace or type of lawyering.

In addition, students have a plethora of opportunities to develop important professionalism competencies outside the classroom. For example, Georgetown Law's 1L Leadership Academy is approximately 40 hours of instruction in which a cohort of students are taught a broad range of professional competencies, ranging from leadership skills and value assessments to collaborative problem-solving. Moreover, Georgetown Law offers annual training for the several hundred student organization leaders which typically includes programs on various aspects of professionalism and organization management. In these, and other extracurricular settings, supervising faculty and student affairs professionals focus on instilling in students a commitment to ethical leadership and decision-making.

Although a survey to evaluate orientation is administered every three (3) to four (4) years, students are encouraged to share comments regarding orientation with the Office of the Dean of Students (ODOS) and provide feedback on orientation during the annual first-year student focus group lunches with ODOS in the spring. When the survey is administered, historically, Georgetown Law has found that students are satisfied with the content of orientation programs.

2005 White Paper

Previously, Georgetown Law indicated that they had three (3) components which related directly to professionalism. First, a prominent lawyer would give a keynote address to students. Today, that session is still given, however, the address is not mandatory. Second, the five entering sections each attended a ninety (90) minute class on professional ethics. The class was led by a faculty member and often a member of the Bar to help lead the discussion. The same is true today, although the class and discussion is led solely by a faculty member and the session lasts approximately two (2) hours. Third, the law school offered students the opportunity to participate in a service project and the same remains true today. Prior to orientation students were asked to read "*Make No Law*" by Anthony Lewis and during orientation students were given the Model Rules of Professional Responsibility and the U.S. Constitution.

VIRGINIA

- **University of Richmond School of Law**, Richmond, Virginia

The University of Richmond School of Law has a professionalism/ethics orientation program that is conducted separately from the general orientation program. The separate orientation program is run by the Virginia State Bar and is entitled, "Professionalism for Law Students". The program, which is approximately three (3) hours, entails a plenary session in which members of the Virginia legal community, including the Dean of the University of Richmond School of Law, who speak to the incoming 1L students. After the plenary session, students go into break-out sessions and discuss hypothetical situations with members of the judiciary and practicing attorneys as facilitators. Students arrive at solutions by working with fellow small group members and facilitators. Materials are distributed to students as part of this professionalism/ethics orientation program. This program is mandatory for all students who attend Richmond Law. No videos are shown. The students are asked to evaluate the program. Richmond law has an honor code and a written pledge/commitment to that honor code, which states:

"In registering as a student in the University of Richmond School of Law, I agree to abide by and support the Honor System of the Law School as put forth in the Honor Code. I agree not to lie, cheat or steal, and submit to the jurisdiction of the Honor Council for adjudication of any matter within the scope of its authority."

In order to instill professionalism in students throughout their law school experience, Richmond Law requires all students to matriculate in a Professional Responsibility course. The Law School also offers three other electives that place primary emphasis on ethics within the substantive area of the law. Richmond Law offers a strong array of clinics with each placing an emphasis on professionalism and ethics in practice.

2005 White Paper

The University of Richmond School of Law did not respond to the previous survey.