

2005

# Professional Responsibility Redesigned: Sparking a Dialogue Between Students and the Bar

Lois R. Lupica

*University of Maine School of Law*, [lupica@maine.edu](mailto:lupica@maine.edu)

Follow this and additional works at: <http://digitalcommons.maine.law.maine.edu/faculty-publications>



Part of the [Legal Education Commons](#), and the [Legal Ethics and Professional Responsibility Commons](#)

---

## Suggested Bluebook Citation

Lois R. Lupica, *Professional Responsibility Redesigned: Sparking a Dialogue Between Students and the Bar*, 29 J. Legal Prof. 71 (2005).  
Available at: <http://digitalcommons.maine.law.maine.edu/faculty-publications/64>

This Article is brought to you for free and open access by the Faculty Scholarship at University of Maine School of Law Digital Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of University of Maine School of Law Digital Commons. For more information, please contact [mdecrow@maine.edu](mailto:mdecrow@maine.edu).

# PROFESSIONAL RESPONSIBILITY REDESIGNED: SPARKING A DIALOGUE BETWEEN STUDENTS AND THE BAR

*Lois R. Lupica\**

## I. INTRODUCTION

In recent years, there have been many public and private, formal and informal complaints about the behavior of lawyers.<sup>1</sup> Moreover, lawyers' tenuous reputation for honesty and integrity has been tarnished by recent, well-publicized scandals.<sup>2</sup> The public, as well as members of the bench and bar, have further decried a decline in attorney professionalism. More than once, it has been suggested that in some way, failings of law schools are to blame.<sup>3</sup> In response to these observations about the professional behavior of lawyers and as a result of my experiences of teaching a traditional, Socratic-method Professional Responsibility class for many years, I decided to focus concentrated efforts on redesigning my Professional Responsibility course.

Since I began teaching, I have known that the traditional Professional Responsibility course has a bad reputation.<sup>4</sup> Students' central and consistent complaint is that it is boring and unnecessary. They are in law school

---

\* Professor of Law, University of Maine School of Law. B.S. Cornell University, 1981; J.D. Boston University School of Law, 1987. Many thanks to Dean Colleen Khoury, David Nowlin, Deborah Tuerkheimer, and Jennifer Wriggins for helpful comments on earlier drafts of this Article. I am indebted to the Class of 1973/Glassman Faculty Research Fund for its generous research support.

1. Lincoln Caplan, *Commentary: Lawyers' Standards in Free Fall: The Amoral Memo on Torture Is Just One Example*, L.A. TIMES, July 20, 2004, at B13.

2. Gary Young, *50 Law Firms Subpoenaed in Enron Bankruptcy; Judge Grants Approval Despite Objections*, NAT'L L.J., Mar. 10, 2003, at A26; Terry Maxon, *Lawyers to Rule on Ethics: Corporate Scandals Have Led to Proposed Changes in Attorney-Client Code*, DALLAS MORNING NEWS, Aug. 9, 2003, at 1D; Alan Goldstein & John Kirkpatrick, *Law Firm's Reputation Is Under Fire: Jenkins & Gilchrist Defends Its Conduct Amid IRS Inquiry*, DALLAS MORNING NEWS, June 21, 2003, at 1D.

3. See Roger C. Cramton & Susan P. Koniak, *Rule, Story and Commitment in the Teaching of Legal Ethics*, 38 WM. & MARY L. REV. 145 (1996); Linda Klebe Trevino, *Moral Reasoning and Business Ethics: Implications for Research, Education and Management*, 11 J. OF BUS. ETHICS 445 (1992) (citing studies finding a correlation between moral education and moral behavior).

4. I have taught Professional Responsibility since 1994. In my early years of teaching the course, I would confidently tell my students on the first day, "This will be one of the most interesting and important classes you will take in law school." They invariably looked at me skeptically, but with the goodwill that characterizes most of our students, they didn't (overtly) challenge this optimistic prediction. I stopped including this statement in my introductory remarks after about four or five years of teaching the course, because it became clear to me that my students did not think it was one of their most interesting classes. Students grumbled about it, and on certain low days, the blasphemous thought crossed my mind that some of my students would not have enrolled in my class but for the fact that it was a required course.

“to learn to practice law, not to learn this professional responsibility stuff.”<sup>5</sup> Students are not yet in proximity to the context in which the professional responsibility issues arise, and often it is difficult for them to relate to the conflicting tensions faced by the hypothetical lawyers; thus, they fail to see the course’s relevance. The fact is that the context of lawyering is too foreign for students to have fully developed a moral sensitivity<sup>6</sup> (which is the foundation of moral decision-making) to the issues of professional responsibility.

Moreover, I began to wonder and question whether the Professional Responsibility course, as traditionally understood, effectively does what it professes to do: that is, to teach students—so that they *learn*—about the duties and responsibilities of members of the legal profession.<sup>7</sup> It is easy to recognize the *right* answer to a hypothetical question about whether there exists a conflict of interest, but it is much harder to fully understand and effectively reconcile the conflicting interests that are often at issue when presented in a live practice setting. It is still harder to engage, without good training, in high-level moral decision-making for the first time when the conflicting pressures are real and immediate.

Furthermore, students have complained about not having the opportunity in law school to gain much information about the profession’s practical realities. Law students have few encounters with members of the bar, and when they do, commonly in a job interview, an idealized conception of the profession is communicated. Even upon entering law practice, economic and competitive pressures are such that there is less time and attention paid to young lawyers than has historically been the case. As such, newer lawyers do not have the necessary opportunities to develop the behaviors, adopt

---

5. Composite comments gleaned from seven years of listening to informal feedback from Professional Responsibility students.

6. The moral decision-making process is comprised of four commonly understood elements: (i) moral sensitivity (defined as “an awareness of the moral content in a situation”); (ii) moral judgment (defined as “the selection of a standard of judgment, or framework of analysis, and its application to a situation to identify morally appropriate action”); (iii) moral will (described as “the resolve to act in conformity with the moral judgment”); and (iv) moral action (described as “the implementation of the moral judgment”). Edward J. Conry & Donald R. Nelson, *Business Law & Moral Growth*, 27 AM. BUS. L.J. 1, 7-8 (1989).

7. The final time I taught Professional Responsibility before its redesign, I was being reviewed for tenure and promotion. With adrenaline coursing through my veins, I entered the class in which I was being observed with creative hypotheticals, stimulating examples, and provocative questions. Notwithstanding the strong peer evaluation I received, in my mind, it was a typically disappointing and flat discussion. It was after this class that I resolved to either stop teaching the course or reconfigure it in some way. See Cramton & Koniak, *supra* note 3, at 154 (“[M]any law schools and the ABA tolerate indifferent teaching of [legal ethics], maintaining the course requirements largely as a means of reassuring the public that the profession cares about ethics.”). The ABA standards for law schools state:

The law school shall: require of all candidates for the first professional degree, instruction in the duties and responsibilities of the legal profession. Such required instruction need not be limited to any pedagogical method as long as the history, goals, structure and responsibilities of the legal profession and its members, including the ABA Model Rules of Professional Conduct, are all covered. Each law school is encouraged to involve members of the bench and bar in such instruction.

ABA STANDARDS FOR THE APPROVAL OF LAW SCHOOLS, Standard 302(a)(iv) (1995).

the values, and model the practices of senior professionals.<sup>8</sup> Some have looked to the law schools to connect the divide between the behaviors of young lawyers and traditional conceptions of what it means to be a member of the legal profession.<sup>9</sup>

As I continued to teach the traditional lecture-size, Socratic-method Professional Responsibility course, I found the students' lack of enthusiasm and engagement in the class and with the material increasingly disturbing. They rarely became animated about the ethical dilemmas facing the parties in cases or agonized over the conflicting choices confronting the lawyers in my hypotheticals. If students are not actively engaged in the resolution of the professional ethical issues presented in law school, they will be unable to draw effectively on a body of higher order learning when they are faced with a non-hypothetical dilemma. Moreover, if all the information students receive about the legal profession is from a casebook or from other second-hand sources, there is little opportunity to observe and internalize professional behaviors and decision-making.

I challenged myself to somehow find a way to introduce the professional responsibility curriculum to law students in a context that would address these issues. After much hard thinking about the problem and the range of potential solutions, I decided to transform my Professional Responsibility course into a forum for a dialogue between the practicing bar, members of the bench, and law students on the subjects of law practice, legal ethics, and professionalism. My vision was to create a course model whereby, in each class, a member of the bar would be invited to participate in a student-led discussion of a professional responsibility issue. The guest participant would be selected because of a demonstrated commitment to the advancement of professional values as well as a specific expertise in the topic or practice context of the day. I imagined a lively, collaborative, and challenging discussion where students' cognitive and moral decision-making would be subject to challenges posed by classmates, the guest participant, as well as by me. My hope was that the course would be the be-

---

8. This is sometimes apparent in the classroom behavior of students. For example, especially in my early years as a teacher, many of my students evidenced a lack of respect for authority—or perhaps a better way of putting it, a lack of understanding of the social codes of professional behavior. Examples include the wearing of baseball caps in class, putting feet on the desk, disrespectful posture, and a general lack of attention to the class discussion. Early on in my teaching career, I spent a lot of time thinking about why this was the case—as well as why many of my students behaved differently in my Property class than they did in their other first-year classes. I identified a number of factors. First, I was the only woman teaching in the first-year, and I was the only person teaching in the first-year in her early 30s. Many of the students were the first in their families to attend graduate school, and some, first to attend college. A majority of the students were from Maine (and many from rural Maine), and many had never lived anywhere else. In short, many students were never exposed to and did not know or understand the codes of professional behavior.

9. The basic thesis of the MacCrate report is that the “skills and values of the competent lawyer are developed along a continuum that starts before law school, reaches its most formative and intensive stage during the law school experience, and continues throughout a lawyer’s professional career.” ABA SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 3 (1992) [hereinafter MACCRATE REPORT].

gining of a conversation about professional ethical issues that was so interesting, engaging, and inspiring that the students would be motivated to continue it throughout their careers.

## II. THE COURSE OBJECTIVES

I was determined to design a course in which compelling professional responsibility issues would be situated in the contexts in which they would inevitably arise. It was my thought that the students would be better able to engage with the material if they had a better understanding of the realities of law practice. The presentation of firsthand stories of lawyer satisfaction, as well as dissatisfaction, would enable the students to examine the range of professional options within (and outside of) the profession. In this way, students would be presented with a more nuanced and richer perspective on the legal profession than they could glean from text.

I further wanted to establish a context in which students would begin a conversation about the process of ethical decision-making implicated in a variety of practice settings by a variety of types of lawyers. As has been observed, “[p]rofessional diversity stems from at least three important sources: the nature of the professional work itself, the diversity of the people engaged in practice, and the contextualized nature of ethical decision-making.”<sup>10</sup> The historical conception of the profession has changed largely as a result of the changes in the composition of its members. Formerly homogenous, in terms of gender, financial means, culture, race, ethnicity, and class, the bar has changed.<sup>11</sup> The culture has changed, and many barriers to entry have been lowered. Greater diversity in the bar has meant that “unspoken codes of conduct” can no longer be relied upon. Conversations in law school need to include a discussion of the extent to which these societal and cultural changes have impacted traditional notions of what it has meant to be a “professional.” I wanted students to discover their reaction to the bench and bar’s perception of the recent decline of attorney professionalism—and to begin *that* conversation with the discussion of what is meant by the term “professionalism.”

I also endeavored to address and incorporate more issues in the course than are generally included in the traditional professional responsibility curriculum. I wanted students to have an opportunity to learn about the many aspects of their future profession and to understand the variety of legal work that is available to them. I found that law students are, for the most part, unaware of the array of practice contexts that exist. I could not present, firsthand, multiple examples of the professional diversity that exists among lawyers (my firsthand familiarity with the practice of law is in one particu-

---

10. “This means that each ethical question is, in important ways, distinct from every other one because of its unique context.” Eleanor W. Myers, “*Simple Truths*” *About Moral Education*, 45 AM. U. L. REV. 823, 841 (1996).

11. See MACCRATE REPORT, *supra* note 9, at 13–27.

lar context).<sup>12</sup> My thought was that conversations with a diverse selection of attorneys, whose specialties cover the spectrum of law practice, would allow students to consider a wide range of professional identities. The more professional options an aspiring attorney is aware of, the more likely it is that she will take actions and make choices consistent with her values and temperament. My theory is that the more contented one is, the less likely one is to compromise one's personal integrity.<sup>13</sup>

I further undertook the challenge of introducing the students to an analytical framework for moral decision-making.<sup>14</sup> This framework was designed to both increase their sensitivity to ethical issues and to serve as a tool for facilitating the exercise of moral judgment.<sup>15</sup> I endeavored to offer them a hierarchy of standards of moral action, drawing, in part, on the work of psychologist Lawrence Kohlberg.<sup>16</sup> Kohlberg advanced what has been called the "stage theory of moral development."<sup>17</sup> According to Kohlberg's teachings, human beings evolve through as many as six stages of moral development.<sup>18</sup> While it was once thought that humans reached their final stage of moral development in childhood, recent studies have shown they can continue this developmental evolution into adulthood.<sup>19</sup> I drew on this research to stimulate students' sensitivity to the kinds of ethical issues that

12. Prior to my teaching career, I practiced law at two different firms, both in New York City. One was a large, international, corporate firm headquartered in New York, with offices all over the world. In my office, there were hundreds of lawyers and dozens of practice groups. My second job was with the newly opened New York office of a large Washington, D.C.-based firm. I was the eighth lawyer to join the office. As a young associate, I had the opportunity to participate in the development of the office by working closely with partners. I was fortunate to have worked with many intelligent and ethical individuals. I also had the opportunity to observe some faults in the structures of my law firms. Notwithstanding the rich substantive practice experience I bring to my commercial law classes, I can only bring one practice context to my Professional Responsibility class.

13. Myers, *supra* note 10, at 848.

Imparting a richer sense of the range of practice may . . . contribute to students' ability to construct alternative visions of lawyering so that if they find themselves in a practice that is inhospitable to the values that they hold, they will have the confidence to challenge it. Cultivating an understanding that there is no single conception of professional lawyering may assist our students both to seek and to create alternative visions of practice.

*Id.*

14. Conry & Nelson, *supra* note 6, at 7 (describing a framework for moral decision-making in the business school context).

15. *Id.*

16. LAWRENCE KOHLBERG ET AL., MORAL STAGES: A CURRENT FORMULATION AND A RESPONSE TO CRITICS (John A. Meacham ed., 1983).

17. These levels were identified as (i) obedience (actions are moral when they are taken in conformity with rules and in avoidance of punishment), (ii) instrumental egoism and simple exchange (actions are moral when they are taken in conformity with rules and in furtherance of the actor's self interest), (iii) interpersonal concordance (actions are moral if they result in approval from others), (iv) law & duty to the social order (actions are moral if they avoid chaos and uphold law and order), (v) social consensus (actions are moral if they are in conformity with rules that respect both the majority and the minority), (vi) non-arbitrary social cooperation (actions are moral if they are in conformity with the choices "impartial, rational and equal persons would identify as the appropriate standards under which social life should proceed"). *Id.* A feminist critique of Kohlberg's work can be found in CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1993).

18. KOHLBERG ET AL., *supra* note 16.

19. *Id.*

arise in the practice of law and explore the resolution of these issues through the lens of each stage of moral development.

The fundamental objective of my course redesign was to create a pedagogical model where students would learn to engage in a higher level of critical reflection, a place where they could begin their hard thinking about the moral ambiguities attendant to the practice of law, and discover for themselves that the profession is not designed to resolve these ambiguities—but that it exists because of them.<sup>20</sup> I wanted the course to be the beginning of students' examination and thoughtful consideration of professional ethical issues, with the prospect of thinking out loud about the moral judgments they will have to make once they are in practice—at a rare time in their career when they have no vested economic interest in the outcome.<sup>21</sup>

### III. DESCRIPTION OF THE PROFESSIONAL RESPONSIBILITY COURSE DESIGN

#### A. Class Format

The discussion-based format of the course redesign meant that I had to limit enrollment to the number of students that fit around a seminar table (16 students).<sup>22</sup> The class met twice a week for 75 minutes each class. I created a course website, using the “Blackboard” technology,<sup>23</sup> as a way of communicating assignments, supplemental readings, and links to cases and ethics opinions. In addition, the Blackboard provided a further forum to discuss and, at times, debrief issues raised in previous classes. It provided me, as well as the students, the additional opportunity to comment on previous classes and make the connection between various topics and conversational themes.

#### B. The Readings

There are many fine Professional Responsibility texts,<sup>24</sup> but the ones I had used in the past did not suit my new seminar discussion format. I

---

20. Timothy P. Terrell & James H. Wildman, *Rethinking Professionalism*, 41 EMORY L.J. 403, 407 (1992).

21. Deborah Rhode, *If Integrity Is the Answer, What Is the Question?*, 72 FORDHAM L. REV. 333, 342 (2003) (“[T]here is some value in having students confront the tradeoffs before they have a vested economic interest in the resolution.”).

22. Clearly, offering a required course and limiting it to 16 students raises institutional resource issues. This past academic year, I taught two sections of Professional Responsibility, with another professor offering an unlimited enrollment section during the spring semester. The prior year, I similarly taught two sections. Typically, if enrollment is not capped, my Professional Responsibility course attracts a class between 35 and 60 students. Following my first offering of this class in its redesigned format, the waiting list was as high as sixty students.

23. Blackboard is supported by Lexis/Nexis. Westlaw offers a similar tool for professors interested in creating user-friendly course websites.

24. I have used two such texts over the past eight years of teaching the course: STEPHEN GILLERS, *REGULATION OF LAWYERS: PROBLEMS OF LAW AND ETHICS* (4th ed. 1995), and GEOFFREY C. HAZARD, JR., SUSAN P. KONIAK, & ROGER C. CRAMTON, *THE LAW AND ETHICS OF LAWYERING* (3d ed. 1999).

needed teaching materials in which topics were presented in a hypothetical (yet realistic) context, with sufficiently interesting supporting readings to enrich a 75 minute discussion. The text I selected was *Legal Ethics in the Practice of Law*, by Carol Langford and Richard Zitrin.<sup>25</sup> This casebook is organized as a series of 30 problems, each of which is designed to be covered in one class period. Each problem addresses a topic in depth, and I have found, with few exceptions,<sup>26</sup> that the problems sketch reasonably realistic scenarios. The readings that accompany each problem include judicial opinions, law review article excerpts, excerpts from the popular press, ethics opinions, as well as observations made and questions posed by the casebook authors. The readings provide sufficient information so that students are able to understand a wide range of issues that are implicated by each topic. More than once, students and guests noted that the casebook authors presented a distinct “point of view.” The authors’ position with respect to many issues was obvious to the reader, but since one of my central objectives for the class was to elicit an enthusiastic discussion, the perspective offered, if not always agreed with, served its purpose.

I also assigned the Model Rules of Professional Responsibility (the Rules). They served as the governing rules in “our jurisdiction.”<sup>27</sup> Being prepared for the discussion meant reading and understanding the relevant Rule or Rules. While often a Rule does not provide the “answer” to a problem implicating conflicting interests, the deliberative consideration of the range of analytical tools available to resolve a problem requires an understanding of the Rules and their underlying purpose.<sup>28</sup>

---

25. The casebook comprehensively covers all of the traditional topics in a professional responsibility class. These topics include the following: What duty of competency attorneys owe clients; what responsibility lawyers have to take all cases that come through the door; the formation of the attorney-client relationship; attorney fee options; the duty of confidentiality and the attorney-client privilege; loyalties and conflicts of interest; the representation of entities; attorney self-interest; ethical dilemmas in the insurance defense practice context; ethical dilemmas in the criminal defense practice context; the duty of advocacy; clients and perjury; trial “tactics”; ethical dilemmas faced by prosecutors; ethical dilemmas faced by lawyers as counselor; attorney advertising; and legal services for the indigent. In addition, the Langford & Zitrin casebook includes newly important topics such as the effect of communication technologies on the duty of confidentiality, the impact of diversity on the legal profession, and questions about law firm pressures.

26. From time-to-time, a guest participant would challenge the way the hypothetical presented an issue. When this happened, excellent class discussions invariably ensued. The guest would then proceed to sketch how the issue would “really” arise, and his redesigned hypothetical formed the basis for the class discussion. The guest was able to explain why the situation would not arise in the way described in the book, offering the students detailed insights into the guest’s practice.

27. The vast majority of the invited guests were licensed to practice law in the State of Maine and governed by the Maine Bar Rules (which are not based on the Model Rules of Professional Responsibility, but are a hybrid). I provided an electronic link to the Maine Bar Rules on Blackboard, in the event the invited guest referenced them. From time-to-time, we discussed as a class the significance of distinction in the substance, or more often the language, of the Maine Rule, as compared to the comparable Model Rule.

28. See Cramton & Koniak, *supra* note 3, at 159 (“Understanding [the Rules governing attorney behavior] is a prerequisite to the moral reasoning and moral choice that flow from legal rules that confer discretion upon the lawyer.”).



### C. Student-Led Discussions and Evaluation

Central to the success of my redesigned course was active student participation and engagement. I decided to address this issue head-on by making class participation fifty percent of the students' final grade; with this motivation offered, there was universal participation. In addition, I assigned two students per class to lead the class discussion. These students were responsible for designing an approach to the material's presentation, and the burden was shifted to them to elicit peer participation.

Student effectiveness and creativity varied. Some student discussion leaders had the class play the role of law firm partners charged with the responsibility of setting firm policy on a particular issue, i.e., under what circumstances to decline, take, or withdraw from a case; when to ask a client to waive a conflict of interest; whether attorneys who work reduced hours be eligible for partnership; what to do when you suspect another lawyer of substance abuse; and whether the firm should launch a television advertising campaign. Other discussion leaders framed the issue of the day as a question for debate and assigned half the class to prepare and argue one position and half the other. Yet other classes put students in the roles of client and attorney and role-played an encounter.

This level of active participation on the part of the students, coupled with regular responsibility for designing the class and leading the discussion, forced the students to engage the material with an intensity I had never before seen.<sup>29</sup> The intensity was contagious. With every class, the discussion rose to an increasingly more sophisticated level. Consistent with the studies that conclude that moral reasoning can be influenced by exposure to and participation in the analysis of ethical dilemmas,<sup>30</sup> I observed that the greater frequency with which I introduced higher level analytical reasoning, the more sophisticated the discussion became. As I regularly presented an analysis of the problem using more advanced stages of moral reasoning, the more students naturally invoked higher levels to frame their analysis of the issue.<sup>31</sup>

---

29. There are certain risks associated with this approach. When you abdicate responsibility for the presentation of material (even if you selected the material and invited and briefed the guest), the class can, at times, take some interesting turns. For example, in one class, instead of a student beginning the discussion with the text's well-crafted, carefully construed hypothetical, the discussion leaders wrote a similar, albeit flawed, hypothetical and used it to frame the initial discussion. We spent the first portion of the class adding facts and circumstances to the hypothetical to elicit a richer discussion of the issues.

In another class, the guest participant made a statement about a practice in her firm that implicated conflict of interest as well as confidentiality issues. While the statement was true in the context in which she was referring and in her jurisdiction, other jurisdictions had engaged in a more nuanced analysis of this issue. The way the statement was presented, it would have been awkward to point out the misleading impression that was left. That evening, I posted an article that comprehensively laid the issues out in a methodical way, and gave full recognition to the majority and minority positions. I then directed students to the article so that they would gain a fuller understanding of this issue.

30. Trevino, *supra* note 3, at 454.

31. *Id.* ("[T]he most effective educational programs are those that involve dilemma discussions and those that last from four to twelve weeks.").

As mentioned above, fifty percent of the students' final grade was based upon class participation. The balance of their grade was based upon their performance on a five-day take-home exam. The students were given an article excerpt, presenting one perspective on an issue or aspect of the legal profession. They were asked to write an eight-to-ten page essay, drawing upon the information and analytical frameworks discussed throughout the semester. I was specifically looking for the students' evolution through the stages of moral reasoning. After reading three semesters of these essays, I can say with confidence that the quality of analysis and moral reasoning was considerably higher than was the case among my students who took my traditional, Socratic-method Professional Responsibility class. The essays were richer in detail and considerably more reflective. They consistently demonstrated a higher level of moral sensitivity as well as greater facility with the range of analytical frameworks available for analysis. In short, their essays reflected a higher understanding of the ethical issues that arise in the practice of law and the competing arguments and analysis involved in their resolution.

#### *D. The "Guest Participant"*

The key to creating as realistic a context as possible for the discussion of hypothetical ethical dilemmas was the participation of a practicing attorney with specific experience in the context or topic.<sup>32</sup> The guests were not expected to provide lectures or formal presentations, but to generally participate in the class discussion and to comment on the extent to which the issue presented in the hypothetical would arise in the way described in the book.<sup>33</sup> I provided the class assignment to the guest participant several weeks in advance so they would be familiar with the material the students were presenting and discussing. In some instances, the guests would offer further variations of the hypothetical from their own experience.

Having a guest attorney participate in each class discussion offered many benefits. First, it introduced a different, more formalized dynamic to

---

32. In a few cases, I invited a judge or judges, depending upon the topic. For example, in one class, I had a judicial officer participate in the discussion on attorney sanctions. In another class, I had two trial court judges participate in a discussion of the ethical issues that arise in the course of discovery. I extended invitations to other state and federal judges, but scheduling constraints precluded their participation.

33. If the hypothetical was somewhat off the mark, the guest often would describe how the issue might more realistically arise. For example, when the topic of the day was the "attorney as counselor," the hypothetical problem involved an immigration lawyer counseling a United States citizen who was considering the marriage to a much younger citizen of another country. Our guest participant was a legal aid immigration lawyer. She explained to the students that the situation would never arise in the way described in the book. She then continued to describe the kind of encounters she had with prospective clients on a regular basis—encounters that raised similar issues of integrity. She further explained how the indicia of residency and permanency required by the federal immigration authorities mostly included things that were unavailable to very low-income immigrants (such as phone bills, joint bank accounts, and other jointly owned property). In this way, she gave the students a greater sense of the context in which many of these issues are situated.

the class. For the most part, students behaved as if we had “company,” and were more prepared and engaged than I suspect they would otherwise have been.<sup>34</sup> Second, the guest offered not only an additional perspective on the readings and hypotheticals, but also added the benefit of her experience in the context or practice area in which the issue of the day arose. The guests were able to not only discuss the issue presented by the readings but also, from their experience, situate the issue in a realistic practice context.<sup>35</sup> In this way, the formal Professional Responsibility course was used to assimilate and re-examine the substantive content from other classes in the law school curriculum. In addition to the substantive context, guest participants also provided students with textured insights into their law practice worlds, often offering descriptions of their organizational dynamics, pressures, and tensions.<sup>36</sup>

A further objective of the course design was to provide students with a proxy for the often elusive mentor. The pressures of current-day law practice means that the mentoring of new lawyers may be compromised. Newer lawyers have fewer opportunities to learn the habits, behaviors, and practices expected of professionals. My thought was that the law school could make a connection between soon-to-be lawyers and practicing lawyers so that traditional conceptions about what it means to be a member of the legal profession could be relayed.<sup>37</sup> Most of the guests offered to continue the

---

34. The high level of preparation and engagement could be attributed, in part, to the evaluation structure—50% of the students’ final grade was based upon class participation. While I am sure the grading structure was an influencing factor, I suspect that kind of long-term motivation is difficult to sustain over a fourteen-week semester. When a new and different guest was present in each class, there was a fresh tension, which in my observation, led to a high level of attentiveness.

35. In light of the recent corporate scandals, we spent quite a few classes on the issues that are raised in the course of representation of entity clients. These issues include the fundamental questions of: Who is your client? Where do your loyalties lie? How do you reconcile the inevitable conflicting interests that will present themselves? A former in-house general counsel of a Fortune 500 company joined one of these discussions as a guest participant. He helped situate the general counsel within the framework of a corporate structure. He explained the special responsibility of a counselor and offered the students concrete examples of some of the difficult choices that corporate counsel face. The student discussion leaders presented hypotheticals to the class, and our guest participated in the critique of students as they engaged in an analysis of the issues. Our guest then offered variations on the student hypotheticals but added an additional dose of realism by forcing students to grapple with the economic tensions faced by a board of directors, corporate managers, and in-house counsel. In this way, he added further shades of gray to the continuum of choices confronted by lawyers in a position when they were forced to reconcile conflicting interests.

36. “Realistic detail must guide the discussion of what a lawyer should do. Without it, the ethics lessons are useless. Teaching legal ethics thus requires teaching a rich body of particulars about lawyers’ work.” Cramton & Koniak, *supra* note 3, at 172.

37. For example, when the subject of the class was attorney competency—What level of competency does a lawyer owe her client before she takes a particular case?—I invited a relatively recent graduate who had joined a very small general practice firm in rural Maine upon her graduation. This attorney explained how she “learned” to practice law by shadowing her mentor, and what steps she took to gain competency. She was very forthcoming about what worked, what did not work so well, and how she continues to struggle with this question of competency. The students in the class, many of whom planned to practice in a similar context, asked questions of the guest along the lines of, “How do you translate taking a survey course in bankruptcy to being able to prepare and file a bankruptcy petition for a consumer?” “How do you fulfill your responsibility to your client when you don’t know anything?” “Under what circumstances would you decline to take a particular matter and case?” “To what extent

conversations outside of class. By engaging members of the bar in the educational experience, both parties would reap benefits that I hoped would persist beyond the class period.<sup>38</sup>

Finally, I wanted to use the Professional Responsibility course as an opportunity to trigger a conversation about professional ethics among members of the bench and bar. Notwithstanding the requirement in many states of continuing education on the subject, legal ethics is not a topic that many practicing lawyers spend a lot of time thinking about or talking about in any formalized way. I wanted to create an opportunity for a dialogue and an exchange of ideas between students (with their idealism) and practitioners (with their practicality, grown out of experience). I also wanted to create a “buzz” among members of the bar on the subject of legal ethics.<sup>39</sup> I hoped to offer my students an opportunity to learn about ethics and the practice of law from successful, experienced members of the bar,<sup>40</sup> and to offer practitioners an opportunity for a more meaningful “continuing ethical education” than they receive through continuing legal education programs.

#### IV. THE PERSISTENT THEME: “PROFESSIONALISM”

A theme that has been haunting both the legal profession and my Professional Responsibility course is the public cry of the “decline of attorney professionalism.” This issue is regularly the topic at conferences,<sup>41</sup> is the subject of scores of articles,<sup>42</sup> and is even the focus of a number of commis-

---

does the need to attract and retain clients influence the decision as to whether to handle a matter for the first time?” The guest described how she closed the gap between law school theory and practice and generously offered a number of specific examples. She also described what her practice context involved and the pros and cons of her choices.

In another semester, I invited a third-year attorney who was practicing with a sixty-person firm in the State capitol to discuss the same topic. She was experiencing a very different training model in a very different context. She had clerked for a state court judge and was one of many associates at her new firm. She had not yet had many opportunities for independent client representation, but the issues she was addressing in her legislative and health-care practice were considerably more complex. The students posed similar questions of her in their effort to define the contours of how she translated her law school-gained knowledge into competent legal representation.

38. Some students made appointments to later meet with the guest participant for “information interviews.” In a number of instances, professional mentoring relationships developed, and in a few cases, students ended up with job offers.

39. The Maine Bar is relatively small and news tends to spread quickly. It was clear, after a few weeks, that word of my course had “hit the streets.” Lawyers I had not yet asked to participate were volunteering. Regularly, at the end of class, I heard from the guest how interesting and refreshing the discussion was and how it had “been a while” since they “thought about these issues.” Indeed, over the course of three semesters, I had over sixty lawyers and judges participate in the course. The only reason my invitation to participate in the class was declined was due to scheduling constraints (or at least, that is what they told me). Pursuant to the Maine Bar Rules, lawyers are eligible to earn 1.25 Continuing Legal Education credits for their participation.

40. I invited practicing lawyers with a range of practice experience—from two to thirty years.

41. See, e.g., 2003 Conference on Ethics and Professionalism, Emory University School of Law; Professionalism and the Law: From Territorial Days to the Millennium, Washburn Law School, University of Kansas, 1998; Burge Professionalism Conference 2005, Georgia State University Law School.

42. Mark R. Killenbeck, *Professionalism in the Balance*, 49 ARK. L. REV. 671 (1997); Ronald D. Rotunda, *Professionalism, Legal Advertising, and Free Speech in the Wake of Florida Bar v. Went For It, Inc.*, 49 ARK. L. REV. 703 (1997); Thomas D. Morgan, *Real World Pressures on Professionalism*, 23

sions and centers.<sup>43</sup> I hold to the idea, however, that professionalism cannot be “taught.” Professionalism is a set of values that must be individually developed. In thinking about how I could provide a forum for the students’ development of their conception of professionalism, I cautioned myself against defining professionalism as a synonym of civility. Civility is certainly important, but undergirding a civil demeanor must be a respect for the system and the rule of law as well as for other players in each attorney’s professional constellation.<sup>44</sup>

I balked at having the identification of professionalism turn on the answer to the question, “Is law a profession or a business?” I do not see the two as mutually exclusive in light of the ability of many lawyers to honor the values of excellence, integrity, respect, and accountability while still operating their law practices as successful businesses. Recognizing that my students come from an assortment of backgrounds and present a variety of experiences, I resisted hitting them over the head with lessons in decorum. In a more homogenous society, social and cultural codes and mores are clear, and most of these are taught (and learned) at an early age. When a student’s first exposure to a learned profession is in graduate school, the most effective means of communicating the unifying values of the profession is not through a lecture but through the presentation of exemplars of positive professional behavior and principles.

Above all, I wanted to avoid preaching on my part and cynicism on theirs. I wanted to introduce a healthy appreciation of the complexity and ambiguity of the lawyer’s role in and relationship with society. I wanted students to not only be aware of the timeless values that have served the legal professionals but also of tools that are available to them to analyze ethical dilemmas in light of these values. I wanted them to recognize the value of their reputation for integrity and how easily it could be lost. Finally, I wanted them to have the opportunity and methodology to critically analyze the traditional conception of professionalism, in light of the diversity that currently exists among members of the legal profession.

Of the substantial body of scholarship on the subject of professional responsibility, the essay *Rethinking “Professionalism,”* by Timothy Terrell and James H. Wildman, had the greatest impact on the development of my

---

U. ARK. LITTLE ROCK L. REV. 409 (2001); Judith Welch Wegner, *Fifty-Ninth Cleveland-Marshall Fund Lecture: Lawyers, Learning, and Professionalism: Meditations on a Theme*, 43 CLEV. ST. L. REV. 191 (1995); Beverly Balos, *The Bounds of Professionalism: Challenging Our Students, Challenging Ourselves*, 4 CLINICAL L. REV. 129 (1997); N. Lee Cooper & Stephen Humphreys, *Beyond The Rules: Lawyer Image and the Scope of Professionalism*, 26 CUMB. L. REV. 923 (1995/96).

43. See, e.g., Nelson, Mullins, Riley & Scarborough Center on Professionalism at the University of South Carolina School of Law; ABA Standing Committee on Professionalism.

44. It may be the case that in the pursuit of the conflicting virtues of, for example, accountability to client interests and respect for members of the profession, compromise may result in a concession of a measure of civility. Such a resolution of conflicting virtues is never easy to arrive at—but these are the kind of conflicts about whose full measure of complexity is impossible to see and internalize without the benefit of rich, detailed context.

thinking about attorney professionalism.<sup>45</sup> In referring to the issue of eroding attorney professionalism, the authors observe, “lawyers have sought a cure for a disease before agreeing on its nature, symptoms, and causes.”<sup>46</sup> In deftly identifying the divergent perspectives on the issue of attorney professionalism and citing the work of political theorist Jaroslav Pelikan, the authors draw a distinction between “tradition” and “traditionalism” in the legal profession.<sup>47</sup> Identifying traditionalism as a “superficial and simplistic appreciation of one’s heritage that provides no meaningful sense of perspective and judgment,” they advise that “references to ‘professionalism’ may be nothing more than a sentimental form of ‘traditionalism,’ a call for more civility and public respect simply because this is our impression of a happier past.”<sup>48</sup> In cautioning against both trivializing and politicizing the issue, the authors posit that professionalism involves more than exhibiting a positive bedside manner and providing pro bono legal services.<sup>49</sup> They argue that the professional tradition of lawyering is defined by a “set of essential, timeless principles that impose important restraints and create special expectations separating the attorney from others.”<sup>50</sup> They identified these principles as (a) an ethic of excellence,<sup>51</sup> (b) an ethic of integrity,<sup>52</sup> (c) a

---

45. Terrell & Wildman, *supra* note 20, at 403.

46. *Id.*

47. *Id.* at 405–06.

48. *Id.* “It is a reverence for the past for its own sake—a nostalgia for the ‘good old days.’ It is empty of moral content, and therefore sadly pretentious.” *Id.* at 405 (citing JAROSLAV J. PELIKAN, *THE VINDICATION OF TRADITION* 65 (1984)).

49. Terrell & Wildman, *supra* note 20, at 419–22. One “trivializes” professionalism by defining it exclusively as the lawyer’s bedside manner and “politicizes” it by defining it solely as an obligation to provide legal services for indigent clients. *Id.*

50. *Id.* at 406.

51. Unfortunately, the law school education model does not provide a good template for students’ future practice lives. As research institutions, the law school model is designed to deliver education as efficiently as possible in a setting of scarce resources. Large classes, no research assistants, one final exam, and very little feedback or accountability allows students to potentially do very well on exams without a steady and sustained effort. In contrast, few lawyers can manage a caseload and serve their clients well patterning their work style after that adopted in law school. One of the responsibilities a law school has is communicating the extent to which law practice is hard work, both in terms of pressure and substance; lawyers have responsibility for people’s lives, families, businesses, and money. Making a mistake or neglecting a matter can have far-reaching consequences. While it might work in law school, being barely prepared in practice is not good enough. I could think of no better way to impart and reinforce the value of excellence than through the modeling provided by our guest participants. I endeavored to invite very good lawyers, lawyers who work hard and strive for the standard of excellence. Regular and consistent descriptions, over a fourteen-week period, of how these lawyers met the demands of practice made an impression. The difficulty of balancing the pressure of law practice with other obligations and interests (such as personal relationships; family, civic, and charitable duties; and cultural and athletic interests) became a consistent topic of conversation.

52. It is easy to demonstrate integrity when nothing is at stake. One of my frustrations with teaching professional responsibility in the traditional format is that when matters of integrity arose, the students always said the “right” answer. They would always quit their job, withdraw from representation, and blow the whistle on lawyers engaging in rule-breaking behavior. They saw the questions as easy and always knew the correct answer. At the crux of the ethic of integrity is the judgment and strength to say no when it is not easy to say no—when something real and important is at stake; when you are at risk of losing a case, a client, a job, or a friend.

respect for the system and rule of law,<sup>53</sup> (d) a respect for other lawyers and their work,<sup>54</sup> (e) a commitment to accountability,<sup>55</sup> and (f) a responsibility for adequate distribution of legal services.<sup>56</sup> I endeavored to introduce these principles for discussion and debate and frame each topic to include an exploration of some or all of these values.

I determined that the most effective way to communicate these values was through the stories and, in many instances, the modeling provided by the guest participants. It was not a difficult task to pose questions or issues that examined the guests' conceptions of what it means to be a member of a profession. The students had the opportunity to compare and contrast notions held by lawyers engaged in different practice models, and observe and learn from lawyers of different ethnicities, genders, class, and generations. While the common thread among the lawyers' and judges' perceptions was a focus on excellence, integrity, accountability, and respect, there was a great deal of variation in how these values played out in practice. Conversations in class led students to examine and then define the contours of their own conception of professionalism.

For example, one of the most interesting and provocative discussions centered on the topic of attorney advertising. The guest was a law firm partner specializing in personal injury law. His firm had launched an aggressive television advertising campaign designed to communicate a hard-hitting style of practice. As a result of his commercials, his firm was a household name. The students entered class with a preconceived negative impression of this firm and its decision to advertise in the way it did.

After the student discussion leaders introduced the topic and outlined the litany of state and federal cases defining the permissible limits of attorney advertising, they asked the guest to explain his firm's reasons for engaging in what they characterized as a practice that further tarnished the

53. A "direct extension of the ethic of integrity" is a respect for the system of law as a framework for resolving disputes and structuring relationships. If lawyers actively demonstrate respect for the legal system, the public perception will follow. Terrell & Wildman, *supra* note 20, at 426.

54. *Id.* at 427.

[C]ivility within the profession is not entirely a trivial matter. It does in fact have its place among our basic professional values. This is not because of the historic background of the Bar as a "gentlemen's club" in which etiquette would be expected, and it is not because a law degree in and of itself entitles anyone to special deference. Instead, civility should follow from the recognition of the lawyer's social function, not his or her social status. . . .  
 . . . [C]ivility must be understood in its relation to several other principles, including quite fundamentally the lawyer's responsibility to his or her clients and their rights.

*Id.*

55. *Id.* at 428.

"[C]lients (and by extension, society as a whole) are entitled to understand the services that the lawyer renders, and moreover to have the sense that the fees charged for those services are fair. This accountability is the cornerstone of the professional independence lawyers enjoy . . . .  
 Full accountability is closely related . . . to the ethic of excellence in our professional services."

*Id.*

56. Terrell & Wildman, *supra* note 20, at 428.

public's perception of lawyers. The guest noted that he was not surprised at the negative reaction the students had to his firm's ads, because the students were not the ads' target audience; they likely did not need the information that the ads provided because they had other means of finding ways to address their (potential) future harms. The market for his firm's services, however, was, for the most part, less sophisticated and less likely to have the information provided by the ads. Members of corporate firms endeavor, through personal contacts, public appearances, and other discrete means, to deliver information about their firm to their market of businesses and well-off individuals. The guest's firm was doing the same thing but targeted, both in style and method, at his practice area's market. The advertisements may not have been to the taste of all, but because his practice was designed to address power and resource imbalances following a harm, in his view, advertising was the most effective means to this end. While not all students were persuaded by his reasoning, the class concluded the conversation by observing that its initial analysis of the role of attorney advertising, gained from the reading of cases and commentary, was, at best, two dimensional and incomplete—and that an attorney's decision to engage in an advertising campaign did not a fortiori suggest a compromise of the values of professionalism.

#### V. MORAL DECISION-MAKING—THE PEDAGOGICAL METHODOLOGY

The seed for the model of this class grew out of instinct and experience, but I thought it would be useful to augment my knowledge base with research in moral education theory. My thesis that students learn and retain information best in a context of active learning and engagement has been long confirmed by education theorists and empiricists.<sup>57</sup> I further found that when students are actively engaged in the learning process, they develop higher level cognitive<sup>58</sup> and moral decision-making strategies.<sup>59</sup> Adult learners have the ability to progress sequentially through stages of moral decision-making, and the degree of their progress can be improved through education.<sup>60</sup> Students who are more exposed to advanced-stage moral decision-making than that which they generally engage in experience a restructuring of their cognitive patterns.<sup>61</sup> Upon such exposure, they experience an "internal cognitive conflict," leading them to question their own reasoning

---

57. DAVID W. JOHNSON & ROGER T. JOHNSON, *LEARNING TOGETHER AND ALONE: COOPERATIVE, COMPETITIVE AND INDIVIDUALISTIC LEARNING* 57–58 (4th ed. 1994).

58. "Cognition is the process by which knowledge is acquired. It may be based on perception, intuition, or reason." See *THE AMERICAN HERITAGE DICTIONARY* 259 (1970), cited in Conry & Nelson, *supra* note 6, at n.27.

59. Trevino, *supra* note 3, at 454.

60. *Id.*

61. *Id.*



and strategies, and thus consider using the next higher stage of moral decision-making.<sup>62</sup>

Drawing on this research, I designed my professional responsibility course to present the ethical issues within the framework of the moral decision-making process. This process is commonly understood to include four elements: (a) moral sensitivity, (b) moral judgment, (c) moral will, and (d) moral action.<sup>63</sup>

A morally sensitive actor is readily aware of the “moral content” of a given situation.<sup>64</sup> Moral sensitivity requires consciousness of the conflicting issues and pressures at play in a given situation.<sup>65</sup> A blueprint of these issues, in the context of legal ethics, can be found in the Rules governing attorney conduct. Thus, a starting point for stimulating students’ moral sensitivity is a study of the Rules. Because, however, the Rules, read in isolation, “lack definition, depth, and applicability,” they must be studied “along with the stories and narratives that illustrate their content, reach, and purpose.”<sup>66</sup> Accordingly, the theory goes, exposure to cases, hypotheticals, articles, and firsthand stories describing ethical issues in law practice will heighten students’ moral sensitivity.<sup>67</sup>

Once an actor has identified the moral content in a given situation, she must then exercise moral judgment. Moral judgment is defined as “the selection of a standard of judgment, or framework of analysis, and its application to a situation to identify morally appropriate action.”<sup>68</sup>

My Professional Responsibility course design was fundamentally focused upon students’ development of moral judgment. The framework I introduced, although not explicitly,<sup>69</sup> was based on psychologist Lawrence Kohlberg’s paradigm of moral development.<sup>70</sup> According to Kohlberg’s theory, actors’ progressions through each stage are both cumulative and sequential, with the actors engaging in a higher level of moral decision-making in each successive stage.<sup>71</sup> While moral decisions at Level I are motivated by a desire to conform to a rule’s dictates in order to avoid punishment, Levels II through VI increasingly embrace a broader spectrum of

---

62. *Id.* “These strategies have been tested and supported with children as well as adults in dental, medical, and business education settings.” *Id.*

63. Conry & Nelson, *supra* note 6, at 7–8.

64. *Id.* at 7.

65. *See id.*

66. Cramton & Koniak, *supra* note 3, at 176. “Stories transform the monolithic uniformity of the ethics rules—pretending, in effect, that every lawyer . . . has the same duties and responsibilities—into a much more variegated and discriminating landscape.” *Id.* at 177.

67. *Id.* at 176–77.

68. Conry & Nelson, *supra* note 6, at 7.

69. I did not identify to my class that the pedagogical framework was based upon a moral-development theory, nor did I attribute the theory of stage development to Kohlberg. I simply asked the same questions in every class, thus guiding the students’ discussion through the stages.

70. KOHLBERG ET AL., *supra* note 16. “Lawrence Kohlberg’s stage theory of moral reasoning has been recognized as the major cognitive-structural perspective on moral development.” *Id.* at vii.

71. *See* Conry & Nelson, *supra* note 6, at 37–39 (describing the six stages of moral development, including each stage’s general characteristics and prototypical views).

concerns.<sup>72</sup> For example, decisions made at Level II are motivated by the dictates of rules as well as by concerns for the actor's self-interest.<sup>73</sup> Decisions made at Level III are deemed moral if they further reflect "a concern for the approval of others."<sup>74</sup> Decisions at Level IV add the additional concern of the avoidance of chaos and the maintenance of law and order.<sup>75</sup> Level V decisions reflect a concern with the issues expressed in Levels I-IV as well as with minority and majority views.<sup>76</sup> Finally, decisions made at Level VI cumulate the lower level concerns as well as embrace an objective perspective of the proper societal standard to be applied.<sup>77</sup>

I endeavored to guide the class discussion through progressively higher stages of moral decision-making, introducing an increasingly broader range of concerns for the students to consider. When they identified a Rule as dictating the resolution of a dilemma, I asked them why they would follow the Rule. Was it simply to avoid disciplinary action by the Board of Bar Overseers, or were there other, more multifaceted, considerations? As the discussion progressed, the process of resolving conflicting choices became more complicated and implicated a greater number of interests than the students originally thought.

When a moral dilemma could not be resolved with reference to a Rule, the discussion followed a similar path. Moreover, the moral content of the Rules themselves became subject to stage-analysis. For example, what concerns are the confidentiality rules designed to address? What are the reasons behind the rule as written; and, are the interests the rule purports to address fully satisfied? The final stage of analysis arrived at varied by topic and by class, but the students, in regularly engaging in a deliberate progression, began to independently engage in their analysis with greater sophistication.

## VI. CONCLUSION

The ending to my Professional Responsibility story is as yet unwritten: The extent to which students, in their future careers as lawyers, will exhibit moral judgment, moral will, and moral action<sup>78</sup> is unknown.<sup>79</sup> I have more confidence, however, that the students who have, with goodwill and dili-

---

72. *Id.*

73. *Id.* at 37.

74. *Id.* at 38.

75. *Id.*

76. Conry & Nelson, *supra* note 6, at 38-39.

77. *Id.* at 39.

78. Moral judgment is defined as "the selection of a standard of judgment, or framework of analysis, and its application to a situation to identify morally appropriate action[.]" *Id.* at 7. Moral will is defined as "the resolve to act in conformity with the moral judgment[.]" *Id.* Moral action is "the implementation of the moral judgment." *Id.* at 7-8.

79. Some research subsequent to Kohlberg's has discovered a correlation between moral development and moral action, with the most significant relationship found in a business context. Conry & Nelson, *supra* note 6, at 7-8.

gence, engaged in over twenty-five intense discussions with members of the bench and bar concerning professional ethical issues, will at least have greater tools with which to both identify and analyze the ethical issues they face.

Replicating this course requires a good relationship with the local bar,<sup>80</sup> good scheduling skills, the ability to allow class discussions to take unexpected turns, as well as the skills to bring it back to where it needs to go. It is also a great forum for someone who has been out of practice for a number of years to re-engage with the ethical issues currently on the minds of members of the bench and bar. The conversations we engaged in were as interesting and inspiring as I hoped. I plan to ask many of my current students back as guest participants, after they begin their practices, to continue the conversation with the next generation of law students.

---

80. In three semesters of teaching this course in this format, I called upon over 60 members of the local bar to participate in the class. Some lawyers traveled as far as fifty miles to attend the class. The vast majority of the guests expressed gratitude for the invitation to participate and asked me to invite them again.