PROFESSIONALISM:
THE RIGHT CHOICE

By: Tim Chinars, Chair of the Standing Committee on Professionalism

“Your attitude is a choice.” My wife gave this piece of advice to our children often as they were growing up. Sometimes she still says it to them (and, I must admit, to me). Of course, she is right. There are many things in life that we cannot control, but we are in charge of our own attitudes. It’s a choice that we make, day by day.

Like our attitude, professionalism is a choice. Acting professionally may seem difficult at times, but making the right choice is always rewarding. A lawyer’s reputation is built on those daily choices to act in an ethical and professional manner.

In the legal profession, the opportunity to choose wisely begins even before admission to the Bar. Law students make many choices as they work their way through three years of law school. In fact, even before entering law school many prospective law students have a professionalism choice to make: Will they be candid when completing the law school application, choosing disclosure rather than trying to read a question in a way that allows them to conceal information that the law school would consider material?

Once in law school, opportunities to choose professionalism continue to present themselves. Do I help a fellow student who is struggling, or do I only look out for myself? Do I practice a strong work ethic by attending class regularly and punctually, or do I do only the minimum needed to get by? Do I collaborate on what is supposed to be an individual assignment, when the likelihood of getting caught is slim? Do I try to improve myself by dealing honestly and forthrightly with personal issues like anger or substance use?

After graduating and entering the Bar, the choices do not get easier. Do I take a job with a law firm that has a poor reputation because it is the first offer to come along? Do I go the extra mile and seek out a mentor in the community who has a sterling reputation for professionalism, even though he or she will demand the best in me?

See “Chair’s Report,” next page
Experienced lawyers are not immune from having to choose whether to act professionally. A key aspect to professionalism is making the choice to communicate appropriately and effectively. Am I always completely candid to the court, as required by the Rules of Professional Conduct and the Oath of Admission to The Florida Bar? Do I use courtesy and civility when communicating with opposing counsel? Do I give an honest assessment to my client, even when the news is not good?

The Florida Bar Standing Committee on Professionalism is dedicated to encouraging and assisting lawyers, and aspiring lawyers, to make the right choice to act professionally. The Committee and the Supreme Court Commission on Professionalism exist to provide information, guidance, and resources to those at all levels of the legal profession.

The Commission has acted to reinforce professional behavior by ordering the creation of Professional Panels in each Florida Circuit. See In re Code for Resolving Professionalism Complaints, 116 So.3d 280 (Fla. 2013). The Committee provides training to law students and lawyers to encourage them to choose professionalism. A great example is this newsletter, which is packed with helpful information such as a discussion of the DISC personality assessment.

Over the coming year the Committee will present several major professionalism events to help engage lawyers, law students and others throughout the state. In April, we will take the lead in sponsoring a symposium on professionalism. This half-day conference in West Palm Beach will feature a wide array of useful information presented by leaders in professionalism, such as federal judges, state judges, and Florida Bar officials. Topics to be discussed may include the new Professionalism Expectations approved by the Board of Governors last year (click here to see them), emotional intelligence, personality assessment, and conflict resolution. We urge you to join us!

Our Committee invites you to join us in promoting professionalism among all of us. Professionalism is a choice — the right choice — and choosing professionalism daily makes our legal system better for everyone.

Save the Date
Putting the “Pro” in Professionalism
WEST PALM BEACH
4.21.17

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Improving Communication with DiSC®

By: Sarah Bolinder, Assistant Director Henry Latimer Center for Professionalism

Communication or the lack thereof is a rising problem in today’s legal workforce. Have you ever had an associate that you just could not seem to get along with, no matter how hard you tried? Have you ever explained a task to staff in what you thought was perfect detail, only to find your assistant staring at you dazed and confused?

Currently, diversity is at the forefront of legal initiatives. While diversity cultivates variety among cultures and is encouraged, it can at times inspire conflict. What may be unknown to most of us is that communication styles are another area in which we must foster and embrace our diversity.

Much of our daily communication disconnects are actually based in behavioral differences and preferences. Effective inter-personal communication – i.e., the listener actually receiving the entirety of the message you intended to send – rests much of the time in our behavioral style rather than the content of our message. The good news is that the different behavioral styles have long been documented and studied with the purpose of reducing miscommunication. Better communication relieves unnecessary stress, frustration, anger and conflict and therefore, promotes professionalism.

One of the most utilized and taught behavioral style models is known as DiSC.1 The DiSC behavioral theory dates back to Molton Marston and his book *The Emotions of Normal People*. Marston’s trailblazing work was later combined with the work of Swiss psychiatrist, Carl Jung, and these studies were blended to create the modern day DiSC profile. However, behavioral models similar to DiSC actually date back to 3 B.C. in Greece when differing behavioral styles were categorized as earth, wind, fire, and water. While the words describing the DiSC styles have evolved over the passing of nearly two thousand years, the theory behind their philosophies lives on.

The DiSC concept consists of four behavioral styles: D – which represents the Dominant personality, I – which epitomizes the Influencing personality, S – which characterizes the Steady personality, and C – which denotes the Cautious personality. It is important to understand not only your own personal style, but other styles as well so that you can modify your behavior to achieve the best communication results. Let’s take a look at the different styles more closely:

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1 When originated, DISC was the given name of the behavioral model. The Model has now been trademarked to read DiSC.
Once you know your style and others’ DiSC styles, you become more conscious of how to effectively communicate. As a child, we were often taught the Golden Rule: “Do unto others as you would have others do unto you.” However, DiSC shows us that the Golden Rule may need to be tweaked a bit to create the Platinum Rule: “Do unto others as they would do unto themselves.” You will get more out of communication when you take time to think about the way your listener prefers to be spoken to. Each DiSC style is unique in this regard.

In addition to allowing for more effective communication, DiSC offers the key to creating a successful work group. In essence, the most successful and productive of teams will have one of each of the DiSC personality styles onboard. If these styles are set up correctly, the D style will serve as the creative engine of the team with big picture thinking and a need to challenge the status quo. The I style will take the D’s lead and bring passion and inspiration to the project, making growth fun. The S style will support the team effort, making sure the project is well-organized and that any changes are necessary and well-planned. Last, the C style will dot the i’s and cross the t’s of all work done, making sure that the result is fine-tuned and as close to perfection as it can be.

However, to the contrary, a team placed together without awareness of DiSC can create stress and unprofessionalism. As an example, if a D or an I is placed in the position of paying close attention to details and perfecting a work product in a repetitive fashion, he or she will likely become disenchanted and seek distractions elsewhere. On the other hand, if you place a S or a C in the role of creative director, they will many times become indecisive and anxious, creating stress and frustration for those around them.

While knowing your style and the styles of others can create workplace success, it is important to remember that DiSC is a model that should be used to encourage a person to be his or her personal best, but it should not be used as a means of labeling someone.

In addition, DiSC should not be relied on to make excuses for bad behavior; instead, DiSC aims to illustrate what makes diverse personalities so productive and how to better communicate with each style.

Applying DiSC to our daily lives – whether at work, home or in social situations – enables us to make an effective connection, which ultimately results in healthier, more productive relationships and heightened professionalism. While we cannot change who people are, we can learn to better empathize, understand and respond to them. DiSC is a gentle reminder that if we just take the time to better understand ourselves and others, we can not only relieve stress and unprofessionalism, but we can also use DiSC as a recipe for success in our workplace.
The Henry Latimer Library Guide

Explore professionalism videos and articles by clicking on these subjects:

- Leadership
- Mindfulness
- Civility
- Technology
- Work Life Balance

libguides.law.fiu.edu/henrylatimerguide
Frequently Asked DiSC Questions
By: Dr. Mimi Hull and Sarah Bolinder

QUESTION:
I work in a fairly small law firm. I try not to question anything so that I am not labeled a trouble maker, so I just don’t say much of anything. I rarely give my opinion and I avoid conflict even when I know I am right. I am also overworked because I rarely say “no.” Is there such a thing as being too nice?

ANSWER:
Any strength overused can become a weakness. If you are holding thoughts inside, you may be needlessly suffering or struggling. I also fear that if you get to the “end of your rope,” there is no going back. When you are “done,” you might even leave! You are probably a strong S on the DiSC profile. To help yourself and your firm, it is important to speak up even if it’s difficult at first. You have a lot to contribute and do not have to please everyone. Saying no or questioning a situation can lead to positive change. So gather your resources, plan your approach and share your thoughts and/or make your requests known. Your strength is that you are typically friendly, calm and controlled so you will probably be able to deliver the message with tact and diplomacy. In fact, as a high S, you probably can tell someone to go to heck in a way that makes them look forward to the trip!

QUESTION:
I own my own practice but find that many times I am focusing on networking and personal relationships to the detriment of my business. I know that the day-to-day tasks are important to my firm’s success, but I do not enjoy this type of work and find myself creating distractions that are more exciting and inspiring. What can I do to make sure the work gets done efficiently?

ANSWER:
From the sound of it, you might be a high I on the DiSC profile. As an I, you may find that you seek freedom from the mundane and have a hard time performing routine, detailed tasks on a daily basis. Recognize your strengths and minimize your weaknesses. You are naturally inclined to be an inspirational and motivational leader who is very skilled at networking. Perhaps you could seek support staff and associates to help meet the daily needs of your firm allowing you to focus on creative growth strategies which would place you in a leadership role on a larger scale.

QUESTION:
I am being considered for partner at our firm and have taken the DiSC Behavioral Profile. I have learned that I am a strong, almost pure D, as are many members of our firm. I have been told that firms with many dominant leaders have higher turnover and absenteeism. Is that true? We do have high turnover, but I thought that was typical of the legal profession.

ANSWER:
The legal profession often attracts strong dominant types. However, when it comes to leading a group of highly skilled people, dominant leadership may not always be the best answer. A dominant leader tells people what to do, issues orders and expects them to be obeyed. Without self-reflection and temperance, a dominant leader will create a culture of fear, making mistakes and unproductivity a problem.

QUESTION:
Pure dominants prefer to retain as much power and decision-making authority as possible. The dominant manager typically does not consult employees, nor are they asked to give input. Employees are expected to obey orders without receiving many explanations. In addition, the need for control can make Dominants prone to micro-management, creating frustration and high turnover. Importantly, both Gen X and Millennial employees are highly resistant to this management style and will leave rather than put up with it. Knowledge is power. Knowing you are a high D is the first step. Check out great resources on emotional intelligence and leadership on the Henry Latimer Library Guide. If you work hard at empathizing and validating others around you, you will notice a positive shift in the work atmosphere.

QUESTION:
I am just being placed in a supervisory role in my state office. I am excited about the promotion, but I know that I have a hard time accepting anything less than a perfect work product from myself and my staff. I am very picky about details and expect that all projects should not be turned in unless they are perfect. I would rather work on one project and get it perfect before considering any new or challenging projects. In addition, I do not enjoy conflict and know that I am going to struggle when dealing with emotionally charged situations with my staff. Do you have any recommendations for me?

ANSWER:
From your description, it appears you may be a high C on the DiSC profile. In a leadership role, you will have to work extra hard to reduce your expectations of perfection so that you do not alienate and discourage your staff. It is clear that any project you work on will be perfect when finished, but understand that perfection is a process that takes time and revisions, and try to empathize with your staff members who may not be as focused on the details as you are. Embrace the strengths of each of your staff and realize that conflict is nothing to fear. It brings change, and change can be good when it comes after careful consideration and attention to the details—a must for any work you do! Similar to the D-style, you will want to look into emotional intelligence as a tool to increase your personal relationships. As a C-style, personal relationships are not on the forefront, but as a leader, you will want to put in the extra time to build these skills in order to ensure your success in that role.

Dr. Mimi Hull is a fully Licensed Psychologist who is a recognized authority in the areas of Team Building, Communication, Leadership, Board Development, Change Management, Strategic Planning, Time and Stress Management, and Personality Insights. In addition, she is an accredited DiSC coach. For more information, please visit Hull & Associates at www.hullonline.com.
Each year at the Judicial Luncheon held at The Florida Bar’s Annual Convention, the Standing Committee on Professionalism (SCOP) presents three professionalism awards including: (1) the William M. Hoeveler Judicial Professionalism Award, (2) the Law Faculty and Administrator Professionalism Award, and (3) the Group Professionalism Award.

This year the three awards were presented by Ramón A. Abadin, Immediate Past President of The Florida Bar. Former President Abadin awarded the William M. Hoeveler Judicial Professionalism Award to the Honorable Sheri Polster Chappell, a United States District Judge of the United States Middle District Court of Florida. Judge Chappell has been serving the Middle District since 2003, first as a magistrate Judge and then as a District Judge. Judge Chappell is known for her many volunteer positions in the legal community and is a staunch advocate of professionalism initiatives from educating students in mock trial presentations to supporting the Open Doors to the Federal Court’s Program. Judge Chappell personifies the Four C’s of Professionalism: character, competence, commitment and civility, and no judge could be more deserving of this award.

SCOP’s Law Faculty/Administrator Award recipient was Professor Robert Dale Bickle of Stetson College of Law. Professor Bickle has taught Stetson law students for over 30 years and in that time has tirelessly instilled an understanding and respect in his students for the tenants of professionalism, most notably, character and commitment to the U.S. Constitution and civil rights awareness. Professor Bickle is a prolific author, and his passion for teaching and civil rights has inspired professionalism in his current students as well as three decades of Stetson College of Law Alumni.

Last, SCOP honored the Orange County Bar Association with the Group Professionalism Award for its implementation of a unique “Attorney Bootcamp” professionalism program. This dynamic professionalism two-day intensive training program for new lawyers includes: (1) touring the local courthouse, (2) meeting judges, (3) discussing tips for practice with judicial assistants, (4) learning tips for plea bargaining from the public defender and the state attorney, and (5) learning the nuts and bolts of solo practice. Programs such as these promote professionalism in the younger generation of Florida attorneys.

SCOP was privileged to present this year’s professionalism awards to such a deserving pool of candidates whose commitment to professionalism impacts the Florida legal community as a whole. We look forward to next year’s nominations. More information about nominations can be found on the Center for Professionalism’s website: www.floridabar.org/professionalism.

Professor Robert Dale Bickle was honored with the Law Faculty/Administrator Professionalism Award; pictured here with immediate past president of The Florida Bar, Ramón A. Abadin.

The Honorable Sheri Polster Chappell with the 2015-16 Chair of the Standing Committee on Professionalism (SCOP), Caroline Johnson Levine.

Jamie Moses accepted the Group Professionalism Award on behalf of the Orange County Bar Association; pictured with the 2015-16 SCOP Chair, Caroline Johnson Levine.
NOW ACCEPTING NOMINATIONS

The Standing Committee on Professionalism is now accepting nominations for:

- William M. Hoeveler Judicial Professionalism Award
- Law Faculty/Administrator Professionalism Award
- Group Professionalism Award
- Law Student YouTube Contest

CLICK HERE FOR MORE DETAILS

The Center offers an interactive CLE-credited seminar for legal groups and organizations which will educate participants on how professionalism can increase their workplace success. For more information, contact the Center: (850) 561-5747 or cfp@floridabar.org
All law students and student organizations are encouraged to participate individually or in groups. The skit must pertain to legal professionalism expectations in Florida, incorporating the Ideals and Goals of Professionalism, Guidelines for Professional Conduct, and/or the Rules Regulating The Florida Bar. Entries should be 2 to 4 minutes in length and must be submitted with an approval letter from law school administration. The winning submission will be posted on the Center for Professionalism’s website.

All entries become property of The Florida Bar and are subject to use in CLE programs.

Full details at floridabar.org/professionalism, under “Awards and Contests.”
1. Choose Civility

The opportunity to practice law is a special privilege granted to those who have learned the nuances of their craft, have taken an oath to preserve and protect the constitution and the judicial process, and have promised to advance their client’s interests to the best of their ability within the ethical bounds of the law. In short, to practice law essentially requires each attorney to conduct himself in a professional and civil manner. This standard should be the goal and creed of every attorney. Regardless of whether we represent the government, a wealthy corporation, or a poor individual; whether we appear before the Supreme Court or traffic court; our actions, whether spoken or written, are on display before the public. The public’s opinions and views about the legal profession wax and wane largely based on how we, collectively, as lawyers, treat each other and those with whom we interact. So, my advice to lawyers, both young and old, is treat everyone with respect, gentleness, and candor. Be a professional and exhibit professionalism in your day to day practice of law and in all that you do.

-Jonathon S. Dean serves as the Managing Partner of Dean and Dean LLP, the Ocala law firm he co-founded in 1988. Jon is a practicing attorney representing clients in areas of corporate and business law, real estate development and litigation. He also serves as a business consultant and director for several corporations.

2. Speak Softly

One of the most effective attorneys in my practice is so soft-spoken that the first time he appeared before me, I had to ask him to speak up. At first, I was concerned that my hearing was in decline (which it may be, but that is a topic for another day). But, as the hearing wore on, I began to notice that my posture had changed; I was literally sitting on the edge of my seat, leaning in as he spoke. I was hanging on his every word. I realized that I was paying closer attention to his arguments than to any of the other very fine lawyers in the room. What a contrast this approach is to the loud, boisterous voices we frequently encounter during a hearing! His calm manner was refreshing, even soothing. His style is a testament to the fact that counsel does not have to shout, or for that matter, speak over opposing counsel to get the judge’s attention. Volume is not the key to being an effective advocate. Remember the old adage, if you want to get someone’s attention, whisper? Well, adapted for the hearing room, a stage whisper may be just the ticket.

-Judge Suzanne Van Wyk is an administrative law judge with the Florida Division of Administrative Hearings. She was previously a shareholder at Bryant Miller Olive in Tallahassee, practicing in the areas of local government, land use and litigation.
3. Self Reflect

Are our daily professional interactions examples that we wish all others practiced? Are our professional traits those by which we would wish our entire profession be judged? Just as Americans are presently suffering from gross polarization of our societal politics, many in the Bar believe that legal advocacy has become increasingly polarized. The resulting lack of civility in the name of alleged advocacy is costing our profession positive standing in the eyes of the public and has harmed our goal as a profession to be admired. The public measures our entire profession by its perception of our individual members. The average citizen has no contact with any bar as a group, only a member or two. Thus, the root characteristics of each member’s individual actions create the public impression of our profession and determine our place in society. The public is presently observing the newest loss of personal and professional civility by too many of our politicians and is questioning the survival of our American political system. The entire Bar may wish to consider whether our profession’s long-sought goals and our members’ increasing lack of professional civility can long co-exist.

Dan H. Honeywell, Honeywell Mediation, Orlando-Winter Park, Florida, has been a board certified civil trial lawyer since 1978. Since 2008, he also practices and publishes full-time in all phases of alternative dispute resolution, including as a Florida Supreme Court Mediator certified in both circuit civil and appellate mediation.

4. Change Your Game Face

In the past three decades, one of the most important reforms to civil litigation in Florida has been the formalization of the mediation process. In all civil actions, including administrative proceedings, mediation is either ordered by the tribunal or voluntarily initiated by the participants. One aspect of this process can be very sensitive and should be done carefully and with sensibility. In mediation, opposing counsel is allowed to directly address the adverse party or parties. In most instances, this procedure is allowed by the party’s counsel. Accordingly, the presenting lawyer has an obligation to proceed with caution and professionalism. This means that the use of facial expressions, body language, tone of voice, and the implementation of visual or audio aids, should be utilized in a way that avoids the conveyance of emotions such as hostility, contempt or ridicule. These communications should comport with the objectives of the mediation. Counsel’s “game face” is therefore an important first step toward a successful mediation, which is also part of the lawyer’s professional obligation.

Ed Cluster is the owner and founding partner of Ayers Cluster Law Firm. His litigation experience covers personal injury cases, including medical and legal malpractice, estate and trust matters, real estate problems, commercial disputes and dissolution of marriage.
SELECTED RECENT PUBLICATIONS AND DECISIONS

PUBLICATIONS


DECISIONS

**R.J. Reynolds Tobacco Co. v. Calloway**, No. 4D12-3337 (Fla. 4th DCA Jan. 6, 2016).
The plaintiff brought a suit against several tobacco companies and was awarded a multi-million judgement. On appeal, the Fourth DCA “nearly reverse[d]” the judgment due to improper comments by plaintiff’s counsel whose “numerous, unnecessary, and improper” remarks “pushed the envelope at every turn.”

The Supreme Court reversed murder and child abuse convictions based on multiple instances of improper closing arguments in the guilt phase of the trial. The Court reminded lawyers that, as it has “stated for decades,” the Court expects prosecutors, “as representatives of the State, to refrain from engaging in inflammatory and abusive arguments, to maintain their objectivity, and to behave in a professional manner.”

**Hall v. Hall**, No. 3d15-12 (Fla. 3d DCA April 27, 2016).
In affirming an appeal of an intra-family dispute, the Third DCA chose to “reiterate a fundamental tenet of appellate advocacy”— appellants are required to provide a statement of facts and interpret the evidence in the light most favorable to sustaining the fact-finder’s conclusions. The appellant in the instant case neglected to do so, causing the court to note that “[t]he ‘light most favorable’ is not a reference to a Florida sunrise.”

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**Words to the Wise**

*Communication leads to community; that is, to understanding, intimacy and mutual valuing.*

- Rollo May

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*The single biggest problem in communication is the illusion that it has taken place.*

- George Bernard Shaw

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*The art of communication is the language of leadership.*

- James Humes