COMMISSION ON DIVERSITY, EQUALITY, & JUSTICE

AGENDA

Thursday, May 21, 2026
1:00 p.m. – 3:00 p.m.
Conference Call: 888-788-0099
Join Zoom Meeting
Meeting ID: 973 3404 71486
Passcode: 166338

State Courts Building • 1501 W. Washington St. • Phoenix, Arizona • Conference Room 106

REGULAR BUSINESS

1:00 p.m.	Call to Order/Welcome	*Judge Frankie Jones, Chair*
1:05 p.m.	Approval of February 5, 2026, Minutes ☐ *Formal Action/Request*	*Judge Jones*

BUSINESS ITEMS/POTENTIAL ACTION ITEMS

1:10 p.m.	Accessibility Assessment of Arizona Court Buildings	*Judge Randall Howe, Judge Joe Mikitish, Judge David Gass*
1:30 p.m.	New Federal ADA Requirements	*Jeff Schrade, Deputy Director, AOC*
1:50 p.m.	Arizona Lawyers for Equal Justice	*Judge Berry, Judge Song Ong*
2:05 p.m.	Legislative Update	*Jack Moody, Legislative Liaison*
2:25 p.m.	Why We Think We Have DEI Fatigue	*Dwayne Burns, Esq., President – Maricopa County Bar Association*
2:40 p.m.	State Bar of Arizona Professionalism Course – Diversity and Inclusion Components	*Judge Jones*
2:55 p.m.	Updates From CODEJ Pipeline Workgroup	
	A. Chris Nakamura Workshop	*Judge Jones*
	B. Legal Futures	*Judge Jones, Ray English, Member*

OTHER BUSINESS

3:15 p.m.	Good of the Order / Call to the Public	*Judge Jones*
3;20 p.m.	Adjourn	*Judge Jones*

Next Meeting
Thursday, September 17, 2026, at 1 p.m.
Hybrid Meeting

2026 Meeting Dates
Thursday, November 19, 2026

The agenda item times are approximate. The Chair reserves the right to set the order of the agenda. Please contact Elsa Robbins, staff of the Commission on Diversity, Equality, and Justice in the Judiciary, at (602) 452-3360, with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Chelsey Kinney at (602) 452-3547. Requests should be made as early as possible to allow time to arrange for the accommodation.

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/21/2026	☒ Formal Action/Request ☐ Information Only ☐ Other	Approval of February 5, 2026 Meeting Minutes

Submitted By: Elsa Robbins

Presenter(s):

Judge Frankie Jones, Chair

Description of Presentation:

Discussion/Approval/Disapproval of February 5, 2026, Draft Meeting Minutes

Recommended Motion:

Approve as presented.

Time Needed: 5 minutes

Commission on Diversity, Equality, and Justice in the Judiciary

Meeting Minutes
February 5, 2026
Hybrid Meeting

Present: Honorable Frankie Y. Jones, Chair; Honorable Lisa I. Abrams, Sybil Taylor Aytch, Alfred Ray English, Professor Patricia Ferguson-Bohnee, Honorable David Gass, Honorable Geri Hale, Honorable Randall M. Howe, William H. Knight, Honorable Susanna Pineda, Alberto Rodriguez, Honorable Alicia M. Skupin, Honorable Alisha Villa, Honorable Joan Wagener

Absent/Excused: Honorable Marianne T. Bayardi, Shanda Breed, Sharesa Brown, Honorable David Cunanan, Susan Kelly, Honorable Roy "Chuck" C. Whitehead,

Guests: N/A

Administrative Office of the Courts (AOC): Michael Malone

CODEJ Staff: Theresa Barrett, Elsa Robbins, Chelsey Kinney, Vada Layan, Diana Tovar

I. REGULAR BUSINESS

Welcome and Opening Remarks

The February 5, 2026, meeting of the Committee on Diversity, Equality, and Justice in the Judiciary (CODEJ) was called to order by Judge Frankie Jones, Chair, at 1:10 p.m.

Approval of Minutes.

The draft minutes from the November 13, 2025, meeting were presented for approval.

> **Motion:** To approve the November 13, 2025, minutes as presented. **Motion carried.**

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Commission Membership.

The Commission discussed new member recruitment, expiring appointments, and their desire to identify individuals who want to serve on CODEJ, noting the importance of geographic diversity and diverse membership. There has been a decline in rural membership since the COVID-19 pandemic - the hybrid meeting format may attract new members in those areas. One member expressed interest in continuing to serve and offered to assist with outreach to affinity bar associations. Another member indicated that he could share information about CODEJ membership with a group for persons with disabilities that he participates in.

The CODEJ Chair emphasized the importance of beginning recruitment efforts now, in preparation for June appointments, and suggested creating a recruitment flyer that members can distribute.

While the Administrative Code of Judicial Administration (ACJA) 1-107 indicates groups from which members must be selected, it does not limit the number of members that can serve on CODEJ.

B. County Civic Citizens Academy.

Shanda Breed, CODEJ member, was not present, and this item will be revisited at the May meeting.

C. Rule of Law Day.

The Arizona Rule of Law Day ceremonies will be held across all counties on Thursday, February 12, 2026. To celebrate the 250th Anniversary of the Declaration of Independence.

The Speaker line-up include Chief Justice Ann Timmer, Justice Maria Cruz, Judge Pamela Gates, and Sam Sachs, who is the President of the State Bar of Arizona.

The CODEJ Chair encouraged members to attend the events and emphasized the importance of reflecting on the rule of law during these challenging times.

A CODEJ member encouraged a strong promotional push for the AOC's new podcast on YouTube. The podcast will launch a three-part series on the same day as Arizona Rule of Law Day and will feature discussions on the rule of law with Chief Justice Timmer and former Chief Justice Thomas A. Zlaket. A new episode in the series will be released every two weeks.

D. Events Across the State.

A CODEJ member reported that the AOC will host an upcoming fireside chat featuring Israeli Supreme Court Justice Daphne Barak-Erez, moderated by former Chief Justice Scott Bales. The event is scheduled for Wednesday, February 11, 2026, and will focus on the topic, "Courts Working During Times of Crisis."

E. **Updates From CODEJ Pipeline Workgroup (taken out of order).**

- **Chris Nakamura Workshop (CNW)** – The CODEJ Chair provided an update on the upcoming Chris Nakamura Workshop at the State Bar of Arizona Annual Convention 2026 in Tucson. The workshop will feature two separate panels of judges. The first panel will include judges from various benches to discuss their respective judicial appointment processes, and the second panel will include members of the Commission. The convention will take place June 24–26, 2026. CODEJ will present on Wednesday, June 24, 2026, between 8:00 a.m. and 12:00 p.m. The Chair welcomed members who are interested in attending.

- **Legal Futures 2026** – The Commission discussed the progress and challenges associated with implementing the Legal Futures program in several locations across Arizona. The Legal Futures Workgroup Chair reported successful planning efforts in four standard locations—Flagstaff, Yuma, Tucson, and Phoenix. However, he noted difficulties establishing the program in Tuba City and other tribal communities due to communication challenges. Members discussed strategies to increase outreach to schools, including developing a promotional video and leveraging existing connections with organizations such as the Arizona Bar Foundation. Another member suggested reaching out to tribal schools through local contacts and teacher networks to improve engagement. The discussion concluded with updates on RSVPs for the upcoming events, with several schools confirming their participation.

  Event Locations and Dates:
  - **Flagstaff – Thursday,** March 26, 2026
  - **Phoenix – Thursday,** April 9, 2026
  - **Tucson – Friday,** April 10, 2026
  - **Yuma – Friday,** April 10, 2026

F. **Achievements.**

- **Professor Patty Furgeson-Bohnee** received the Indian Nations and Indigenous People Clinic Impact award from the Association for American Law Schools.
- **Sybil Taylor Aytch** was appointed to the Character and Fitness Committee at the AOC.
- **Judge Frankie Jones (Chair)** was appointed to the Indigent Defense Study Advisory Committee.

G. **Future Commission Meeting Discussion.**

A CODEJ member raised the topic of expanding Judge David Gass's judicial internship program statewide. Another member offered to contact the Minority Judges Caucus to explore opportunities for collaboration and support.

Staff suggested highlighting the internship program at upcoming Legal Futures events to increase awareness and engagement.

Call to the Public: N/A

Adjournment: The meeting adjourned at 1:30 p.m.

Next Meeting: May 21, 2026, 1:00 p.m.

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/21/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	Accessibility Assessment of Arizona Court Buildings

Submitted By: Elsa Robbins

Presenter(s):

Judge Randall Howe, Judge Joe Mikitish, Judge David Gass

Description of Presentation:

They will provide a short presentation about the history of the assessment and the need for an update

Recommended Motion:

NA

INTRODUCTION

The State Bar of Arizona, Committee on Persons with Disabilities in the Legal Profession, is pleased to present the results of its Arizona Courthouse Accessibility Survey.

Description of the Committee on Persons in the Legal Profession with Disabilities

The State Bar of Arizona created the Task Force on Persons with Disabilities in the Legal Profession in 2001 to study the underemployment of individuals with disabilities in the legal profession and to propose solutions. It was, and remains, comprised of lawyers, the majority of whom have a disability. In 2004, the State Bar awarded full committee status to the Task Force, a decision reflecting the long-term needs of persons with disabilities to gain access to the Arizona legal profession and its resources, and the appropriateness of the State Bar providing leadership in this area. The State Bar recognizes that individuals with disabilities are entering the legal profession in increasing numbers, bringing both unique skill sets and requirements for accommodations. The scope of the Arizona community of individuals with disabilities and the diversity of their physical challenges are very substantial, including persons who are blind or who have vision limitations, individuals who are deaf or hard of hearing, and persons requiring mobility assistance in the form of a wheelchair, crutches or a cane. The demographics concerning the aging of the Arizona workforce and extended working years before retirement mean that employers in the legal profession will deal with more individuals with disabilities in the future. The justice system has a responsibility to assure that all who need access to the system are not hindered by reason of disability. The State Bar Committee on Persons with Disabilities in the Legal Profession studies these challenges and provides practical, relevant guidance to the State Bar in response.

The Committee has several subcommittees: Information, Coordination, Education, Employment and Accessibility. The Education Subcommittee has produced several articles about issues facing legal professionals who have a disability and has created an informational brochure which has been distributed widely throughout the Bar. Information on accommodations and resources, including employment resources, and FAQs may be found at the Committee's web site, www.azbar.org (click on committees and access information in that manner). Two Presidential award programs have been presented at the annual state bar convention in 2003 and 2004. The committee currently is developing its mentoring program and will co-sponsor a national job fair for lawyers and law students with disabilities in the fall of 2005.

The Accessibility Committee and the Evolution of the Courthouse Survey

The cornerstone of the Committee's efforts for the past two years has been its accessibility survey. The statewide Courthouse Accessibility Survey Project involved teams of three to five committee members who visited the sites, took digital photographs and wrote detailed reports on special accommodations and suggestions for additional, low cost accommodations. This statewide survey of entire county courthouse structures is one of the first of its kind undertaken by a state bar association in the nation. The first survey was completed at Pinal County Superior Court in October, 2003. Nearly one year to the day later, the survey concluded at the new Pinal County

facility. The teams visited city, county, state, federal and tribal courthouse facilities, containing 39 separate courts of competent jurisdiction. Those courts are:

1) Flagstaff Justice Court
2) Glendale Justice Court
3) Gilbert Justice Court
4) Lake Havasu Justice Court
5) Maryvale Justice Court
6) Safford Justice Court
7) St. John Justice Court
8) Scottsdale Justice Court
9) Gilbert Municipal Court
10) Phoenix Municipal Court
11) Tucson Municipal Court
12) Apache County Superior Court
13) Cochise County Superior Court
14) Coconino County Superior Court
15) Gila County Superior Court
16) Graham County Superior Court
17) Greenlee County Superior Court
18) La Paz County Superior Court - Parker Facility
19) Maricopa County Superior Court (downtown facility, old courthouse)
20) Maricopa County Superior Court (downtown facility, new courthouse, all three towers)
21) Maricopa County Superior Court – City of Mesa
22) Maricopa County Superior Court - City of Surprise
23) Maricopa County Superior Court - City of Glendale
24) Mohave County Superior Court - Kingman Facility
25) Mohave County Superior Court - Bullhead City
26) Mohave County Superior Court - Lake Havasu City
27) Navajo County Superior Court
28) Pima County Superior Court
29) Pinal County Superior Court, old facility
30) Pinal County Superior Court, new facility
31) Santa Cruz County Superior Court
32) Yavapai County Superior Court
33) Yuma County Superior Court
34) Arizona State Court of Appeals (Division Two - Tucson)
35) Arizona State Court of Appeals (Division One - Phoenix)
36) Arizona State Supreme Court
37) U.S. Federal Courthouse (Tucson)
38) U.S. Federal Courthouse (Phoenix)
39) Tonto Apache Tribal Court (Payson)

The Deliberative Process Leading Up to the Survey

During 2002, in the course of Task Force discussions concerning employment challenges which persons with disabilities face in the legal industry, the topic of county, state and federal employment arose. As part of the analysis of employability of persons with disabilities in those public settings, the Task Force thought it beneficial to address the issue of courthouse accessibility. If persons with disabilities, whether lawyers, judges, legal assistants and secretaries, or any type of employee, cannot negotiate the physical challenges posed by a courthouse structure, then long-term, successful employment experiences in those settings are unrealistic. Accordingly, the Task Force determined that it was within the scope of its mission, increasing the employment of persons with disabilities in the legal industry, to survey several courthouses in the state for ideas and innovations regarding accommodations for persons with mobility and sensory challenges.

Initially, the Task Force's goal was to assemble survey responses from members of the State Bar of Arizona, regarding courthouse experiences. It was hoped that the responses would provide insight into challenges and accommodations for persons with disabilities. The Task Force understood that some of the courthouses would have the advantage of post-ADA design, and that some struggle with limited budgets or with other challenges such as historical designations of the buildings which housed them. From the outset, the purpose was to respond to the input from state bar members and to let the survey be guided, if not driven, by that input.

However, the goal of statewide distribution and collection of completed, thorough responses to an effective disability survey, proved unrealistic. An appreciation of a courthouse facility's construction, along with its daily traffic, its employees, and its budgetary constraints, all in the context of accessibility for persons with a variety of disabilities, requires assembling an extensive set of facts not easily reported in a questionnaire. As a result, the Task Force determined that the only appropriate way to assemble a helpful database for sharing accommodation ideas and innovations for new courthouse designs, along with retrofitting existing courthouses, was to visit all Superior Court facilities in Arizona. Given the geographic scope of Arizona, this was a formidable challenge. And given that the survey was undertaken prior to much of the current focus that the U.S. Supreme Court decision of *Tennessee v. Lane* has engendered, the Task Force was venturing into new territory, from a logistical, technological and diplomacy perspective.

Many of the initial conference calls regarding the survey involved how to reach out to courthouse administrators and explain the supportive and unintrusive nature of this partnership effort. For these surveys, the designated team leader would ordinarily contact the courthouse administrator, introduce the Task Force and its mission, and work with him or her to designate the date and time of the survey. The State Bar Task Force Liaison, Carrie Sherman, then normally sent preliminary, explanatory materials concerning the Task Force and its mission, signed by representatives of the Task Force and Accessibility Committee, with the site visit team again presenting those materials onsite. On preliminary Task Force conference calls, the mechanics of the surveys were frequently discussed, such as the importance of digital photographs, parts of the buildings to survey, and the courteous tone and manner required of all team members. To that end, courthouse checklists evolved for use in the courthouse surveys, which survey teams typically used.

While most of the Task Force members were familiar with ADA specifications, at least in general terms, the Task Force made a conscious choice NOT to focus on ADA specification compliance, and instead to focus on practical usability for individuals with disabilities. As part of that strategy, survey teams normally included at least one person with a mobility or sensory challenge. As a result, more time was spent in dialogue with courthouse administrators regarding practical, low-cost, but critical accommodations, as opposed to technical compliance. The State Bar professed no specific expertise or desire to inspect, document and enforce such requirements. The mission of the Accessibility Survey was to enhance the knowledge base of courthouse administrators and the accessibility of the experience of courthouse users with disabilities. In this Committee's opinion, the survey stayed true to that goal.

Organizing Principles For The Courthouse Accessibility Survey Effort

Team Leaders were Task Force members. Task Force members all discussed at length the supportive, non-adversarial nature of these visits, and were fully encouraging of the accessibility efforts of the staff of the courthouses visited. The general guideline was this – for every reported barrier to accessibility, the team should record at least two positive accessibility aspects of the courthouse. Those positive aspects are there; teams just had to notice them.

The point of each site visit was to identify innovations in accessibility, and to share those ideas with the presiding judges, courthouse administrators, and facilities management at other Arizona courthouses, through a common database. To achieve this goal, this report will be available in a limited number of print and CD Rom copies, and will soon be posted on the State Bar of Arizona website. The electronic database will permit the fullest possible consideration of successful accessibility design in new facilities or remodels of existing ones, and low-cost, retrofit accommodations for disabilities where no other change is to occur. Helpful, but relatively inexpensive accommodations observed during courthouse visits to date, include: accessibility signage, non-automated doors adjusted to decrease pull tension, latch door handles as opposed to round ones, and bathroom modifications such as wing handle faucets. The supportive attitude of each site visit team is a primary reason that survey teams have been so well-received.

As part of each visit's introduction, the team members and the courthouse personnel routinely discussed the scope of courthouse users potentially benefiting from accessibility accommodations. They include: persons with either permanent or temporary disabilities, senior citizens, women who are pregnant, persons in need of real-time language translation, and attorneys transporting and operating expensive computer and display equipment. Those courthouse users benefit from automated or easy-opening doors, accessible jury boxes, widened gallery doors into a courtroom's "well," electronic courtroom display and listening equipment, and other accommodations that overcome logistical barriers to effective criminal and civil proceedings. Courthouse personnel, during the 39 surveys conducted, took time from busy schedules to display the accessibility of their courthouse facilities, and to discuss similar efforts of other courthouses participating in the survey. The result of all of this work is the report you find in these pages.

Ingredients of the Survey's Success

The Task Force offers this "road map," believing that while the State Bar of Arizona had several advantages in this process over many state bar organizations, much of this survey's success

can be replicated in any other state. The State Bar Committee benefited enormously from the Task Force leadership of State Supreme Court Justice Michael D. Ryan, and other members of the Arizona Bench who use a wheelchair daily, such as the late Maricopa County Superior Court Judge John R. Sticht. Justice Ryan's and Judge Sticht's influence on raising awareness of the importance of accessibility to courthouses for persons with disabilities cannot be overstated; it was a palpable part of the responsiveness of courthouse staff throughout this state to the survey.

A large part of the survey's success also can be attributed to the attitude of all who participated in them. The State Bar approached the survey from a practical, budget-friendly perspective, in a mindset that was wholly supportive of ongoing courthouse efforts to make their facilities convenient for all members of the public, including persons with disabilities. Most of the courthouse employees with whom the State Bar met work in those structures on a daily basis, and take very personally the success or failure of their delivery of services - as they should. A respect for and an assumption of a longstanding determination of the County Court staff and facilities management to provide service to the public, and of the many unique challenges which courthouse administrators, staff and other court personnel face on a daily basis, were critical to the survey's success. That attitude is also easily transplanted to every other State Bar's survey efforts.

We learned that a friendly, supportive accessibility survey effort almost always paves the way for enthusiasm and support from courthouse staff, and that a confrontational approach almost certainly would have failed. We chose the former, and feel that the Arizona community of individuals with disabilities will enjoy the benefits of that discretion for years to come.

The success of this survey depended in substantial part upon courthouse staff, non-attorney members of the public and non-Committee members of the Bar. Non-members of the Committee deserving special credit for their work on this survey include Sarah White, third year student at ASU Law School. Sarah has total hearing loss, and traveled to the overnight courthouse surveys in Greenlee, Graham and Apache Counties. Christina Larson, paralegal at Jaburg & Wilk, P.C., shot and provided technical support for the digital photos for the five largest courthouses in Maricopa County, including the downtown Maricopa County multi-building complex, the Sandra Day O'Connor Federal Courthouse in Phoenix, and the Phoenix Municipal Courthouse. Kenna Dresback, secretary at Lewis and Roca LLP, formatted fifteen of the submitted reports, providing uniformity of presentation, in addition to editing content. Kerri Bourland, of KB Consulting, provided extensive technical support for embedding of the digital photography in the reports, a challenging and time-consuming task. Rob Hosch, Database Manager for the State Bar of Arizona, also provided similar technical assistance. Mitch Smith of TotalNetworkz built the digital platform map for the February, 2005 Accessibility Survey power points presentation for the U.S. Access Board. Gregory Fisher, attorney at Jaburg & Wilk, P.C., drafted reports for four courthouse facilities, including the Sandra Day O'Connor U.S. Courthouse. In the process, Gregory provided an early benchmark for report quality and thoroughness of presentation. Karin Scheehle, Firm Administrator of Baird, Williams & Greer, LLP, assisted in the final report compilation and CD Rom production for distribution. Special acknowledgement goes to the law firm of Jaburg & Wilk, P.C., whose computer network housed most of the survey reports, along with more than one thousand digital photographs, and whose technical staff provided extensive logistical support for the survey during this nearly two-year project.

This survey represents an entirely volunteer effort. It involved dozens of Committee members, members of the public, courthouse staff and members of the Bench. The word "thousands" is appropriate to describe the survey effort in more than one context: more than one thousand hours spent conducting the surveys, traveling to and from courthouses, and drafting, discussing and producing reports; thousand of miles of travel throughout the state by survey volunteers; and tens of thousand of dollars in secretarial, paralegal and attorney *pro bono* time and logistical support from the beginning of the survey to its conclusion. An effort that began as trial and error, concluded with a number of Task Force and Committee members likely qualifying as experts in courthouse accessibility and accommodations. This survey compilation acknowledges courthouse staff throughout Arizona, who have made disability access a priority, and assists other staff whose facilities have physical or financial challenges, to find practical solutions.

This survey is an expression of belief by Committee members and members of the Arizona legal profession, that individuals with disabilities play an important role in the judicial system, as employees and as parties to its proceedings. The challenges of conducting the survey were more than compensated for by a belief that the practical accessibility of Arizona courts for persons with disabilities is an important goal, and that this Accessibility Survey will bring Arizona closer to its realization.

We hope that you find this report helpful, and we welcome your ideas and contributions to this effort. Please visit the webpage for the State Bar of Arizona's Committee on Persons in the Legal Profession with Disabilities, at www.azbar.org.

Respectfully submitted,

The State Bar of Arizona's Committee on Persons with Disabilities in the Legal Profession.

Mary Birmingham	Leslie Cohen	Tom Collins	Ilona DeRemer
Roger Ferland	Scott Greeves	Randall Howe	Laura Todd Johnson
Grace McIlvain	Colleen McManus	Edward Myers	Paula Nailon
Dee-Dee Samet	Suzanne Scheiner	William Sheldon	

and

Sarah R. Simmons Committee Chair	Justice Michael D. Ryan Vice-Chair	James B. Reed Accessibility Subcommittee Chair

Emily Johnston
Board of Governors
State Bar of Arizona

Carrie Sherman
Director of Executive Projects
State Bar of Arizona

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/21/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	New ADA Federal Requirements

Submitted By: Elsa Robbins

Presenter(s):

Jeff Schrade, Deputy Director, AOC

Description of Presentation:

Recommended Motion:

NA

Digital Accessibility Checklist

This checklist is part of the Arizona Supreme Court's Digital Accessibility Guide. Refer to this checklist to check your WCAG compliance before designing a webpage or creating documents to ensure that accessibility is a consideration from the start.

Digital Accessibility Checklist

Structure & Navigation

- [ ] Use headings and subheadings to organize your content
- [ ] Use a clear and consistent navigation menu with meaningful page titles
- [ ] Ensure that your website follows a logical sequence
- [ ] Use descriptive links
- [ ] Provide a search function
- [ ] Ensure that your website is mobile-friendly
- [ ] Ensure that your website is accessible using keyboard-only navigation
- [ ] Consider defining ARIA (Accessible Rich Internet Applications) roles

Colors & Graphics

- [ ] Use high-contrast colors
- [ ] Avoid using color as the only means of conveying information
- [ ] Check color contrast ratios (4.5:1 for normal text and 3:1 for large text)

Images & Media

- [ ] Use alt-text to describe images
- [ ] Provide text-based alternatives for non-text content
- [ ] Use accessible image formats
- [ ] Provide captions and transcripts for videos
- [ ] Use accessible media players
- [ ] Avoid using flashing or strobing images

Fonts & Typography

- [ ] Use a legible font
- [ ] Use appropriate font size
- [ ] Use appropriate font weight
- [ ] Avoid using all caps
- [ ] Use proper line spacing
- [ ] Ensure proper formatting
- [ ] Highlight your links

Plain Language

- [ ] Use simple language
- [ ] Provide definitions
- [ ] Break up content
- [ ] Hierarchy of content
- [ ] Use active voice
- [ ] Use clear labels
- [ ] Use a single way to display time
- [ ] Format phone numbers uniformly
- [ ] Avoid lengthy paragraphs
- [ ] Use visuals
- [ ] Provide translations
- [ ] Check plain language guidelines
- [ ] Conduct user testing

PDFs & Word Documents

- [ ] Use proper heading structure
- [ ] Add alternative text for images
- [ ] Create accessible tables
- [ ] Ensure readability
- [ ] Use consistent layout
- [ ] Add bookmarks and navigation
- [ ] Provide a text-based alternative
- [ ] Add accessible hyperlink text and ScreenTips
- [ ] Always use “Save as PDF” or “Export” (not “Print to PDF”) to preserve accessibility tags
- [ ] Test your document for accessibility before converting to PDF

Forms

- [ ] Label form elements
- [ ] Clearly define form areas
- [ ] Indicate required fields
- [ ] Provide concise instructions
- [ ] Provide error and validation feedback
- [ ] Provide a placeholder for hint text and offer help text
- [ ] Provide details about next steps
- [ ] Test for keyboard navigability
- [ ] Test for accessibility

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/18/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	Arizona Lawyers for Equal Justice

Submitted By: Elsa Robbins

Presenter(s):

Judge Berry, Judge Song Ong (ret.)

Description of Presentation:

They will discuss how ALEJ began, the steering committee and current work being done.

Recommended Motion:

NA

Arizona Lawyers for Equal Justice (ALEJ)

Formerly known as Arizona Equal Justice Alliance)

1

ALEJ 2026

- **Mission**

Arizona Lawyers for Equal Justice empowers legal professionals to recognize and address barriers to justice through education, purposeful dialogue, and community collaboration to create a fair, impartial, and equal justice system for all.

- **Vision**

We envision a fair, impartial, and equitable legal system in which the promise of justice is realized for all.

2

HISTORY

- 2020
- Collaboration
  - ASU Center for the Study of Race and Democracy
  - State Bar of Arizona
  - State Bar Affinity Groups

3

Collaborative Bar Dialogue: Racism, Discrimination and Justice in the Legal Profession September 9, 2020

Community Event hosted by the SBA in collaboration with the ASU CSRD and Collaborative Bar members.

100+ attendees from the legal community and community at large

Dialogue moderated by CSRD Executive Director Lois Brown

4

Illuminating Bias, Confronting Systemic Racism and Injustice
December 1, 2020, SBA Convention

a. 86 attendees/Seminar Rating 4.9/5
b. Summary Report created. 4 areas identified for focus:
   i. Independent conflict resolution program for Arizona attorneys for issues related to microaggressions
   ii. Collaborative Bar History Effort
   iii. Equal Justice Education
   iv. Mission and Vision Statements

5

Illuminating Bias, Confronting Systemic Racism and Injustice **Virtual**- December 1, 2020, SBA Convention

Moderated by Dr. Lois Brown, ASU CSRD

- Vice Chief Justice Ann Timmer, Arizona Supreme Court; Joel England, Chief Executive Officer and Executive Director, State Bar of Arizona
- Hon. Colleen McNally, Maricopa County Superior Court (ret.) Hon. Marvin Davis, Maricopa County Superior Court, Commissioner.. Mina Mendez (ret)„ Hon. Hon. Carol Scott Berry (ret), Phoenix Municipal Court, Frankie Jones, Phoenix Municipal Court
- Attorneys, Timothy Overton„ Richard Davis„ Maricopa County Superior Court, Kristian Salter, Law Office of Rubin Salter Jr. Sonia Martinez, Law Office of Sonia Martinez

6

Lawyers as Leaders and Agents of Change June 16, 2021, SBA Convention

Across the legal field we have a leadership role and a duty to create a more just and equitable community. Panelists will reflect on issues in the legal profession that impact equal justice. Participants will discuss challenges, develop action plans and complete individual action items to advance equal justice.

- Vice Chief Justice Ann Timmer, Arizona Supreme Court
- Jarrett Adams, Jarrett Adams Law
- Allister Adel, Maricopa County Attorney
- Laura Conover, Pima County attorney
- Anthony Young, Southern Arizona Legal Aid

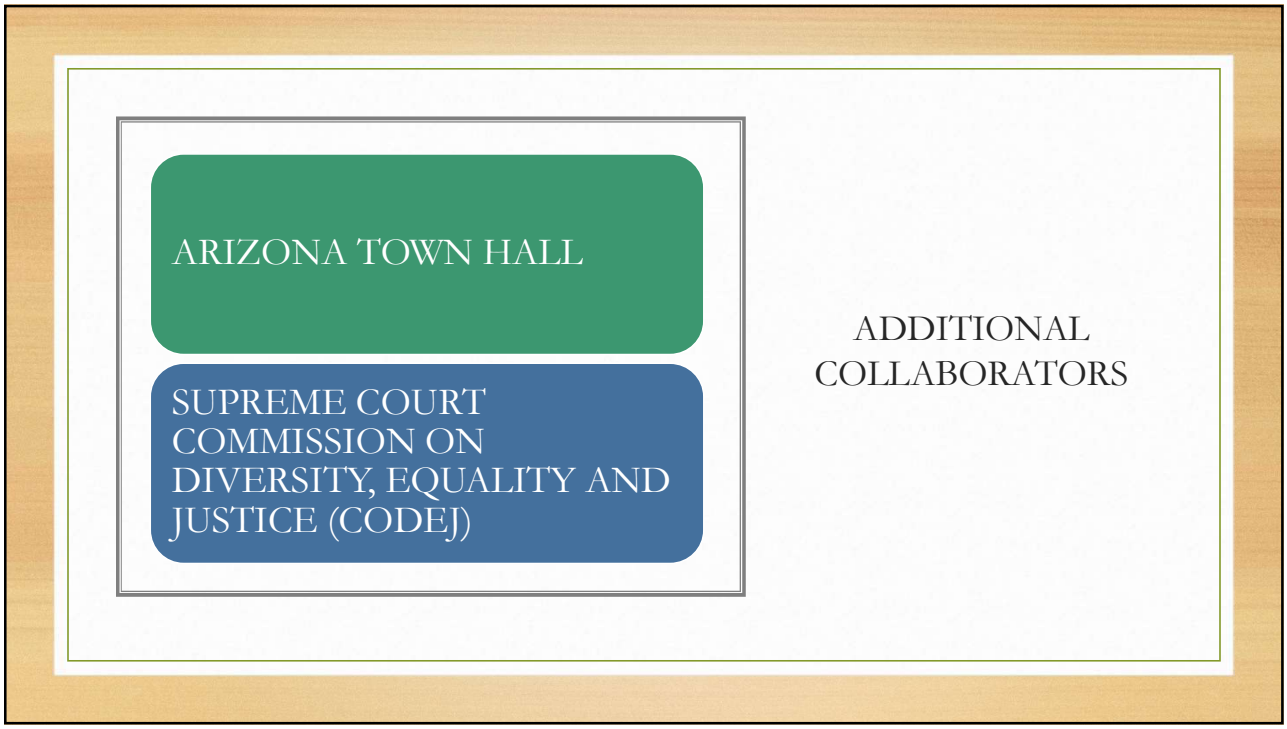
7

INITIAL COLLABORATORS

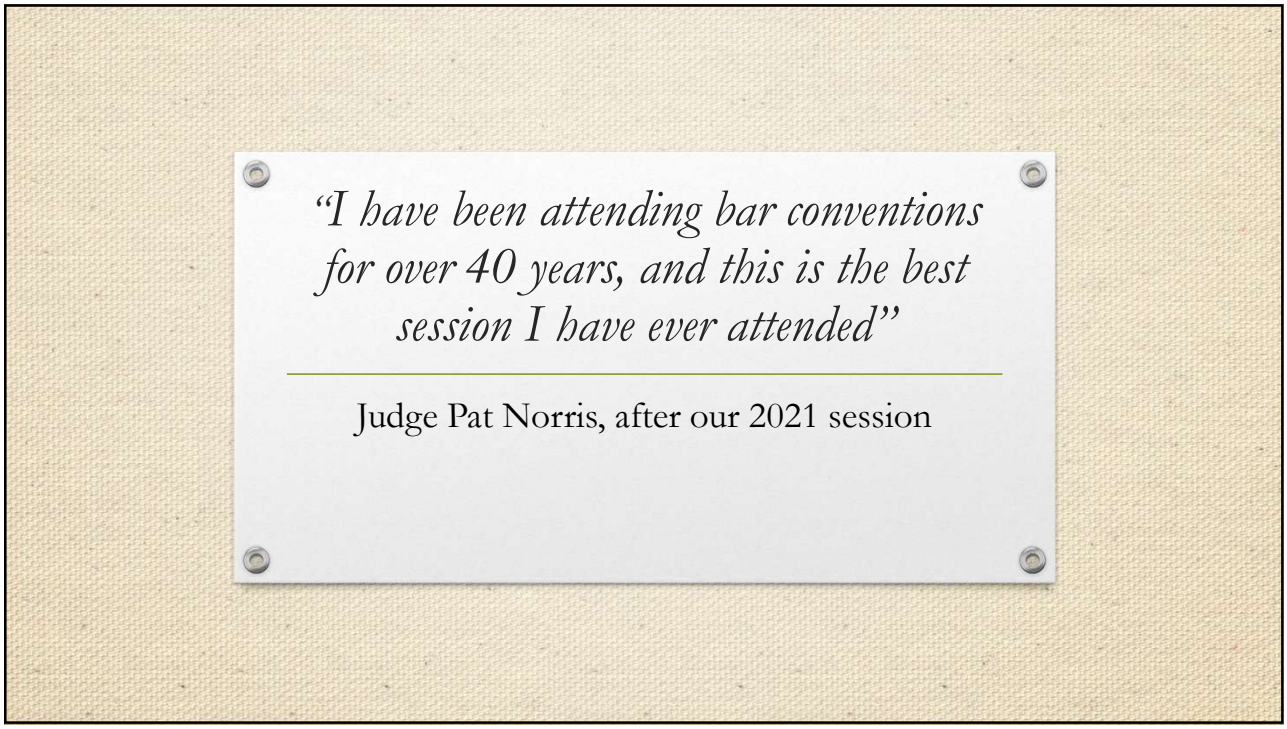
ASU CENTER FOR THE STUDY OF RACE AND DEMOCRACY

- Arizona Asian American Bar Association
- Arizona Black Bar
- Arizona Jewish Lawyers Association
- Arizona Women Lawyers Association Arizona
- Hispanic National Bar Association – Arizona Chapter
- Los Abogados Hispanic Bar Association
- LGBT Bar Association
- Native American Bar Association
- Iranian American Bar Association
- South Asian Bar Association

8


ARIZONA TOWN HALL
SUPREME COURT COMMISSION ON DIVERSITY, EQUALITY AND JUSTICE (CODEJ)
ADDITIONAL COLLABORATORS

9


"I have been attending bar conventions for over 40 years, and this is the best session I have ever attended"
Judge Pat Norris, after our 2021 session

10

SBA Convention Sessions

- June 2022-*Transformation Leadership: Equal Justice, Change and Commitment*
- June 2023-Advancing Justice: Access, Purpose and Practice
- June 2024-Balancing the Scales of Justice: Lawyers Leading the Charge

11

2025 SBA Session

Can we talk: Increasing public trust through equal justice for all

12

Comments

- I was pleasantly surprised by how productive the open discussion sessions were. Ideas were exchanged, resources, etc. Connections were made which will help advance justice. Well done.
- Fantastic and engaging information and conversations. Please offer again and again!
- Breakouts were great. Appreciate the targeted conversations with others
- Re-energized by this conversation and opportunity to speak with attorneys wanting to make change for the better a reality.

13

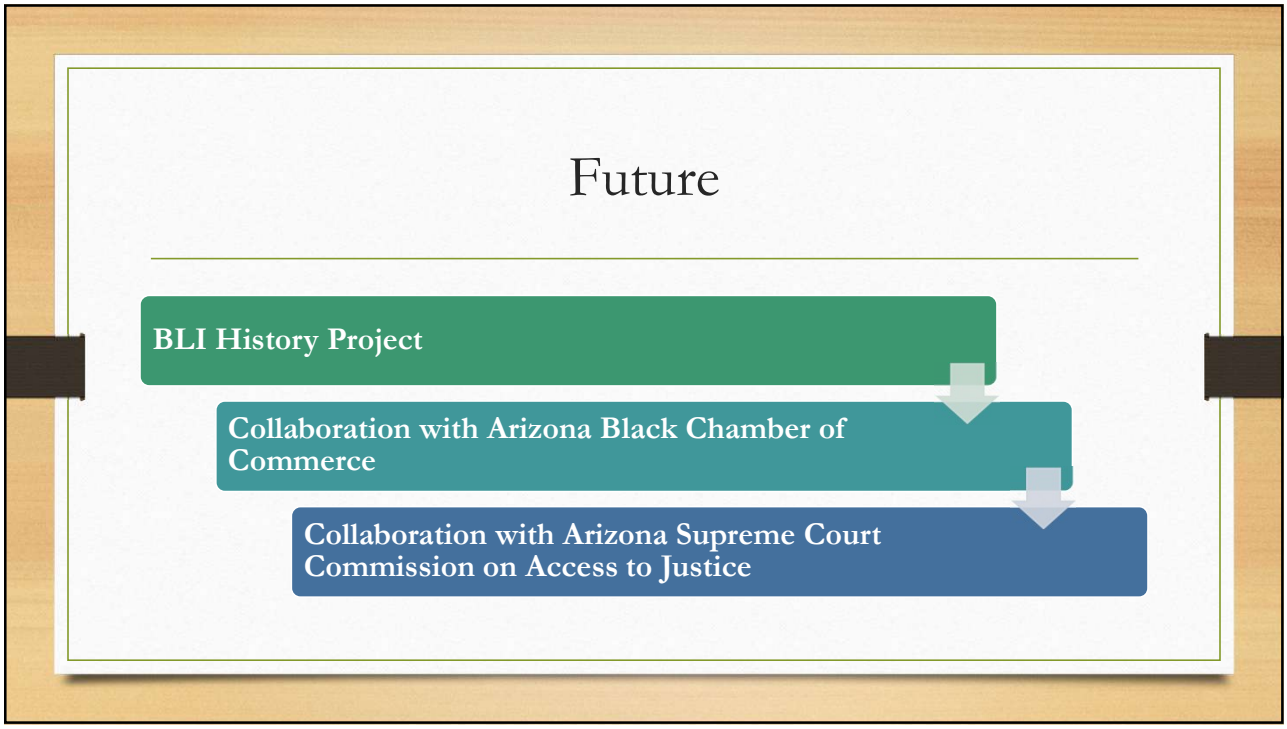
Comments

- Great program because content was done through discussion rather than lecture! Panels not really helpful but discussions were fabulous!
- Could have gone deeper as to causation
- I don't know if this will ever change people and make them respect each other

14

Collaborations
2024-Quest for Equal Justice & Career Fulfillment: Refining and Updating Your Mission and Values Statement
2023-Arizona Town & ALEJ at Pilgrim Rest Baptist Church
Arizona Town Hall-Featured group in 2023 Equity Report-"Equity in the Heart of the City"
2023-Trauma-Informed Legal Practice
2022-The Quest for Equal Justice and Career Fulfillment: Creating Your Mission and Value Statement

15


Future
BLI History Project
Collaboration with Arizona Black Chamber of Commerce
Collaboration with Arizona Supreme Court Commission on Access to Justice

16

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/21/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	Why We Think We Have DEI Fatigue

Submitted By: Sybil Taylor Aytch

Presenter(s):

Dwayne Burns, Esq., President- Maricopa County Bar Association

Description of Presentation:

Different perspectives on the impact of the attack on DEI

Recommended Motion:

NA

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/18/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	Legislative Updates

Submitted By: Rosana Hughes, Legislative Executive Assistant

Presenter(s):

Jack Moody, Legislative Liaison

Description of Presentation:

Recommended Motion:

NA

CODEJ Meeting 5.21

57th Legislature - 2nd Regular Session
Thursday, May 21, 2026, 9:06 AM

CONTENTS

Open Table of Contents ▼

CODEJ

HCR2044 - preferential treatment; discrimination; prohibited acts View Text

Sponsors

Rep. Steve B. Montenegro (R)
Primary Sponsor

Skywolf Summary

Proposes an amendment to the Arizona Constitution prohibiting the state from compelling endorsements of race- or ethnicity-based preferential treatment, funding positions in public education that promote such practices, or implementing disciplinary policies that treat individuals differently based on race or ethnicity. Prohibits the use of public monies for programs, training or activities that promote differential treatment or special benefits based on race or ethnicity. Includes exceptions for compliance with federal law, court orders, academic instruction, health services and programs serving members of Indian tribes. If passed by the Legislature, this legislation will be submitted to the voters at the 2026 general election.

Notes

-

Last Action

Senate Standing Committee
Senate Government passed(4 - 2 - 0 - 0 - 1 - 0)
Government Mar 25, 2026

SB1573 - judicial determinations; religious sectarian laws View Text

Sponsors

Sen. Wendy Rogers (R)

Primary Sponsor

Skywolf Summary

Prohibits a court from relying on any religious sectarian law as controlling or persuasive authority, with some exceptions. Severability clause. SENATE ENGROSSED

Notes

-

Last Action

House Committee of the Whole

House COW passed

Committee of the Whole Apr 21, 2026

HB2135 - liability; diversity; equity; inclusion laws View Text

Sponsors

Rep. Michael Way (R)
Primary Sponsor

Skywolf Summary

Authorizes a person whose rights are violated to bring a civil action against a "covered entity" (defined) that violates a state or federal law prohibiting a diversity, equity and inclusion policy. Entitles a prevailing plaintiff to declaratory relief, injunctive relief, damages of at least $100,000, compensatory damages, court costs, and reasonable attorney fees. Establishes a three-year statute of limitations for bringing an action. HOUSE ENGROSSED

Notes

-

Last Action

Senate First Reading

Referred to Senate Regulatory Affairs and Government Efficiency

Referred to Senate Rules

First Reading Mar 2, 2026

SB1570 - diversity; equity; inclusion; training; prohibition View Text

Sponsors

Sen. Jake Hoffman (R)
Primary Sponsor

Skywolf Summary

Prohibits the state and state agencies, boards, commissions, and departments from using “diversity, equity, and inclusion programs” (defined) for hiring, training, or promotion, and from requiring employees or contractors to participate in such programs. Requires the Arizona Department of Administration to monitor state hiring practices to ensure compliance.

Notes

-

Last Action

Senate Standing Committee

Senate Judiciary and Elections held

Judiciary and Elections Feb 20, 2026

COMMISSION ON DIVERSITY, EQUALITY, AND JUSTICE IN THE JUDICIARY

Meeting Date:	**Type of Action Requested:**	**Subject:**
05/21/2026	☐ Formal Action/Request ☒ Information Only ☐ Other	State Bar of Arizona Professionalism Course - Diversity and Inclusion Components

Submitted By: Judge Frankie Jones

Presenter(s):

Judge Frankie Jones, CODEJ Chair

Description of Presentation:

Course on Professionalism Manual

Recommended Motion:

NA

State Bar of Arizona Course on Professionalism

January 13, 2026

8:00 AM - 12:30 PM

Opinions expressed in this seminar or the written materials do not constitute an endorsement by the State Bar of Arizona, unless specifically identified as a policy of the State Bar. The views expressed are those of the speakers and authors only. Authors are responsible for the accuracy of all citations and quotations. No guarantees, representations or warranties are made by the State Bar of Arizona as to the accuracy or adequacy of the information provided by seminar faculty or authors.

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Jennifer Sonier, Professional Development Director

Continuing Legal Education

(602) 340-7346

STATE BAR OF ARIZONA

AGENDA

PROFESSIONALISM COURSE
Zoom Webinar

January 13, 2026

7:45 – 8:00 A.M.	**Registration** (Zoom waiting room)
8:00 – 8:15 A.M.	**Introductions** Joel England, CEO/Executive Director, State Bar of Arizona Jennifer Fite, Lawyer Assistance Program Director, State Bar of Arizona Marie Ehlers, Community Engagement Specialist, Arizona Bar Foundation
8:15– 8:25 A.M.	**Chief Justice Ann A. Scott Timmer Video**
8:25 – 8:30 A.M.	**Break/ Transition to Breakout Sessions (5 Minutes)**
8:30 – 10:00 A.M.	**Session One - Responsibilities to Clients and Others**
	Transactional – Steven Barclay & Robert Charles
	Civil Litigation 1 – Amy Hernandez & Michele Feeney
	Civil Litigation 2 – David Rosenbaum & Joel Nomkin
	Criminal – Hon. Samin Adib & Jesse Delaney
	Miscellaneous – Jon Eliason & Matt McGregor
10:00 – 10:10 A.M.	**Break (10 Minutes)**
10:10 – 10:55 A.M.	**Diversity/Bias Presentation** – David Horowitz
10:55 – 11:00 A.M.	**Break (5 minutes)**
11:00 A.M. – 12:30 P.M.	**Session 2- Responsibilities to the Profession and the Legal System**
	Transactional – Hon. (Ret.) Glen Davis & Lauren Talkington
	Civil Litigation 1 – Hon. D Gregory Sakall, Dee Giles, & Bern Velasco
	Civil Litigation 2 – Hon. Rene Alcoverde, Kristine Beaudoin, & Ivelisse Bonilla
	Criminal - Hon. Casey McGinley & Laura Udall
	Miscellaneous – M. June Harris & Daniel Jurkowitz
12:30 P.M.	**Adjourn**

State Bar of Arizona Course on Professionalism (Virtual Course) - 01/13/26
January 13, 2026

Faculty Biographies

HON SAMIN ADIB is a Commissioner with the Superior Court of Maricopa County. She currently presides over a criminal calendar in Early Disposition Court, or EDC. Prior to her appointment to the bench, Commissioner Adib was a prosecutor at the Maricopa County Attorney's Office for 10 years. Commissioner Adib was born in Iran and immigrated with her family to the United States when she was 6. She has lived most of her life in Arizona, attending The University of Arizona where she obtained her Bachelor of Science in Psychology. She received her law degree from the University of San Diego School of Law. In her spare time, she enjoys traveling, wine, and her peloton bike.

HON RENE S. ALCOVERDE , Jr., Esq. was born and raised in Tucson (of O'odham and Mexican Descent). He graduated from the University of Arizona James E. Rogers College of Law (2006), from the Pre-Law Summer Institute (2003), from the University of Arizona (2003), and Sahuarita High School (1999). Rene practiced law for just over 10 years before taking the bench with the Tohono O'odham Nation in April of 2017. He served as Deputy Chief Judge from October 1, 2022, until December 14, 2023. He currently serves as the Chief Judge for the Judicial Branch. Before taking the bench, Rene practiced before federal, Arizona state and tribal courts. His practice areas included: civil, family and probate litigation. He also handled appeals before Division One, Division Two and the Arizona Supreme Court.

STEVEN C. BARCLAY is a Senior Consultant with Consilium Consulting, a Phoenix-based firm that specializes in city, county, state, and federal government affairs, legislative affairs, and general consulting. Steve brings over 40 years of experience in lobbying, government relations, and regulatory law. A native Arizonan and seasoned lawyer-lobbyist, he has successfully represented national and local clients before the Arizona Legislature, Executive Branch, and federal and local agencies. Known for his strategic problem-solving and business development expertise, Steve helps clients navigate regulatory challenges and expand market opportunities. Consistently recognized by The Best Lawyers in America and U.S. News & World Report's Best Law Firms, he strengthens Consilium's ability to deliver results in Arizona's evolving policy landscape.

KRISTINE BEAUDOIN was born and raised in Phoenix, Arizona, before attending college at Fordham University in New York City and Duke Law School in Durham, North Carolina. Kristie was a litigator at Gibson, Dunn & Crutcher LLP in its New York and Washington, D.C. offices before moving back to Phoenix to join Perkins Coie LLP, where she specializes in employment law and commercial litigation. Kristie is an active member of the State Bar of Arizona, serving on the Labor & Employment Law Section's CLE Committee and on the State Bar Convention Working Group. She frequently presents CLEs and authors articles on employment-related issues.

IVELISSE BONILLA has practiced civil rights and employment and labor law for 28 years. Since 2013, Ivelisse has been listed as one of The Best Lawyers in America in Employment Law-Individuals, as one of the Southwest Super Lawyers in Employment and Labor Law, and in Tucson Lifestyle and one of the best lawyers in Tucson in Employment Law. In 1997, Ivelisse joined McConnell Valdes representing employers. From 2000 to 2001, she served as Deputy General Counsel for the Puerto Rico Federal Affairs Administration in Washington, D.C. While in Washington, she pursued an L.L.M., with a concentration in employment law at Georgetown University. She then returned to McConnell Valdes to continue her practice. In 2004, she moved to Tucson and in 2008, Ivelisse and Don Awerkamp formed Awerkamp & Bonilla, PLC, later Awerkamp, Bonilla & Giles. Ivelisse is now the Chief Legal Officer of the Primavera Foundation. Ivelisse is a past Chair of the Executive Committee of the State Bar of Arizona Labor and Employment Law Section and former President of the Federal Bar Association, Tucson Chapter. Ivelisse is also a Fellow of the College of Labor and Employment Lawyers.

ROBERT M. CHARLES is a partner in the law firm of Womble Bond Dickinson (US) LLP. Rob practices primarily bankruptcy law and commercial litigation in Arizona and Nevada. Rob is a fellow in the American College of Bankruptcy. Rob served as Chair and member of the State Bar of Arizona Committee on Rules of Professional Conduct. Rob lectures and writes extensively on bankruptcy law and legal ethics and is Professor of Practice (adjunct faculty) at the James E. Rogers University of Arizona College of Law teaching Introduction to Business Reorganization in Bankruptcy. Rob is a member of the American Bankruptcy Institute, including the ABI Southwest advisory board, and was a member of the ABI National Ethics Task Force. Rob is vice chair of the Professional Ethics subcommittee of the Business Bankruptcy Committee of the American Bar Association Section of Business Law. Rob joined the law firm in 1984 after a two-year clerkship with the Honorable Earl H. Carroll, U.S.D.C., Arizona.

HON (RET) GLENN M. DAVIS retired from the Maricopa County Superior Court on June 30, 2013. In his years as a judicial officer, Judge Davis handled civil, family, and criminal calendars, presiding over hundreds of litigated matters, including jury and non-jury trials, and facilitated settlement in scores of contested cases. Prior to his appointment as the Superior Court Judge, Davis spent over two decades in private practice focusing on civil, family, and child welfare litigation. His leadership, service, and professionalism are reflected in a variety of leadership roles and recognition within the legal profession and the greater community. He brings over forty years of broad and substantial experience in the legal profession to his role as a provider of conflict resolution services and mediation. Judge Davis earned his Juris Doctorate Degree in 1978. He practiced civil litigation and family law in Arizona before being appointed to the Superior Court. He has completed hundreds of hours of continuing legal and judicial education and has lectured and presented at numerous seminars and educational programs over the past three decades. In addition to basic mediation certification training, Judge Davis completed the Advanced Civil Mediation training program through the National Judicial College. He also completed the Mediating Divorce Agreement program taught by James C. Melamed, the Master Class in Mediation with Forrest "Woody" Mosten as well as training in dealing with parenting conflict issues at Loyola Chicago School of Law Civitas

Children Center, in conjunction with the Association of Family and Conciliation Courts. He is a member of the Association of Family and Conciliation Courts and served on the Board of Directors of the Maricopa County Association of Family Mediators.

JESSE L. DELANEY is currently in private practice, focusing primarily on juvenile law and estate planning. A large part of her practice is devoted to serving as a Guardian ad Litem for children, vulnerable adults and crime victims. Previously, she served as an Assistant Arizona Attorney General, assigned to the Health Care Fraud and Abuse Section from 2011 to 2018. There she specialized in Vulnerable Adult Abuse, neglect, sexual assault and financial exploitation cases and worked directly with local law enforcement, APS, DHS and other agencies that provide services to the most vulnerable members of our community. Prior to the Arizona Attorney General's Office she was a Deputy Pima County Attorney from 2006 to 2011. She was the original prosecutor assigned to the Domestic Violence Court and sought justice for hundreds of Victims. She moved on to the Felony Domestic Violence and Violent Crimes Units where she tried over sixty cases to a jury. She is well-known for her ability to try cases without the assistance (or presence) of the Victim. She frequently instructs law enforcement, Victim advocates, social workers, hospital staff and fellow attorneys. Her true passion is seeking justice for Victims and vulnerable members of our community.

JON D. ELIASON is currently the Homicide Bureau Chief for the Maricopa County Attorney's Office. In this capacity, he supervises nearly all homicide cases in Maricopa County. Previously, Jon was a Division Chief, supervising all child crimes, sex crimes, and domestic violence cases, and led the County's efforts to test all un-tested rape kits and saw that each case was investigated. Jon is a career prosecutor, successfully conducting numerous jury trials. In his previous role as the Mesa City Prosecutor, he implemented many successful protocols for the prosecution of domestic violence and DUI cases. He believes that the most important thing a prosecutor can do is seek to be ethical in all aspects of prosecution and to work to improve the quality of life for the community. Jon has received numerous awards and commendations for his work, and has been recognized by the U.S. Attorney's Office, Maricopa County Attorney's Office, the Governor's Office of Highway Safety, and numerous cities throughout Arizona for his work and dedication as a prosecutor. He sits on the Governor's Commission to Prevent Violence Against Women, the Arizona Forensic Academy, and is a board member of the Arizona Foundation for Women. He is a frequent lecturer at schools, police departments, and legal conferences, and has taught for the Arizona Prosecuting Attorneys' Advisory Council, the National District Attorney's Association, and the Association of Prosecuting Attorneys. Jon received a BS from Brigham Young University and his JD from Temple Law School.

MICHELE M. FEENEY is the founder of Michele M. Feeney LLC where her legal practice is devoted to mediation, arbitration and alternative dispute resolution. She formerly litigated cases in the areas of medical malpractice, wrongful death, personal injury, and other tort litigation. Michele has served as adjunct faculty at the Sandra Day O'Connor School of Law at Arizona State University for several years, where she teaches "Creative Writing for Lawyers" and "Effective Meeting Management." Michele designed and implemented comprehensive associate training programs at Mohr, Hackett, Pederson, Blakley and Randolph, P.C. and Doyle, Winthrop, P.C. Michele has planned and participated in extensive Continuing Legal

Education programs for the Maricopa County Bar Association, the State Bar of Arizona, the Arizona Association of Defense Counsel, the Alternative Dispute Resolution Section of the State Bar of Arizona, the Arizona Association for Conflict Resolution, the National Business Institute, the Piper Writers' Center at ASU, and others. She is a member of the American Arbitration Association Panel of Neutrals, Arizona Association of Defense Counsel (Board of Directors 1998-2006), and the ADR section of the Arizona State Bar (Vice Chair 2010-2011 and Chair 2011-2012). Michele earned her B.A. degree from the University of Michigan and her J.D. degree from the University of Notre Dame.

DEE R. GILES is an attorney at Windtberg Law, where he practices in the areas of personal injury, general commercial litigation, collections and appellate law (civil and family). Prior to joining Windtberg Law, he practiced for 18 years at a mid-sized Phoenix litigation firm. He graduated from Brigham Young University with a B.A. in communication (2002) and earned his J.D. at University of Arizona College of Law (2006). He enjoys exploring outdoors and coaching youth recreational soccer when he's not practicing law.

M JUNE HARRIS is an Assistant Attorney General at the Arizona Attorney General's Office. She has served as a Hearing Officer and Judge Pro Tempore for the Arizona Superior Court in Pima County. She is a Member-at-Large on the State Bar's Indian Law Section Executive Committee. She served as Special Counsel for the Tohono O'odham Judicial Branch for 15 years. There, she advised and represented the Branch on a variety of administrative and legal matters ranging from employment issues to judicial ethics and points in between. She initiated and published Tohono O'odham case law and rules of court, and prosecuted judges for judicial misconduct. She has extensive experience in tribal law, serving as a tribal prosecutor for the White Mountain Apache Tribe and as a public defender for the Pascua Yaqui Tribe, as well as juvenile, guardianship, and adoption matters on the Tohono O'odham Nation. Ms. Harris published articles in the Arizona Attorney regarding tribal practice, and presented on access to justice in rural Arizona, as well as professional responsibility. She graduated from Smith College with an B.A. in English and holds her J.D. from the University of Arizona College of Law.

AMY HERNANDEZ received her law degree in 2003 from Drake University (with Honors). After law school she served as a law clerk at the Arizona Court of Appeals. Amy has served on the Civil Practice & Procedure Committee for the State Bar of Arizona and as the Chair of the State Bar Trial Practice Section. She is a former member of the Morris K. Udall Inn of Court and a former board member for the Arizona Association of Justice. She now serves on the Arizona State Bar Board of Governors. Amy served in the United States Army from 1996 - 2000 as a military intelligence analyst. Amy is also a member of the American Board of Trial Advocates. Amy owns Amy Hernandez Law, PLLC where she focuses her practice on plaintiff's medical malpractice, legal malpractice, and general personal injury.

DANIEL S. JURKOWITZ is the Assistant Chief Civil Deputy in the Pima County Attorney's Office Civil Division and serves on the State Bar of Arizona's Professionalism Advisory Council. He also currently serves as a Superior Court Judge Pro Tempore, on the faculty of The National Judicial College, is a past president of the Pima County Bar Association and the Pima County Bar Foundation, and is a recipient of the State Bar of Arizona's

Outstanding In-House Counsel of the Year award. Previously, he served as Chair of the State Bar of Arizona's Professionalism Committee, an Administrative Law Judge for the Arizona Department of Transportation, a Justice of the Peace Pro Tempore, a Town Magistrate Pro Tempore, and a Hearing Officer, Settlement Officer, and Attorney Discipline Hearing Panel Member for the Arizona Supreme Court. He began his career as a prosecutor with the Pima County Attorney's Office Criminal Division and is a graduate of the University of Arizona College of Law.

HON CASEY F. MCGINLEY was appointed to the Superior Court in June 2018. He has served on the juvenile, civil, and criminal benches, and currently serves as Criminal Presiding Judge. Judge McGinley previously served as a full time Judge Pro Tempore on the Superior Court's criminal bench. Judge McGinley graduated with honors from Arizona State University with a Bachelor of Science degree in political science and a minor in economics. In his senior year, he served as a Legislative Intern for The Hon. Jane D. Hull, Governor of Arizona. He attended law school at the University of Arizona James E. Rogers College of Law, and in his second year, Judge McGinley served as a legal intern for U.S. Senator Jon Kyl. After earning his J.D. in 2003, Judge McGinley clerked for The Hon. Christopher C. Browning of the Pima County Superior Court before joining the Pima County Attorney's Office, where he prosecuted various criminal charges, including vehicular and violent offenses, and cold case homicides.

MATT MCGREGOR is Bar Counsel with the State Bar of Arizona's Intake department. Born and raised in the far suburbs of Chicago, IL., his first legal job was with the Maricopa County Attorney's office, where he worked from 2002 – 2007. Matt worked in the Preliminary Hearing, Juvenile, and Family Violence Bureaus. Matt then moved over to the State Bar of Arizona's Lawyer Regulation department in 2007, where he worked as a Litigation Bar Counsel, and then transitioned into a part of the Intake department. In 2011, Matt returned to the County Attorney's office, where he worked in Charging / Grand Jury, Family Violence, Gangs, and as a Mentor for newer attorneys in the Preliminary Hearing bureau. Matt then returned to the State Bar's Intake department in February 2016, and he also assists in conducting in-person law office assessments for the State Bar's Law Office Management Assistance Program. Matt regularly teaches as part of the State Bar of Arizona's Professionalism Course and other CLEs.

JOEL W. NOMKIN has decades of experience in appellate practice and commercial litigation with Perkins Coie. He has served as Managing Partner of the firm's Phoenix office, as a member of the firmwide Management Committee, and has chaired its Appeals, Issues, and Strategy practice group. He is a Fellow in the American Academy of Appellate Lawyers, a member of the American Law Institute, and previously served in the U.S. Department of Justice, both as a trial attorney in the Civil Rights Division and on the Appellate Staff of the Civil Division. In addition to his appellate practice, Joel also litigates cases at the trial level on business and public law issues. He teaches the course on Federal Courts as an Adjunct Professor at ASU's law school.

DAVID B. ROSENBAUM - Mr. Rosenbaum's practice focuses on complex commercial litigation in state and federal courts. He has represented public companies and their officers

and directors in numerous securities fraud class actions, represented Fortune 50 companies in a wide range of complex commercial litigation matters, including securities and intellectual property litigation, class action claims, as well as other large commercial disputes. David has served as President of the Federal Bar Association Phoenix Chapter and as Lawyer Representative to the Ninth Circuit Judicial Conference. He currently serves on the Arizona State Bar Board of Governors and the Board of Directors at the Arizona Foundation for Legal Services and Education. He has been recognized in America's Leading Lawyers for Business by Chambers USA and has been named multiple times as Lawyer of the Year for Phoenix in Best Lawyers'® and as a Top 100 Lawyer in Arizona by AZ Business Magazine. David chaired the Arizona Supreme Court Business Court Advisory Committee, which led to the creation of Maricopa County's Commercial Court. He co-chaired the Arizona Supreme Court Task Force on the Arizona Rules of Civil Procedure, which led to the full restyling of Arizona's Rules in 2015.

HON GREG SAKALL is a Pima County Superior Court Judge. He is currently that court's Associate Presiding Judge and on the Civil bench. Previously, he was assigned to the family bench and served as that bench's presiding judge. He also serves as the Chair of the Committee on Family Court, and chaired the Spousal Maintenance Guideline Review Subcommittee. In 2023, he was selected as Judge of the Year by the Arizona Supreme Court. After law school, Judge Sakall clerked for U.S. District Judges William D. Browning and Cindy K. Jorgenson, and afterwards was in private practice. He has also been an adjunct associate professor and is a guest lecturer at the James E. Rogers College of Law. Education: Hillsdale College (B.A., summa cum laude, double major in Spanish & History); University of Arizona James E. Rogers College of Law (J.D., summa cum laude).

LAUREN R. TALKINGTON is an attorney with Snell & Wilmer. Her practice is concentrated in private client services, specifically estate planning, probate, as well as estate and trust litigation. She has extensive experience in preparing estate planning documents to fit clients' needs, including wills, revocable or irrevocable trusts, as well as incapacity planning documents such as financial and health care powers of attorney. Lauren also provides advice regarding income, gift, and estate tax issues with experience in preparing taxable estate tax returns and gift tax returns. She has widespread knowledge of fiduciary service matters, including matters of complex estate and trust administration. Lauren is a Certified Estate and Trust Law Specialist through the State Bar of Arizona and licensed to practice in Nevada. She received her Bachelors from Northern Arizona University (Business Economics and International Affairs) and her JD from the University of Arizona.

LAURA E. UDALL is a criminal defense attorney in private practice in her hometown of Tucson, Arizona. She attended the University of California at Berkeley for her undergraduate degree and received her law degree from the University of Utah. Following law school she clerked for the Honorable Alfredo Marquez for District Court in Arizona. She then went to work at the Pima County Public Defender for 4 years. In 1992 she and Dan Cooper opened their firm, Cooper and Udall PC, and practiced together until 2021 when she opened her solo firm Laura E. Udall PLLC. Laura has tried over 110 cases to jury verdict. She is qualified as learned counsel for capital work in both Federal and State jurisdictions. She has been an

Adjunct Professor at the University of Arizona teaching trial advocacy since 2010. Laura was inducted into the American College of Trial Lawyers in 2017.

BERNARDO M. VELASCO (Bern) primarily practices environmental and natural resource litigation with the San Carlos Apache Tribe's Department of Justice. Before joining the Tribe in 2024, Bern was a shareholder with Mesch Clark Rothschild in Tucson, where he practiced construction litigation and appeals. Bern clerked with the Honorable Peter J. Eckerstrom of the Arizona Court of Appeals after graduating from the University of Arizona. In his free time, Bern races throughout the Southwest with Bicycle Ranch Tucson. Although fast for a lawyer, it turns out that lawyers are slower than other professionals.

Participant's Manual for the Course on Professionalism

© State Bar of Arizona

January 27, 2014

AZCLE®
from the State Bar of Arizona

INTRODUCTION FOR PROFESSIONALISM COURSE PARTICIPANTS

According to a 1991 publication, of all the honored professions, lawyers were ranked by the public last in honesty and integrity.[1] In fact, lawyers were ranked below plumbers, construction workers, newspaper reporters, IRS officials, television talk show hosts, cab drivers, stockbrokers and prison guards. As might be anticipated from that kind of ranking, the majority of clients, from whom responses were received in the ABA Hart Survey, had an unfavorable impression of their lawyers. These result evidence what many view as a continuing decline in the professionalism displayed by lawyers in their dealings both with their clients and with others.

Studies were conducted by the American Bar Association and several state bar associations in an effort to determine what could be done to reverse this trend. Initially, the State Bar of Arizona responded by adopting the so-called Zlaket Rules which significantly changed the procedures for conducting discovery in civil litigation. The purpose of the "Zlaket Rules" was to reduce the delay and expense involved in civil litigation and to confine the adversary system to its proper bounds. In that regard, the "Zlaket Rules" sought to encourage and improve communication and cooperation between counsel and gave attorneys (not clients) the sole discretion to accommodate opposing counsel on matters not affecting the merits. The State Bar of Arizona also wished to extend the underlying Principles of the "Zlaket Rules" to all areas of the practice, not just to the specific aspects of litigation practice impacted by those rules. This desire led to the adoption of a Professionalism Creed and to the development of the Professionalism Course.

The Professionalism Course is not a course in ethics. The Rules of Professional Conduct set forth this state's ethical rules and represent the minimum standards below which a lawyer's conduct may not fall without subjecting the lawyer to a potential disciplinary sanction. Where the Rules of Professional Conduct address a particular issue, they control, and an individual lawyer has no discretion to ignore their dictates.

The concept of "professionalism" starts with the proposition that there are alternative courses of conduct available to lawyers in addressing many situations frequently encountered in the practice of law. Presumably, one could pursue a number of these alternative courses of action and not be in strict violation of the Rules of Professional Conduct. However, there frequently will be approaches which are more "professional" than others.

[1] "The Day America Told the Truth," Patterson and Kim, Prentice Hall, 1991.

Because professionalism issues involve judgment calls and the exercise of discretion, they generally do not have "right" answers, such as ethical issues do. How one lawyer would handle a situation may be markedly different from how another would respond, and the reasons underlying the lawyers' decisions may differ based upon experience and circumstances. The purpose of the Professionalism Course is not to arrive at or impart a "black letter" response to the situations which will be discussed. Rather, the purpose of the course is to sensitize participants to the professionalism issues presented and encourage lawyers to develop a framework for selecting a professional course of conduct as they move forward in their practice.

The Professionalism Course is not a lecture course. Rather, it is one in which the faculty will discuss various Principles and underlying Themes and will then present Hypotheticals for discussion by the class participants. As stated earlier, there are not generally right or wrong answers and all class participants are encouraged to actively participate in discussing the Principles involved in light of the Hypotheticals presented.

State Bar of Arizona Peer Review Committee

The Peer Review Committee addresses concerns about unprofessional behavior by lawyers – not unethical behavior. The goal of the Committee is to promote compliance with the spirit of the Rules of Professional Conduct by encouraging courtesy in all professional dealings. Referrals under this program are not Bar charges or complaints and do not have to be reported on any application or form as a Bar discipline complaint or charge.

A complaint that alleges incivility, rudeness, belligerence, or other unprofessional behavior will be assigned to a volunteer on the Committee. A member of the Committee will contact both the complainant and the respondent in an effort to informally resolve the problems. If the respondent declines to participate, or the issue cannot be resolved, the matter is closed and the complainant is so notified. The Bar does maintain records of Peer Review referrals, so that other programs may be used when a pattern of unprofessional conduct becomes apparent. Lawyers may be referred to either the Membership Assistance Program if there is evidence of substance abuse or psychological concerns or to the Law Office Management Program for help with running the law office.

For more information about Peer Review, please call 602-340-7379.

PROFESSIONALISM PRINCIPLES

I. MAINTAIN OBJECTIVITY

II. MAINTAIN REASONABLE CLIENT EXPECTATIONS

III. TREAT CLIENTS WITH FAIRNESS AND RESPECT

IV. TREAT OTHERS WITH CIVILITY AND COURTESY

V. FACILITATE THE EXPEDITIOUS AND ECONOMICAL PROGRESS OF LEGAL MATTERS

VI. MAINTAIN THE DIGNITY OF THE LEGAL PROFESSION

VII. FOSTER A SENSE OF COMMUNITY WITHIN THE LEGAL PROFESSION

VIII. FOSTER PUBLIC TRUST IN THE LEGAL SYSTEM

TABLE OF CONTENTS

Title **Page**

LAWYERS CREED OF PROFESSIONALISM **6**

OATH OF ADMISSION **9**

RESPONSIBILITIES TO CLIENTS AND OTHERS **10**

PROFESSIONALISM PRINCIPLE I: MAINTAIN OBJECTIVITY 10

Theme A: Objective Assessment of Available Resources 10
Theme B: Objectivity Regarding Opposing Parties and Counsel 10

PROFESSIONALISM PRINCIPLE II: ESTABLISH CLEAR EXPECTATIONS WITH CLIENTS 11

Theme A: Realistic Value Assessment of the Claim 11
Theme B: Fee/Cost Expectations 11
Theme C: Other Expectations Regarding Representation 11
Theme D: Effective Communication 12
Theme E: Client's Changing Expectations 12

PROFESSIONALISM PRINCIPLE III: TREAT CLIENTS WITH FAIRNESS AND RESPECT 12

Theme A: Fairness of Fees 12
Theme B: Consider Outside Pressures on Client 12
Theme C: Respect Privacy of Client 13

PROFESSIONALISM PRINCIPLE IV: TREAT OTHERS WITH CIVILITY AND COURTESY 14

Theme A: Courteous Behavior Toward Adversaries 14
Theme B: Respect for the Court and Judicial Staff 14
Theme C: Respect for Attorneys and Staff Within Own Firm 15
Theme D: Respect for Diversity 15
Theme E: Effect of Current Reputation on Future Success 15

Title **Page**

DIVERSITY WITHIN THE LEGAL PROFESSION 18

Eliminating Gender Bias: Let's Do Our Part.....19
Awareness Spectrum.....22
Becoming a Diversity Change Agent 23
The Case for Valuing Diversity 24
Tolerance Scale.....25

RESPONSIBILITIES TO THE PROFESSION AND THE LEGAL SYSTEM 26

PROFESSIONALISM PRINCIPLE V: FACILITATE THE EXPEDITIOUS AND ECONOMICAL PROGRESS OF LEGAL MATTERS.....26

Theme A: Discovery Issues 26
Theme B: Transactional Issues 26
Theme C: Requests for Extensions of Time 27
Theme D: Coordination of Events 27
Theme E: Solving Disputes Cooperatively.....27
Theme F: Respecting opposing Counsel's Calendar 28

PROFESSIONALISM PRINCIPLE VI: MAINTAIN THE DIGNITY OF THE LEGAL PROFESSION.....28

Theme A: Dealing with Dirty Tactics 28
Theme B: Professional Business Development 29
Theme C: Respect the Privacy of Third Parties 30
Theme D: Respect for Potential Clients 30

PROFESSIONALISM PRINCIPLE VII: FOSTER A SENSE OF COMMUNITY WITHIN THE LEGAL PROFESSION.....30

Theme A: Promoting Collegiality Within the Legal Community 30
Theme B: Becoming Active in the Legal Community 30

PROFESSIONALISM PRINCIPLE VIII: FOSTER PUBLIC TRUST IN THE LEGAL SYSTEM.....31

Theme A: Dealing with Inaccurate Client/Layperson Assumptions 31
Theme B: Improvement of the Legal System.....32

Unanimously Adopted By the Board of Governors, State Bar of Arizona, May 19, 1989. Amended September 19, 2003. Amended May 20, 2005.

A Lawyer's Creed of Professionalism of the State Bar of Arizona

Preamble

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers and I will conduct myself in accordance with the following Creed of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

A. With respect to my client:

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my ability to provide my client with objective and independent advice;

2. I will endeavor to achieve my client's lawful objectives in business transactions and in litigation as expeditiously and economically as possible;

3. In appropriate cases, I will counsel my client with respect to mediation, arbitration and other alternative methods of resolving disputes;

4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and I will not engage in tactics that are intended to delay the resolution of the matter or to harass or drain the financial resources of the opposing party;

5. I will advise my client that civility and courtesy are not to be equated with weakness;

6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with effective and honorable representation.

B. With respect to opposing parties and their counsel:

1. I will be courteous and civil, both in oral and in written communication;

2. I will not knowingly make statements of fact or of law that are untrue;

3. In litigation proceedings, I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

4. I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

5. I will not utilize litigation or any other course of conduct to harass the opposing party;

6. I will not engage in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

7. I will not utilize delay tactics;

8. In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and not be rude or disrespectful;

9. I will not serve motions and pleadings on the other party or the party's counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;

10. In business transactions I will not quarrel over matters of form or style but will concentrate on matters of substance and content;

11. I will identify clearly, for other counsel or parties, all changes that I have made in documents submitted to me for review.

C. With respect to the courts and other tribunals:

1. I will be an honorable advocate on behalf of my client, recognizing, as an officer of the court, that unprofessional conduct is detrimental to the proper functioning of our system of justice;

2. Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;

4. I will not file frivolous motions;

5. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

6. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

7. When scheduled hearings or depositions have to be canceled, I will notify opposing counsel and, if appropriate, the court (or other tribunal) as early as possible;

8. Before dates for hearings or trials are set – or, if that is not feasible, immediately after such dates have been set – I will attempt to verify the availability of key participants and witnesses

so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

9. In civil matters, I will stipulate to facts as to which there is no genuine dispute;

10. I will endeavor to be punctual in attending court hearings, conferences and depositions;

11. I will at all times be candid with the tribunal.

D. With respect to the public and to our system of justice:

1. I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

2. I will keep current in the areas in which I practice and, when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

3. As a member of a self regulating profession, I will be mindful of my obligations under the Rules of Professional Conduct to report violations of those Rules;

4. I will be mindful of the need to protect the integrity of the legal profession and will be so guided when considering methods and contents of advertising;

5. I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement or administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance.

The Oath of Admission to the Bar

I, (state your name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Arizona;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding that shall appear to me to be without merit or to be unjust; I will not assert any defense except such as I honestly believe to be debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor; I will never seek to mislead the judge or jury by any misstatement or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client; I will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;

I will abstain from all offensive conduct; I will not advance any fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, nor will I delay any person's cause for greed or malice;

I will at all times faithfully and diligently adhere to the rules of professional responsibility and a lawyer's creed of professionalism of the State Bar of Arizona.

RESPONSIBILITIES TO CLIENTS AND OTHERS

PROFESSIONALISM PRINCIPLE I: MAINTAIN OBJECTIVITY.

An attorney should maintain objectivity regarding the attorney's abilities and resources, and regarding clients' positions.

Theme A: Objective Assessment of Available Resources

Both the attorney and the firm should have the available time and resources to represent a new client properly without hindering or significantly delaying the representation of current clients.

Theme B: Objectivity Regarding Opposing Parties and Counsel

In civil and criminal litigation, clients often experience ill feelings towards opposing parties and their counsel. An attorney [prosecutor] should not hesitate to advise a client [victim] of the attorney's need to comply with certain standards of professional conduct and that effective representation does not require an attorney personally to adopt the ill feeling of the client [victim]. In that regard, an attorney should explain to client [victim] that one benefit of a lawyer who is not burdened with the same deep-felt emotional feelings is that the lawyer is in a position to more objectively view the issues so as to permit a more efficient, focused, and timely resolution of a matter. The attorney should be part of the solution in disputed matters, not part of a problem that may perpetuate the conflict between the parties.

PROFESSIONALISM PRINCIPLE II: ESTABLISH CLEAR EXPECTATIONS WITH CLIENTS.

Throughout the representation, the attorney should identify and address the client's expectations so that the client is able to understand the lawyer's perception of his or her ability to meet the client's expectations.

Theme A: Realistic Value Assessment of Claim

In deciding to accept representation, an attorney should analyze and discuss with client at the initial interview the comparison of the potential benefits for the client from a successful resolution of the matter versus the time, energy and money which may be involved in reaching that resolution.

Theme B: Fee/Cost Expectations

At the initial interview, an attorney should attempt to determine whether the client has a realistic understanding of the expenses associated with the representation and has the financial ability to pay for the services necessary to reach the reasonable expectation which the lawyer agrees is possible. This can help minimize hard feelings that may surface at the end of a case and may even cause the client to reconsider whether to proceed with the matter in the first place.

Theme C: Other Expectations Regarding Relationship

During the initial interview, an attorney should inform the client of other important considerations the attorney is able to identify regarding the representation. This requires the attorney to actively seek to identify the client's real expectation and requires the attorney to inform the client regarding the attorney's ability to meet those expectations consistent with the attorney's responsibilities of civility, honesty, expediting dispute resolution and cooperation with opposing counsel. Attorneys cannot

control the subjective motivation of their clients. However, a professional approach to the practice precludes an attorney from simply adopting improper subjective motivations or conduct. Rather, it requires that an objective good faith basis exists for all acts performed on behalf of the client.

Theme D: Effective Communication

It is important that a client is reasonably aware of what is occurring in the matter under representation and why, so that the client can make informed decisions during the course of the representation. In addition, a well-informed client generally will be more likely to understand the reasons for a lawyer engaging in specific activity. A good example of the importance of this regular communication can be seen in circumstances where a lawyer must make a disclosure to the court or to the opposition that is harmful to the client's case, or may decide to cooperate with the opposition in pursuing a course of action that may expedite dispute resolution but may not initially be understood by the client. If the lawyer has discussed with the client his ethical and professional duties, communicated regularly with the client and encouraged the client to ask questions, it is less likely that such situations will come as a sudden or unpleasant surprise to the client.

Theme E: Client's Changing Expectations

Regular communication with the client will allow an attorney to identify circumstances where a client's expectations change during the course of representation and will allow an attorney to address with his client the attorney's ability to meet those changed expectations at as early a point in time as possible. For example, a client may, at the outset of a representation, wish to "spare no expense" to pursue a principle or legal right. However, the client may feel very differently part-way through, when the client discovers he or she lacks the financial ability to see the case to its conclusion—or at

the conclusion of a case where the recovery is significantly disproportionate to the fees and costs incurred. When it appears that such a disparity may occur, an attorney should have a candid discussion with the client to address the client's feelings about initiating or continuing to pursue the matter.

PROFESSIONALISM PRINCIPLE III: <u>TREAT CLIENTS WITH FAIRNESS AND RESPECT.</u>

An attorney should consider and discuss with a prospective client at the initial interview all reasonable fee options pursuant to which the attorney would be prepared to undertake the representation. This discussion should include how the fee would be affected by an early disposition when a contingency fee or flat fee is agreed upon by the client and attorney.

Theme A: Fairness of Fees

An attorney should consider which fee structure is likely to be the most fair for both the client and the lawyer. This becomes an issue in cases where a flat fee or a contingent fee is involved. In such cases, if liability is clear and resolution of the matter may require only a few hours' work, the attorney should consider offering the client the option of an hourly fee. Even in situations where it does not appear that a matter will be resolved quickly, it is best to discuss with the potential client how a flat fee or a contingent fee case will be handled in the event the matter is resolved early in the process. An attorney should be guided by fairness to both the client and the attorney, not by the custom in the community or by the desire to obtain the highest return for services.

Theme B: Consider Outside Pressures on Client

An attorney should be aware of and should discuss with the client any outside pressures that might impact the client's legal decisions. Such pressures might include,

for example, emotional fragility, financial stress, poor health, or family strife. An attorney should consider whether a client facing such pressures should, for example, attempt to settle litigation even if the attorney would not ordinarily recommend settlement in the client's situation.

Theme C: Respect Privacy of Client

An attorney should avoid and discourage unnecessary gossip about a client's private business within the attorney's office, as well as communications outside the office that reflect a lack of respect for client privacy.

PROFESSIONALISM PRINCIPLE IV: <u>TREAT OTHERS WITH CIVILITY AND COURTESY.</u>

An attorney should not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses, and should refrain from disparaging personal remarks or acrimony toward other counsel, parties or witnesses. A key component of professionalism is CIVILITY.

Theme A: Courteous Behavior Toward Adversaries

One of the most common complaints referred to the State Bar Peer Review Committee involves the use of "abusive language." Recognizing that conflict is an inherent part of the environment in which most attorneys practice, it is the professional responsibility of an attorney to deal with that conflict without resorting to vulgar language, disparaging personal remarks or acrimony toward the opposing counsel, staff for opposing counsel, or an opposing party. Such abusive and offensive language should be avoided in both oral and written communication. Attorneys and subordinates under their control must be able to disagree with adversaries without engaging in personal attacks.

Drug and alcohol abuse, depression, burnout, chronic fatigue syndrome, and a variety of psychological problems affect many lawyers, due in part to the stress those attorneys experience in their dealings with opposing counsel. An attorney should avoid intentionally embarrassing or engaging in personal criticism of opposing counsel in the presence of the court, either lawyer's client, or other counsel. It is particularly inappropriate for an attorney to take relatively inconsequential conduct or simple error by opposing counsel and recharacterize it as unethical conduct for strategic purposes. In the event personal criticism of another attorney is warranted, it should be done privately and professionally. An attorney should avoid displaying a condescending or superior attitude toward opposing counsel based upon such things as age, years of experience, gender race or sexual orientation.

Theme B: Respect for Court and Judicial Staff

All who appear before them should treat the court, including both judge and staff, with dignity and respect. Lawyers should not only speak, write, and act civilly in all dealings with the court, but also use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom. One circumstance in which lawyers and their clients frequently fail to act professionally before a court is when the court makes a ruling adverse to one of their positions on an issue. In those circumstances, attorneys and their clients often make disrespectful facial gestures, make derogatory comments or even whistle. Lawyers should ensure that they and their clients conduct themselves in a respectful manner to the court, even when the court issues an adverse ruling or issues a directive in an attempt to maintain better control of the judicial process. Attorneys should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible. If an attorney is likely to be delayed in one judge's chambers past a time

when he or she may be due in another judge's chambers, the attorney should advise the court and opposing counsel of the potential conflict in advance.

Theme C: Respect for Attorneys and Staff Within Own Firm

An attorney should strive to maintain a professional attitude even "behind closed doors" within the attorney's own firm. Attorneys should discourage and avoid gossiping about coworkers or treating staff or associates poorly.

Theme D: Respect for Diversity

An attorney should show respect for all individuals who are involved in the legal system, whether as an attorney, as a witness, or otherwise, regardless of race, national origin, sex, disability, sexual orientation, religion, etc. An attorney should also instruct the attorney's client to show such respect during legal proceedings.

Regarding disabled persons, an attorney should avoid patronizing behavior toward a disabled attorney or witness—and, on the other extreme, should avoid taking unfair advantage of an opponent's disability. An attorney should cooperate with modifications reasonably required by disabled attorneys or witnesses to enable them to participate in their respective roles. However, an attorney may, at times, have to evaluate whether modifications requested or employed by a disabled attorney or witness will prejudice the interests of the attorney's client or of the justice system.

Theme E: Effect of Current Reputation on Future Success

An attorney who consistently demonstrates civility in dealings with opposing counsel enhances his or her reputation and promotes good business practices. An attorney's reputation in the profession is extremely important throughout his or her practice. One's career in the practice of law does not consist of a series of isolated and unrelated

incidents, but rather a continuum of contacts with other attorneys. Today's adversary may well be tomorrow's ally. "Burning bridges" with opposing counsel may easily backfire later in the same case or in a subsequent matter. On the other hand, if attorneys consistently treat opposing counsel with civility, their communication tends to be better. It becomes more likely that they can work out problems in a case and that the atmosphere will be more conducive to settlement discussions. Similarly, consistent civil behavior increases the likelihood that an attorney can work with someone who currently is an opposing counsel in a future case where their interests may be allied. Additionally, not infrequently, later business referrals are made because the referring lawyer, earlier an opposing counsel, not only observed the quality of another attorney's representation, but also had the earlier matter conclude in a way that impressed the referring lawyer with the overall professionalism of the opposing counsel.

DIVERSITY WITHIN THE LEGAL PROFESSION

A. Introduction

True professionalism in today's legal profession demands a working knowledge and facility with diversity and bias issues. Recognizing and professionally dealing with diverse populations of clients, attorneys, jurors and court personnel enhances a lawyer's effectiveness inside the courtroom and out. Every aspect of our business and professional well-being feels the impact of the ever-changing cultural and ethnic landscape.

B. Eliminating Gender Bias: Let's Do Our Part

Pages 19 - 21

C. Awareness Spectrum

Page 22

D. Becoming a Diversity Change Agent

Page 23

E. The Case for Valuing Diversity

Page 24

F. The Tolerance Scale

Page 25

Eliminating Gender Bias:
Let's Do Our Part

On June 12, 1991, The Supreme Court of Texas entered an order creating the Gender Bias Task Force to consider whether gender bias exists in the judicial system in Texas, and if so, to determine the nature and extent of such bias and propose recommendations for its elimination. St. Mary's University Law School Dean Barbara Aldave chaired the task force. The task force, State Bar staff, and others spent two years surveying the opinions of attorneys, judges, professors, litigants, and members of the public. The task force sponsored two surveys in which 1,900 Texas attorneys and more than 300 Texas judges participated. It also held public hearing and took testimony from hundreds of witnesses.

Based on this data, the task force issued a comprehensive final report in February 1994. The task force found that gender bias against both women and men does exist in the Texas judicial system. In some areas the bias was subtle and limited whereas in other areas it was widespread and pervasive.

Bias Experienced by Women

The task force found that many women experience hostile, demeaning, or condescending treatment by attorneys and judges and may be held to higher standards than their male counterparts. Women also face financial and logistical barriers to access to the courts. These biased behaviors also affect women's credibility in court and may have an impact on the litigation process and case outcome. The task force found a lack of understanding at all levels of the judicial system of the dynamics of crimes against women.

Bias Experienced by Men

The task force further found a bias existed against divorcing men custody of their children. Moreover, gender stereotypes and the adversarial nature of the family law system affect the ability of non-custodial fathers to have continued involvement in their children's lives. Men were often treated more harshly than women in the criminal justice system and male juveniles were treated more harshly than female juveniles in many aspects of the juvenile justice system.

Perceptions of Gender Bias

An interesting finding of the task force was the significant gap in the perceptions of men and women concerning gender bias. Women were much more likely than men to perceive bias against women. On the other hand, men who observed or experienced bias were more likely than women to feel that the court system is disadvantageous to men.

The Litigation Process

Nine out of 10 women attorneys reported being the target of at least one act of gender discrimination in the courtroom during the past three years. Female litigants also experienced hostile,

demeaning, or condescending treatment, particularly from attorneys and sometimes from judges. In some instances, female litigants were treated in a more respectful manner than male litigants. Both women and men attorneys testified that judges rarely reprimand counsel or court personnel whose behavior was demeaning to women or men although most judges say that it is appropriate for judges to intervene when observing such behavior. The task force found that gender stereotypes and gender-biased treatment toward litigants have a negative impact on the litigation process and may affect the outcome of cases.

Kathy Tullos, who worked with the task force, gave several examples of gender bias to the State Bar Board of Directors at its January meeting in Laredo. She described instanced of subtle discrimination whereby an attorney or judge referred to a female attorney as "little lady" when it was meant to be distracting or demeaning. Once, a judge referred to one party's male attorneys as "counselors" and to the other party's female attorneys as "ladies," prompting the female attorney's client to ask, "He has a counselor; I have a lady: do I have a problem?" Other complaints were of more overt and vulgar conduct including unwanted touching of breasts, stroking of hair, and comments about private body parts by judges and opposing counsel.

Task Force Recommendations

The task force offered 36 recommendations to reduce or eliminate gender bias. First, it recommended that the Texas Supreme Court appoint a committee to plan, oversee, and monitor implementation of the various recommendations of the task force. It also recommended regional committees to identify problems and implement programs to eliminate gender bias.

The task force recommended that Texas Disciplinary Rule of Professional Conduct 8.04 be amended to state that a lawyer shall not discriminate on the basis of sex. Changes were recommended in the Texas Code of Judicial Conduct to require lawyers to refrain from manifesting by words or conduct bias based on race, sex, religion, or national origin against parties or counsel. It suggested the Texas Lawyer's Creed include a pledge for lawyers to eliminate gender bias in the questioning of witnesses or other behavior when it is designed to mislead the jury or unfairly prejudice a witness or party.

The task force suggested that members of the bar and all judges be required to complete a minimum number of hours of CLE concerning the existence and consequences of gender bias in their courses. The State Commission on Judicial Conduct was encouraged to develop grievance procedures for litigants who complain that judges have exhibited gender bias. Other recommendations were made in the areas of family law, divorce, division of property, custody/visitation, domestic violence, sexual assault, sexual harassment, criminal justice, access to the justice system, and language of the statutes.

Conclusion

Using words or conduct that discriminates, embarrasses, or harasses someone based on a person's sex is wrong, particularly when meant to gain an unfair advantage in litigation. The TYLA Women in the Profession Committee is working with the task force to implement its

recommendations. We should all do our part to educate ourselves and others on the existence and consequences of gender bias and to work with judges, bar leaders, and colleagues to eliminate gender bias from our system of justice.

Roland Garcia, Jr.
Vol. 58 No. 3, Texas Bar Journal

AWARENESS SPECTRUM

Naïve:

Acts with no knowledge or awareness of biases and prejudices and their impact.

Perpetuator:

Aware of biases and prejudices, but continues behaviors and reinforces and rewards bigotry.

Avoider:

Aware of biases and prejudices, but does nothing and plays it safe. Tolerates unjust behavior.

Fighter:

Attacks all actions and confronts al behaviors. Always on the lookout for prejudice.

DIVERSITY CHANGE AGENT:

Acts as a role model. Takes action when appropriate and addresses behaviors when important. Takes risks.

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Becoming a Diversity Change Agent

A Diversity Change Agent takes actions when it is appropriate and addresses inappropriate behaviors when it is important. A Diversity Change Agent acts as a role model.

The following skills models called the T-A-L-K model will remind you that Diversity Change Agents use a balance between *Talking*, *Asking*, and *Listening* while *Keeping an open mind* to expanding the area they "don't know they don't know."

TALK

Talk to yourself:

- Are my biases getting in the way of my ability to serve?
- How do I build trust with this person?
- Am I willing to invest the time and energy needed?

Talk to the other person:

- Be honest and direct.
- Be specific.
- Share your opinions, perceptions and expertise.
- Express your commitment to building a relationship.

ASK

- Ask, don't assume.
- Ask questions, not statements that sound like questions.
- Explore their perception of the situation.
- Find out what they need from you.
- Ask probing questions that deepen your understanding.

LISTEN

- Understand thoughts, goals, feelings and perspectives from the other parties.
- Accept another's perception as his or her reality.
- Empathize and demonstrate understanding, not necessarily agreement.
- Remain willing to challenge you own thinking.
- Show you have heard.
- Practice Silence.

KEEP AN OPEN MIND

- Know it will take time.
- Know you will make mistakes and learn from them.
- Be forgiving when others make mistakes.
- Learn about different cultures and backgrounds.
- Appreciate differences…all kinds of differences.

The Case for Valuing Diversity

1. Numerous federal and state task force reports have documented serious patterns of persistent discrimination and bias in the courts and in the practice of law.

2. As Arizona becomes more demographically diverse, law firm clients are also becoming more diverse.

3. As clients become more diverse, the potential for cultural misunderstandings between attorneys and clients increases.

4. As Arizona businesses increase their participation in the global economy, Arizona law firms must adapt to meet their needs.

5. Demographic trends now underway will force law firms to substantially alter their recruitment, hiring and retention practices.

6. Diversity-related issues already affect nearly every area of practice.

7. Both judges and attorneys have ethical and professional obligations to perform their duties without bias or prejudice.

8. Law firms are, themselves, increasingly subject to discrimination and sexual harassment claims.

9. Diversity issues affect every aspect of the legal profession:
   a) institutional and systemic
   b) intra-profession – colleague to colleague
   c) workplace systems and processes
   d) attorney-client relationship

10. Diversity has significant implication for the future of the law.

TOLERANCE SCALE

5. Appreciation:

This rating means that you see their differences as positives. You consider them to be smart, talented, funny or possessing traits, skills or attitudes you admire. In the workplace, you enjoy being around these people. In fact, you choose to be around them.

4. Acceptance:

This rating indicates that their differences don't really matter to you. You are comfortable around these people and value them in your workplace. You listen to them as co-workers or customers and work well together.

3. Tolerance:

You don't appreciate their differences, but you want to work with them. You don't feel completely comfortable with these people, but you believe they have a right to be treated respectfully. If you had your choice, however, you would not have them as co-workers or customers.

2. Avoidance:

These people are different in ways that make you feel uncomfortable. You try to avoid them and do not want to work with them or deal with them.

1. Repulsion:

To you, these people are different in ways that are not normal. You believe they do not belong in your workplace, and you do not want them as customers. Working or coming in contact with them causes you a lot of discomfort.

RESPONSIBILITIES TO THE PROFESSION AND THE LEGAL SYSTEM

PROFESSIONALISM PRINCIPLE V: FACILITATE THE EXPEDITIOUS AND ECONOMICAL PROGRESS OF LEGAL MATTERS.

An attorney should not engage in conduct that unreasonably delays or obstructs the normal operation of the legal system. An attorney should use all reasonable means to resolve by agreement discovery requests, extension requests, scheduling issues, minor disagreements, and other matters which do not prejudice the client's position on the merits.

Theme A (Litigation): Discovery Issues

Discovery should not be undertaken for the purpose of harassment or imposing financial burden on the other side, even if some passable argument for relevance could be formulated. Discovery should be conducted only when it serves the legitimate purpose of seeking facts and documents that are relevant to the litigation. Similarly, discovery should not be objected to or responded to in an artificially restrictive manner in order to frustrate the progress of the matter. In addition, the same civility is expected in depositions and meetings as in court. "Speaking objections" and hostile behavior are inappropriate during a deposition.

Theme B: Transactional Issues

Transactions should not be delayed or obstructed merely for the purpose of harassing or injuring the other party to the transaction.

Theme C: Requests for Extensions of Time

An attorney should request an extension of the time only when it is necessary for a legitimate purpose. Even if a legitimate reason could be articulated, it is not appropriate to seek such extension or continuance if the primary purpose is to delay the proceedings or transactions, frustrate the opposing party or counsel, or delay the production of documents which might be useful to an opposing party in a forthcoming deposition or hearing.

Theme D: Coordination of Events

The attorney, not the client, controls the procedural aspects of a case which do not go to the merits. Accordingly, attorneys should attempt to coordinate with all counsel the scheduling of depositions, meetings, and proposed hearing dates. Such coordination allows for better organization, reduces conflicts and tends to reduce the need to reschedule. When an attorney receives a request for an extension of time to comply with a deadline or to reschedule an activity, an attorney should grant the request unless to do so would prejudice a client's legitimate interests on the merits.

Theme E: Solving Disputes Cooperatively

An attorney owes a court or other tribunal an obligation to resolve disputes as expeditiously as possible and without unnecessary court intervention. An attorney should therefore communicate with opposing counsel in an attempt to avoid and resolve disputes whenever possible. Disputes over exchanges of information, other discovery matters and continuances typically should be handled by counsel in a cooperative manner. It is recognized, however, that the client's legitimate interests may limit an attorney's ability to reach agreement with an opposing party on such issues.

Theme F: Respecting Opposing Counsel's Calendar

Attorneys should avoid noticing depositions or serving papers on an opposing counsel in a manner that is intended to impede the ability of an adversary to prepare to respond. Unless it is necessary to comply with a deadline or otherwise necessary to protect a legitimate interest of a client, an attorney should avoid serving papers that require an immediate response when it is known that an opposing counsel will be absent from the office or otherwise unavailable for an extended period due to other court or practice commitments, vacations, or religious holidays.

PROFESSIONALISM PRINCIPLE VI: MAINTAIN THE DIGNITY OF THE LEGAL PROFESSION.

An attorney should present himself or herself in ways that improve the reputation of the legal profession, rather than in ways that reinforce negative stereotypes.

Theme A: Dealing with Dirty Tactics

To the extent it can be done without impairing a client's legitimate interests, an attorney should respond to incivility and "scorched earth" tactics in such a way as to discourage the escalation of such conduct. Regardless of who "started it," escalation of hostile behavior will cost all parties money and time, will reduce the job satisfaction of the attorneys involved, will often frustrate or even anger the court and is one of the principal reasons the legal profession suffers a negative public image. Methods to avoid such escalation will vary depending upon the circumstances. The basic goal should be not to stoop to the unprofessional behavior that is presenting the problem. Although it does not always work, civil, frank and firm discussion with opposing counsel which identifies the unprofessional conduct accompanied by a request that the conduct cease has proved effective in a number of circumstances.

In a litigation context, incivility and "scorched earth" tactics often occur in connection with discovery activities. A record should be maintained identifying the specific nature of the unprofessional behavior and the efforts by the attorney to address such behavior with opposing counsel. If sincere discussions with opposing counsel have not corrected the unprofessional conduct, the matter should be brought to the attention of the trial judge.

Theme B: Professional Business Development

In connection with getting and maintaining clients, an attorney should evaluate whether the circumstances involved reasonably could present an appearance of inappropriate conduct or associations, or might reflect badly on the profession. A lawyer may meet potential clients in a number of ways, including referrals from various sources. In each instance, however, the lawyer should evaluate whether the circumstances involved in the potential representation might present an appearance of inappropriate conduct or association. Virtually all of the course participants who are or will ever be in the private practice of law will obtain some legal work through referrals. Attorneys need to be conscious of whether there may be an ulterior motive for a referral. Attorneys should make appropriate disclosures in order to eliminate any perception that they were improperly influenced as a result of a referral.

Advertising should be accurate, realistic and dignified. An attorney should avoid advertising that exaggerates a client's problem, exaggerates conduct of hypothetical opposing parties or counsel, exaggerates how the advertising lawyer would deal with hypothetical situations, or tends to bring the profession into disrepute.

Theme C: Respect the Privacy of Third Parties

An attorney should refrain from revealing sensitive or potentially embarrassing information about victims, witnesses or other members of the public where there is no legitimate reason for doing so.

Theme D: Respect for Potential Clients

Most lawyers, even those who don't work in private practice, are approached from time to time by potential clients, by people who want referrals to other lawyers, or by people who want free legal advice. An attorney should respond to such communications with courtesy and respect, even if the attorney is declining representation, and should consider whether the attorney's response reflects positively on the legal profession.

PROFESSIONALISM PRINCIPLE VII: <u>FOSTER A SENSE OF COMMUNITY WITHIN THE LEGAL PROFESSION.</u>

An attorney should promote the goal of an inclusive and collegial legal community.

Theme A: Promoting Collegiality Within the Legal Community

An attorney should not merely avoid unprofessional behavior toward other attorneys but take positive steps to improve relations among attorneys. An attorney should approach others in the legal community with an attitude of hospitality and inclusiveness. An attorney should also strive to recognize and overcome subtle biases/assumptions the attorney might have about others in the community, such as that "big firm" attorneys overcharge, that sole practitioners are less competent, that minority attorneys are "affirmative action" hires, or that non-minority attorneys are prejudiced.

Theme B: Becoming Active in the Legal Community

Even a sole practitioner does not practice law in a vacuum. The practice of law is more enjoyable, more rewarding, and ordinarily more successful if one develops professional friendships with other lawyers and provides service to the legal community.

Rather than discussing hypotheticals, instructors should develop this theme by brainstorming with participants ways to (1) become active in the legal community (e.g., attending live CLE, going to the annual State Bar Convention, joining local or specialized bar organizations, or joining an Inn of Court) and (2) serve the legal community (e.g., volunteering for a Bar committee (or volunteering to teach the Professionalism Course!)).

PROFESSIONALISM PRINCIPLE VIII: <u>FOSTER PUBLIC TRUST IN THE LEGAL SYSTEM.</u>

An attorney should correct inaccurate negative perceptions of the legal system, and should work to improve the legal system where negative perceptions appear to be correct.

Theme A: Dealing with Inaccurate Client/Layperson Assumptions

Attorneys should take affirmative steps to correct assumptions made by clients or other laypeople that reflect negative stereotypes about the legal system. Attorneys should not remain silent, for example, when clients or friends suggest that judges are often bribed or that litigation is a "game" to be won through trickery.

Instructors should note that, although volunteer activities in this area are certainly not required for "professionalism," numerous opportunities are available for attorneys to

participate in public law-related education. A good place to start looking for such opportunities is the Arizona Foundation for Legal Services and Education website (www.azflse.org).

Theme B: Improvement of the Legal System

Although attorneys should correct inaccurate negative assumptions about the legal system, it is certainly not unprofessional for an attorney to draw attention to and work to improve aspects of the legal system that the attorney reasonably believes would benefit from improvement. Moreover, if an attorney is aware of any actual impropriety in the workings of a tribunal, the attorney should bring such information to the attention of the appropriate authorities (e.g., the Judicial Commission).

AZ BAR FOUNDATION

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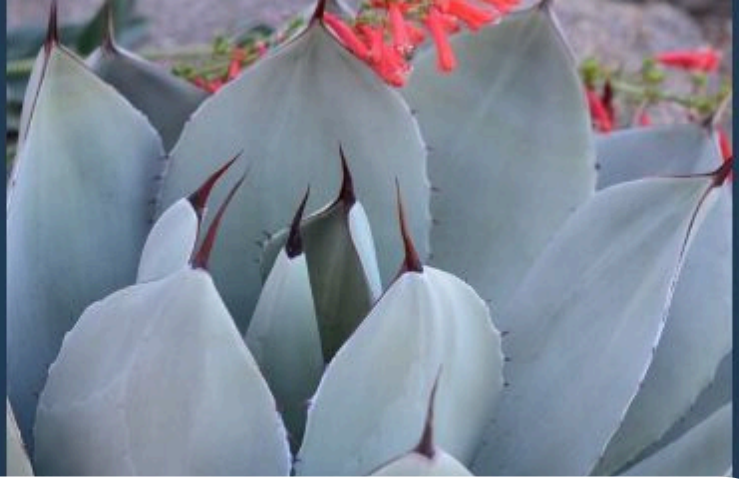

Volunteer Opportunities

The Arizona Bar Foundation offers a variety of volunteer and pro bono opportunities. In addition to these programs, there is always a need for informative articles for the Foundation's legal help websites.

Law-Related Education

- We The People (Dec & Jan)
- Mock Trial (March & May)
- Project Citizen (March & May)
- CSI Arizona (March & May)
- Constitution Week (Sept. 16-20, 2024)
- Mock Mediation (Nov. 22, 2024)

Legal Services

- Arizona Free Legal Answers
- Website Content and Articles
- Modest Means Project

Connect with the AZ Bar Foundation on social media.

Volunteer with the AZ Bar Foundation.

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