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Professions, Professionals and Professionalism

We must act as one would expect of a member in good standing of this dignified and honorable profession. And what, pray tell, is that? What behavior and what demeanor characterize the reasonably professional attorney in the 21st century?

By **Marc Garfinkle** | February 10, 2020



We lawyers see ourselves as professionals. The rest of the world does, too—at least for now. We are privileged. We don't ply a trade or work a job or eke out a livelihood; we practice a profession. We are members of an honorable guild that has served civilization almost since commerce began. We solve problems, resolve conflicts, and prepare words that change the world. Lawyers have access to jurisprudence when no one else does. If doctors are the doors into health and longevity, lawyers are the doors through which progress must pass.

The distinction between a trade and a profession is an ancient one—one that has changed over time, as human activity became more diverse and complex. Still, some concepts have remained constant. According to Wikipedia, "A profession is an occupation founded upon specialized educational (<https://en.m.wikipedia.org/wiki/Educational>) training (<https://en.m.wikipedia.org/wiki/Training>), the purpose of which is to supply disinterested objective counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain." That definition bears rereading.

It is generally agreed that the term derives from the French term “profession libérale.” From medieval times until early in the 18th century, there were only three recognized liberal or “learned” professions: divinity, medicine and law. According to R. W. Perks, in *Accounting and Society*, (Chapman and Hall, London, 1993), sometime during the late 18th century, the field of surveying achieved professional status in America, and by the end of the 19th century, a dozen or so additional occupations were considered professions. These include actuarial science (https://en.m.wikipedia.org/wiki/Actuarial_science), dentistry (<https://en.m.wikipedia.org/wiki/Dentistry>), civil engineering (https://en.m.wikipedia.org/wiki/Civil_engineering), logistics (<https://en.m.wikipedia.org/wiki/Logistics>), architecture (<https://en.m.wikipedia.org/wiki/Architecture>) and accounting (<https://en.m.wikipedia.org/wiki/Accounting>). Later, with the rise of technology, important new disciplines became recognized as professions and their practitioners as professionals. These include teaching, nursing, mechanical engineering (https://en.m.wikipedia.org/wiki/Mechanical_engineering), psychology, pharmacy (<https://en.m.wikipedia.org/wiki/Pharmacy>), veterinary medicine (https://en.m.wikipedia.org/wiki/Veterinary_medicine), librarianship (<https://en.m.wikipedia.org/wiki/Librarianship>), optometry (<https://en.m.wikipedia.org/wiki/Optometry>) and social work (https://en.m.wikipedia.org/wiki/Social_work).

Among the popular criteria used to distinguish professions from other work situations, the following have been often cited:

1. The potential to be a full-time occupation;
2. The existence of specialized training schools or university schools;
3. The establishment of local associations of people plying the profession;
4. The existence of a code of professional ethics; and
5. The existence of government-based licensure.

In an effort to define or to limit the industries which could claim professional status, in 2005, the European Union (https://en.m.wikipedia.org/wiki/European_Union) promulgated a Directive on Recognition of Professional Qualifications (2005/36/EC). According to the EU a profession is, “practiced on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public.” That also bears rereading.

Ours is the noblest profession. Frankly, none is even in second place. What other profession mandates its practitioners to work, unpaid, for the benefit of the public every year? What other profession imposes a tax upon its own body for a fund to reimburse the victims of the very few predatory or uninsured among them? What other profession is required by law to maintain bank accounts that are sacrosanct, whose contents may not be comingled or disclosed? What other profession steps into the breach when basic rights are denied to the poor or the weak or the silent or the unheard? Who else must keep both sword and shield in her toolbox but a lawyer?

As the bearer of this honor, we pay a price. We are expected to act invariably professionally—that is, to act with professionalism. We must act as one would expect of a member in good standing of this dignified and honorable profession. And what, pray tell, is that? What behavior and what demeanor characterize the reasonably professional attorney in the 21st century? The standards keep changing. We no longer wear powdered wigs to court. We don’t even need to wear Florsheims or have steel-die engraved business cards or run a tab at some gin mill near the courthouse in order to look professional.

Assessing professionalism is like looking at pointillistic art—those images created by zillions of separate dots. Professionalism is the composite picture of how we interface with our clients, our colleagues, our tribunals and our profession. It encompasses the good that we do for others and our contributions to the bar and the

community and the way in which we practice law.

For lawyers, professionalism starts with knowing, understanding and following our Rules of Professional Conduct and the applicable Rules of Court. It includes the daily acknowledgment that we are sworn to uphold our surprisingly fragile Constitution and that we understand the significance of being an officer of the court. It means we will always act lawfully. It means you can trust us with secrets and know that we will never betray the truth. It means our word is our bond. Period. End of paragraph.

We can all enhance our own professionalism. Volunteer to serve on a Fee Arbitration Panel or, better yet, a District Ethics Committee. Offer to do CLE programs for your county bar association. If you belong to a career-related organization or a bar association section, become more active. Don't just pay dues; attend meetings and seek leadership roles.

Remember that you are always an ambassador of your profession. Who isn't embarrassed when a fellow attorney commits a highly-publicized crime? We say these lawyers give us all a bad name. Guilt by association. But the effect is opposite when we get involved with civic and religious communities. Not only do we feel good about what we are doing, but a small, warm light reflects well on us all. To make it even sweeter, it seems that every civic and religious and non-profit organization wants to have attorneys in its membership and on their boards. Perhaps as a divine bonus, attorneys who get involved helping others and supporting the bar and their communities usually find that it's good for business as well.

There's nothing wrong with that. Trust me; I'm a lawyer.

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