

UND School of Law Convocation

Greetings Dean McGinniss, Associate and Assistant Law School Deans, faculty and staff.

Good evening to the families of our newest students. They will remember....

Good evening to our newest law students.

I have been asked to talk about professionalism. But judges often do not listen well off the bench, so I also will thank you for this opportunity to say a few words about persistence and perspective, in addition to professionalism.

First: Persistence:

Professional schools are hard.

- They are mentally taxing and physically demanding.
- You need excellent study habits, personal discipline and the will to not only survive, but succeed and thrive.
- If you merely go through the motions, your grades will show it.
- But more importantly, the effort you put into learning will be reflected in what you know about the law when you walk out the door in three years.

In the coming days and months you will be overwhelmed by the volume of information you are being asked to remember AND comprehend.

- For most of you, the vocabulary of the law will be new.
- For most of you, for the first time in your educational career, you will be required to read an unmanageable number of pages of materials. On top of that, you will be expected to read and understand more than just the required reading.

To bolster your persistence, I recommend that you exercise. Eat right. Get some sleep. Law school is a marathon; not a sprint.

Second: Professionalism:

Professionalism is a noun defined as “professional character, spirit, or methods.”

- Lawyers are one of the three classical learned professions—the others being medicine and theology.
- An essential part of being a profession is self-regulation through codes of conduct.

In a few moments we will recite your Law School’s Pledge of Professionalism. Your pledge includes an affirmation that you acknowledge “the privileges inherent in becoming a lawyer” and requires that you promise to “accept the responsibilities that accompany those privileges.”

The Pledge of Professionalism tracks some of the Model Rules of Professional Conduct—which is the bedrock document for the code of lawyer conduct in every American state, territory and possession. Those Rules include the following [quote and discuss the Preamble]:

On this topic of professionalism, I want to leave you with two additional thoughts. First, most of what you do as a lawyer, and most of what you do as a law student, is done when nobody is looking.

- HOW you perform your obligations to the law school community, is entirely up to you.
- YOU will set the standards for yourself. Yes, others whom you surround yourself with will influence which way your professional compass points. But, ultimately, you and you alone set your professional course.
- HOW you will act and perform as a lawyer largely will be set by the time you finish law school.
- Your professional reputation will be cast by graduation day.

Second and lastly on this topic, I want to share an idea offered by my close friend. She was the spouse of a lawyer until his recent death, and she is the mother of a lawyer. She has worked with lawyers and judges during her entire adult life. Her wisdom is apparent. In her words, “Your experience and the intellect, knowledge, and skills you obtain through your legal studies will define you as a lawyer; the behavior, manner, and dignity in which you use your intellect, knowledge, and skills will define your professionalism.”

Third: Perspective:

Starting is a great time to think about finishing.

You are one of 38,500 people in the United States starting law school this year

Raw numbers, attached to nothing for comparison, might suggest you are simply part of a large herd. But that conclusion would be disheartening. But more importantly, that conclusion would be wrong.

- The current United States population is about 328 million.
- When you obtain your degree and pass the bar in three years (yes, you can and will do that), you will join 1.35 million other lawyers in the United States. Again, that sounds like you are a small dot on a big board. But you again would be wrong.
- 1.35 million lawyers in a population of 328 million people means we represent less than one-half of one percent of the population (.41%).
 - We know some areas of the law are over-served
 - But most areas of law are underserved and desperately need lawyers and other legal service providers (if given the chance, sometime during the next three years you will hear much more from me about that)
 - Now is not too early to start thinking about how YOU will be part of the future solution to providing legal services to underserved substantive and geographic areas of law.

Finally regarding perspective, please pay heed to your other obligations. If you have a partner, establish priority time him or her. If you have kids, do the same. Neither can wait 3 years to have you part of their life again.

Conclusion:

In conclusion, congratulations on choosing to study the law—which is a noble and honored profession.

Thank you for choosing the University of North Dakota School of Law. I think you will find a home here, where academic rigor and professionalism comes easy.

If you approach law school with persistence, professionalism and perspective, you will graduate and enter the field of law ready to contribute like so many before you have done.

My brothers and sisters on the bench regularly visit the law school during the academic year. I look forward to those visits, and I look forward to walking with you on your journey during the next three years. On behalf of the Chief Justice and my fellow Justices on the North Dakota Supreme Court, I wish you well.

Model Rules of Professional Conduct: Preamble

PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

[4] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate

purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

[7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

[8] A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on

behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.