

## LITIGATION ACROSS TIME AND GENERATIONS: PROFESSIONALISM

I. Over the last fifty years, the practice of law, which ultimately involves litigation, has changed dramatically. The *culture* of the profession is vastly different from what it was. So are its social and economic structures. Social, economic, and cultural shifts have prompted the bench and bar to redefine “professionalism”.

A. The key elements of professionalism in today’s legal environment:<sup>1</sup>

1. Dedication to serving clients before self.
2. Dedication to serving the public interest, improving the law, and improving the profession.
3. Devotion to honesty, integrity, and good character.
4. Passion for excellence.
5. Practice in context.
6. Maintenance of competence in a specialized body of knowledge and skills, which are freely shared with colleagues.
7. Independence and self-regulation.
8. Civility.

B. The forces behind the social, economic, and cultural shifts:<sup>2</sup>

1. Greatly enhanced competition.
2. The emergence of new (specialized) areas of practice.
3. The increase in law-firm size and breadth.
4. *Technology*.

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<sup>1</sup> Numbers 1-7 are taken from an article by Charles E. McCallum titled “Professionalism in the Practice of Law”. Number 8 is the self-evident element provided by the present writer.

<sup>2</sup> See “The Changing Legal Profession” by Abe Krash, *The Washington Lawyer*, January 2008.

II. The social, economic and cultural shifts, and the forces behind them, have caused the profession to view ethics and professional responsibility from a different perspective and in a new light. In high-stakes litigation, financial and client pressures have led to such malign things as suppression or destruction of evidence, as well as a dog-eat-dog mentality that ignores civility and notions of fair play. Technology, at the same time a blessing and a curse, has enhanced lawyers' productivity and, unfortunately, their ability to circumvent the code of conduct.

III. The major forces behind the generational changes in the practice of law:

A. Technology.

B. The advent of legal advertising.

IV. Have technology and ubiquitous legal advertising strained the fundamental notions of justice and fair play? Have they strained the system?

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