

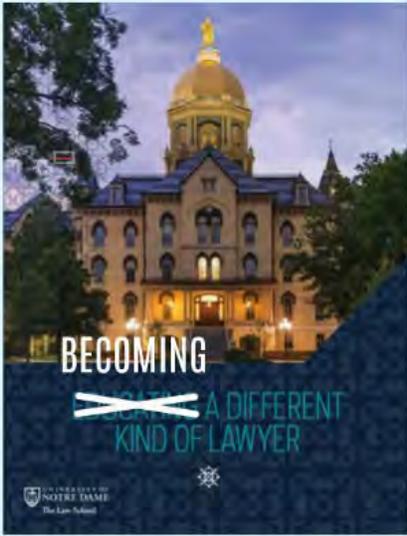


**BECOMING**

~~EDUCATING~~ A DIFFERENT  
KIND OF LAWYER

 UNIVERSITY OF  
NOTRE DAME  
The Law School









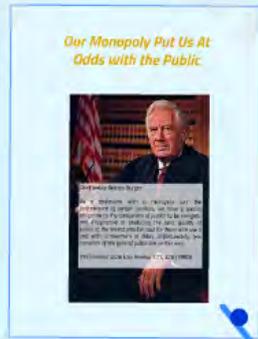
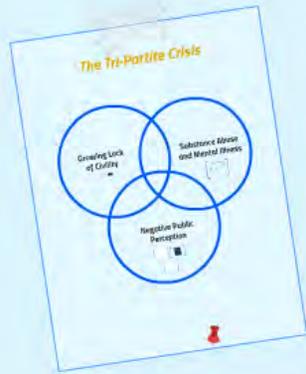
*A Different Kind of Lawyer  
Professional, Intelligent,  
Respected,  
Community Leader,  
Pro Bono Servant*

*Atticus Finch's Closing Argument*



## ***Atticus Finch's Closing Argument***





**A Different Kind of Lawyer: Professionals, Intelligent, Respected, Community Leader, Pro Bono Servant.**

*John J. Conroy (County Attorney)*



**Legal Services**

Legal services are often seen as a necessary evil, a cost of doing business that is often overlooked. The legal profession has a long history of being seen as a necessary evil, a cost of doing business that is often overlooked. The legal profession has a long history of being seen as a necessary evil, a cost of doing business that is often overlooked.

**Legal Services**

The legal profession has a long history of being seen as a necessary evil, a cost of doing business that is often overlooked. The legal profession has a long history of being seen as a necessary evil, a cost of doing business that is often overlooked.

**We Discipline and Regulate Ourselves**

Or At Least We Say That We Do

**Current State of the Legal Profession**





***Look at Where We Have Come***

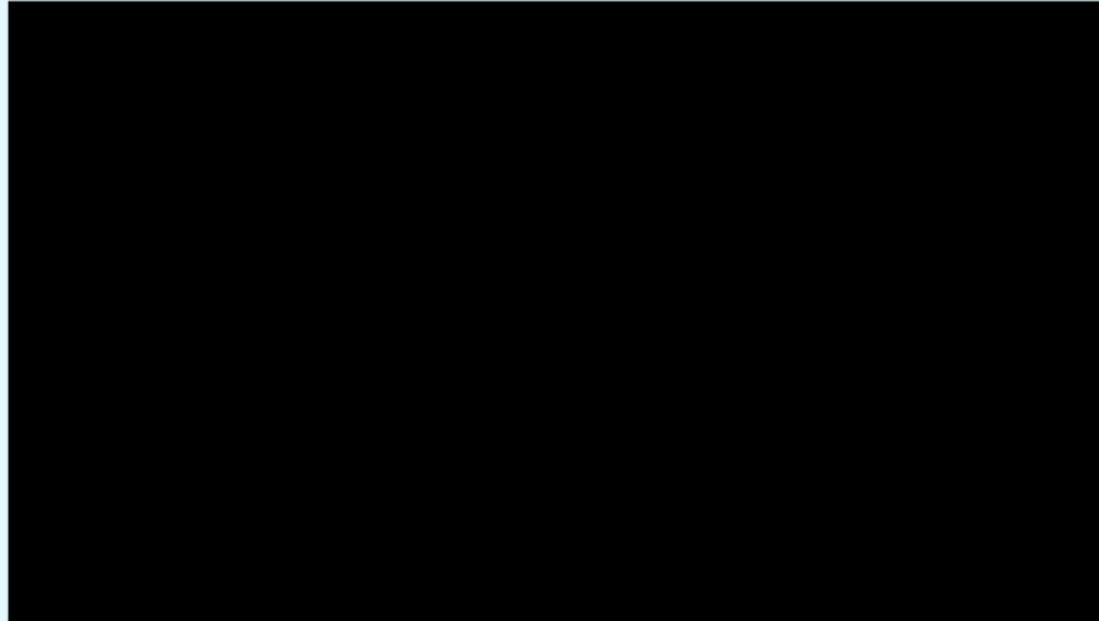




***It is Not Just Personal Injury Ads***



***It is Not Just Personal Injury Ads***

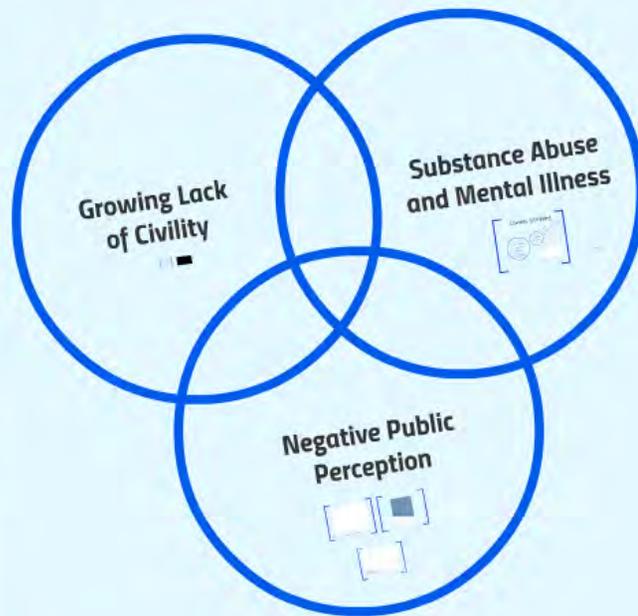


*Maybe These Guys Have it Right*

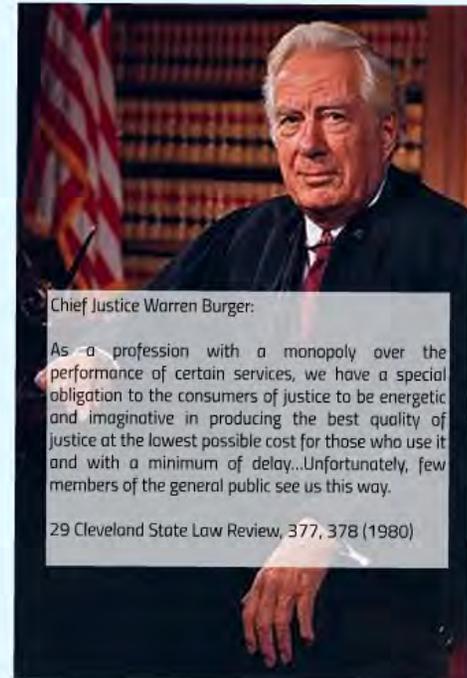




## The Tri-Partite Crisis



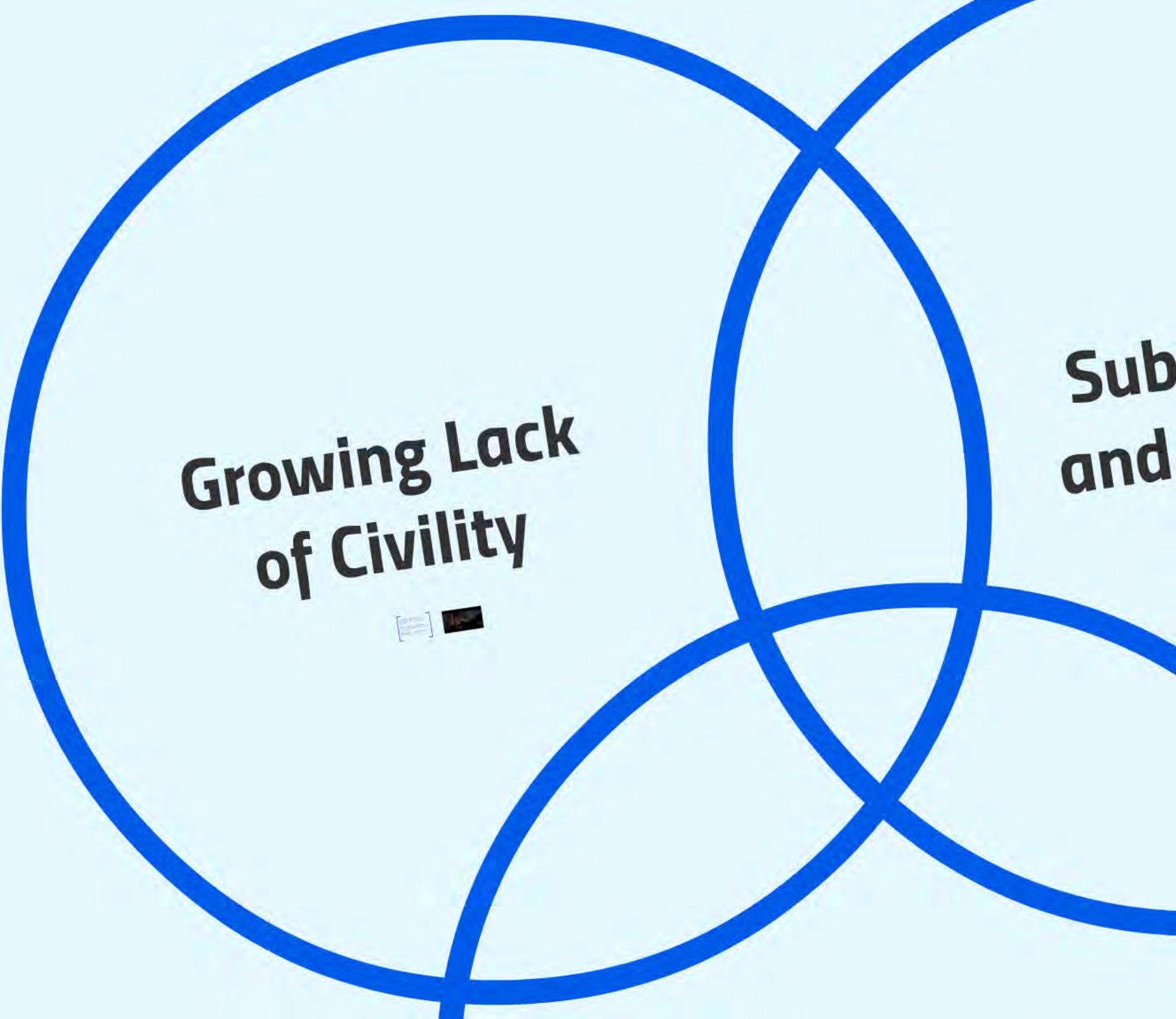
## Our Monopoly Put Us At Odds with the Public



Chief Justice Warren Burger:

As a profession with a monopoly over the performance of certain services, we have a special obligation to the consumers of justice to be energetic and imaginative in producing the best quality of justice at the lowest possible cost for those who use it and with a minimum of delay...Unfortunately, few members of the general public see us this way.

29 Cleveland State Law Review, 377, 378 (1980)



**Growing Lack  
of Civility**



**Sub  
and**

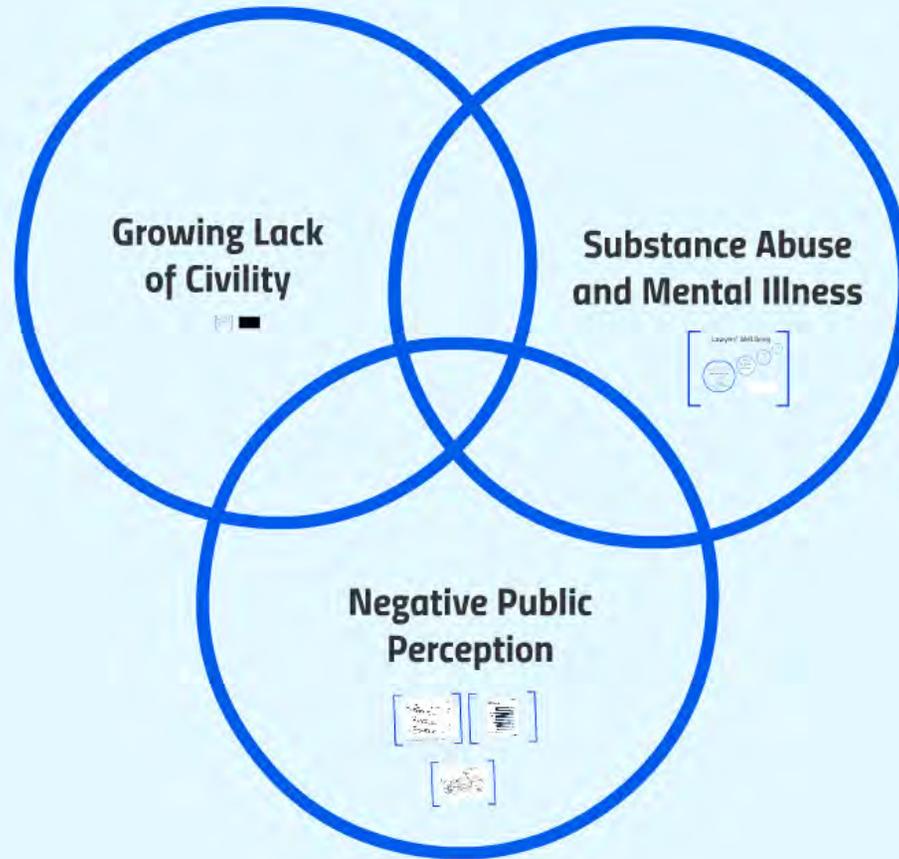
“To most lawyers, litigation is a game. Most of these lawyers measure their success by whether the evidence supports a win or not. It becomes about them, not the clients.”

“There is a general view that zealous representation means doing whatever it takes (legally) to win or promote a client’s position.”

Highlighted Comments from 2007 Illinois Supreme Court Professionalism Commission Survey



# *The Tri-Partite Crisis*



ck

# Substance Abuse and Mental Illness





## Mental Health

Depression: 3.6 Times Normal

28% Depressed; 19% Anxiety

Law School  
Causes Depression

"Distress"  
at 15 times National Average

Sources: *The Lawyer's Epidemic*, SC Bar HELP Task Force, CNN.com,  
American Bar Association, Yale Jrnl. Health Policy, Law and Ethics

# Suicide

Fourth Highest

Men Twice Likely

# Substance Abuse

More than 20% Problem  
Drinkers; Younger Impacted  
More

75% of Discipline Cases

# Satisfaction

According to a 2015 Florida  
Bar Membership Survey:

*7 of 10 Lawyers Would  
Change Careers  
if They Could*

To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. The two studies referenced above reveal that too many lawyers and law students experience chronic stress and high rates of depression and substance use. These findings are incompatible with a sustainable legal profession, and they raise troubling implications for many lawyers' basic competence. This research suggests that the current state of lawyers' health cannot support a profession dedicated to client service and dependent on the public trust.

ABA National Report on Lawyers Well Being  
August 2017

# Lawyers' Well Being

## Satisfaction

According to a 2015 Florida Bar Membership Survey:

71% of Lawyers Would Change Careers if They Could

## Substance Abuse

More than 20% Problem Drinkers; Younger Impacted More

75% of Discipline Cases

## Suicide

Fourth Highest  
Men Twice Likely

## Mental Health

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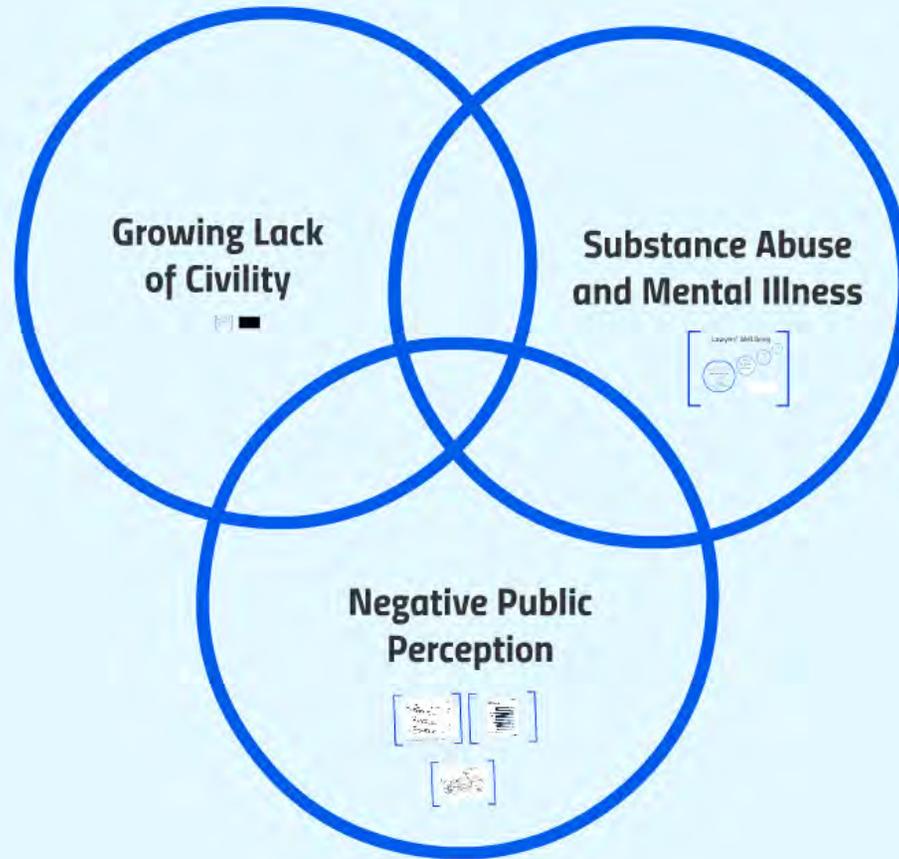
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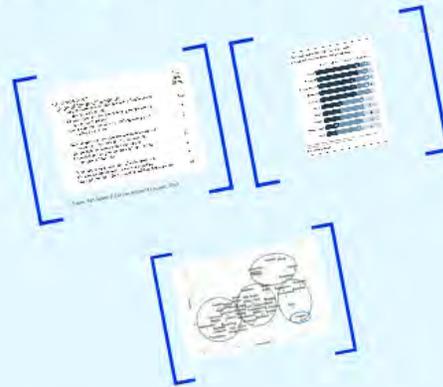
©2017 by The American Bar Association. SC Bar / ABA / Just Justice ONI, LLC  
American Bar Association, "The Law, Health, Wealth, Ethics"

To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. The two studies referenced above reveal that too many lawyers and law students experience chronic stress and high rates of depression and substance use. These findings are incompatible with a sustainable legal profession, and they raise troubling implications for many lawyers' basic competence. This research suggests that the current state of lawyers' health cannot support a profession dedicated to client service and dependent on the public trust.

# *The Tri-Partite Crisis*



# Negative Public Perception

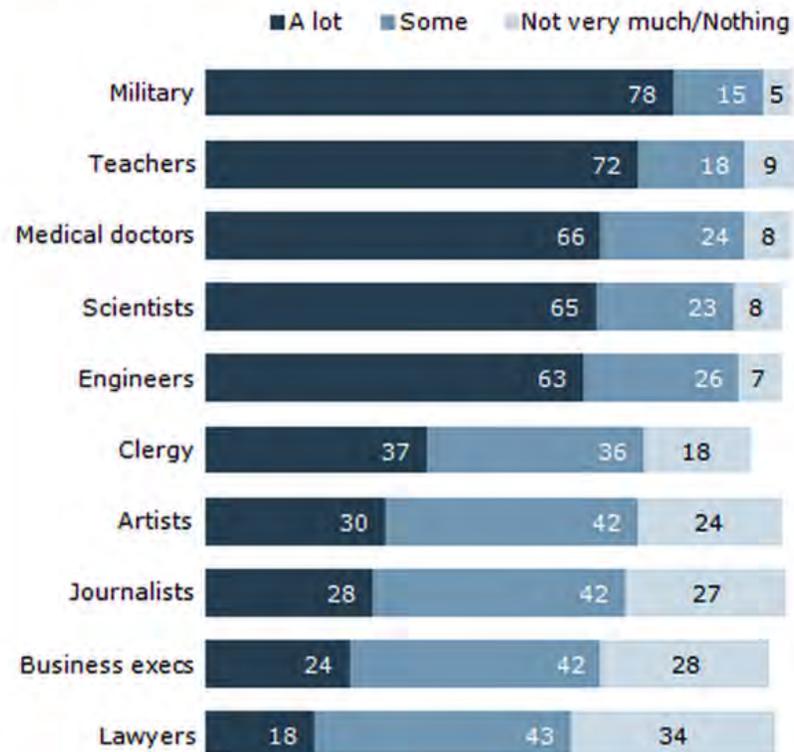


ALL RESPONDENTS	Total (450) <u>100%</u>
<u>Percent of Americans Who Agree That:</u>	
Lawyers are more interested in winning than in seeing that justice is served	74%
Lawyers spend too much time finding technicalities to get criminals released	73
Lawyers are more interested in making money than in serving their clients	69
Most lawyers are more concerned with their own self-promotion than their client's best interests	57
We would be better off with fewer lawyers	51
Lawyers do not keep their clients informed of the progress of their case	40
Most lawyers try to serve the public interests well	39
The best lawyers are selected to serve as judges	28
The legal profession does a good job of disciplining lawyers	26

Source: ABA Survey: Public Perceptions of Lawyers, 2002

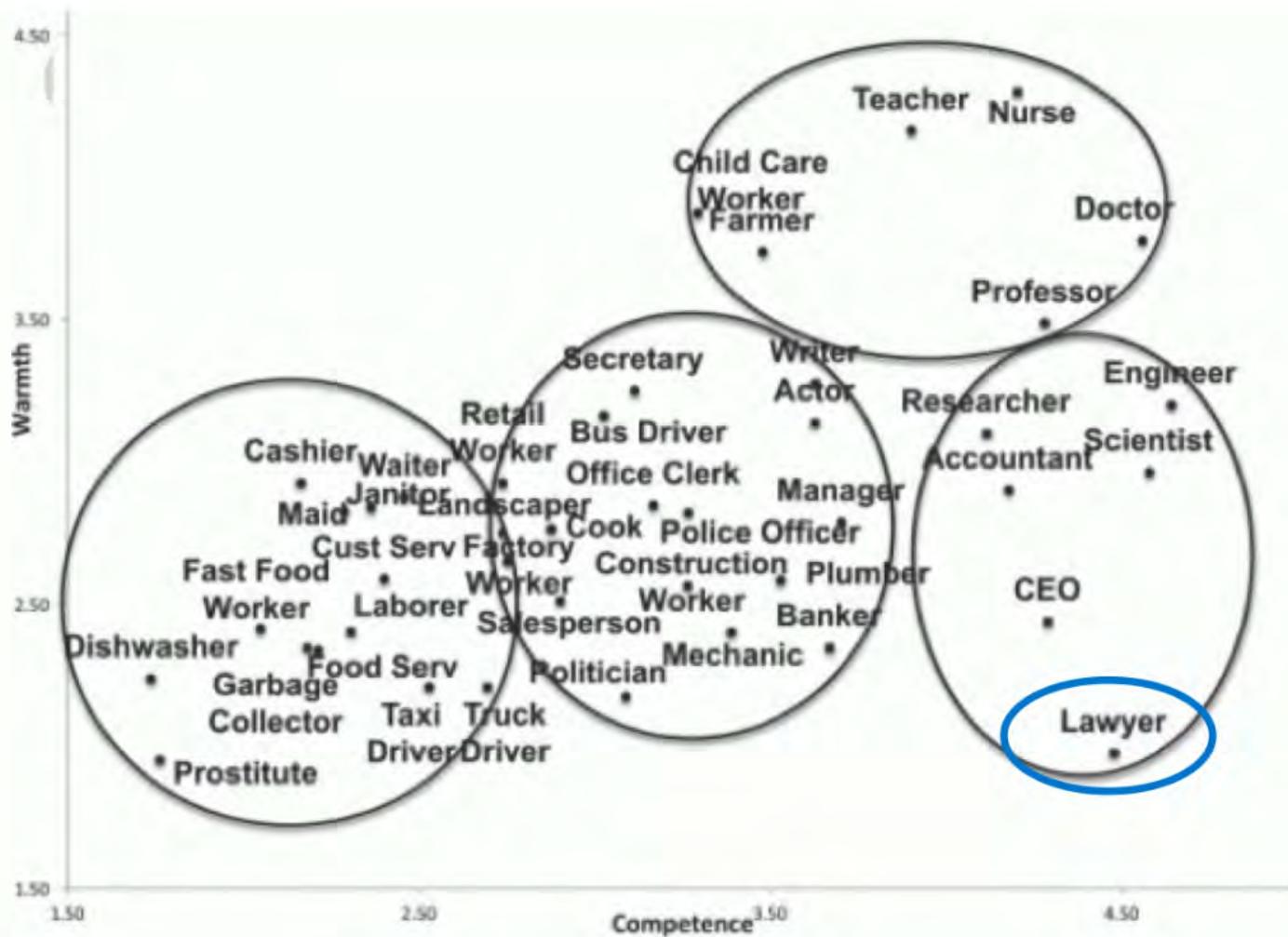
## Perceptions of Occupational Groups

% saying each group contributes to society's well-being ...

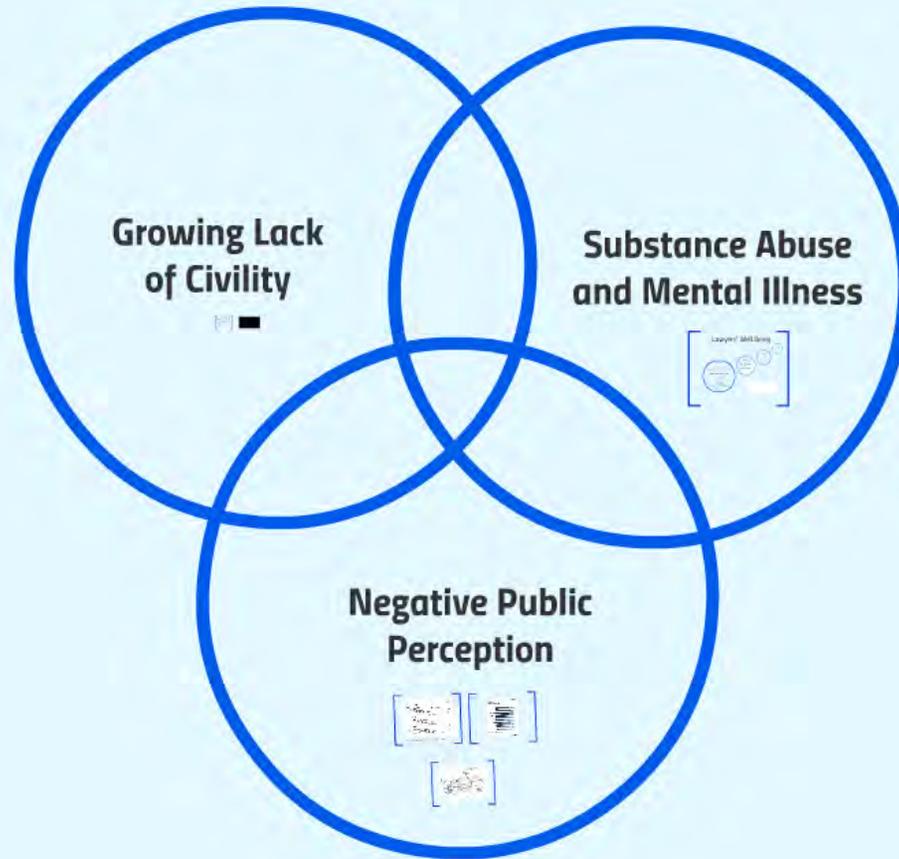


Source: Pew Research Center survey March 21-April 8, 2013. Q6a-j. Responses of those who did not give an answer are not shown.

PEW RESEARCH CENTER

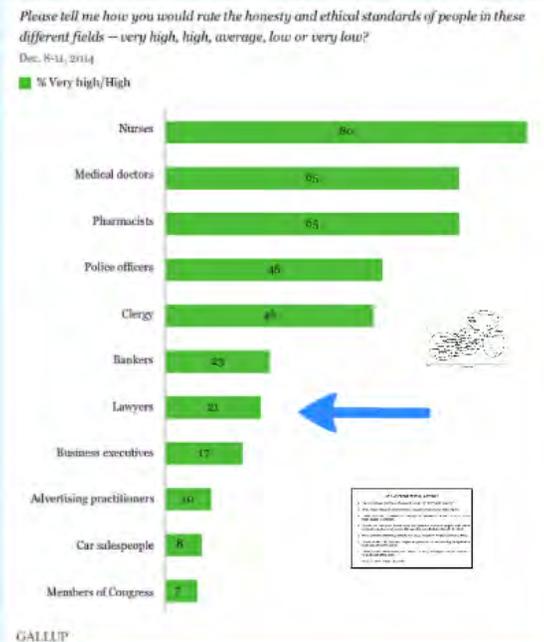


# *The Tri-Partite Crisis*



# Conclusion

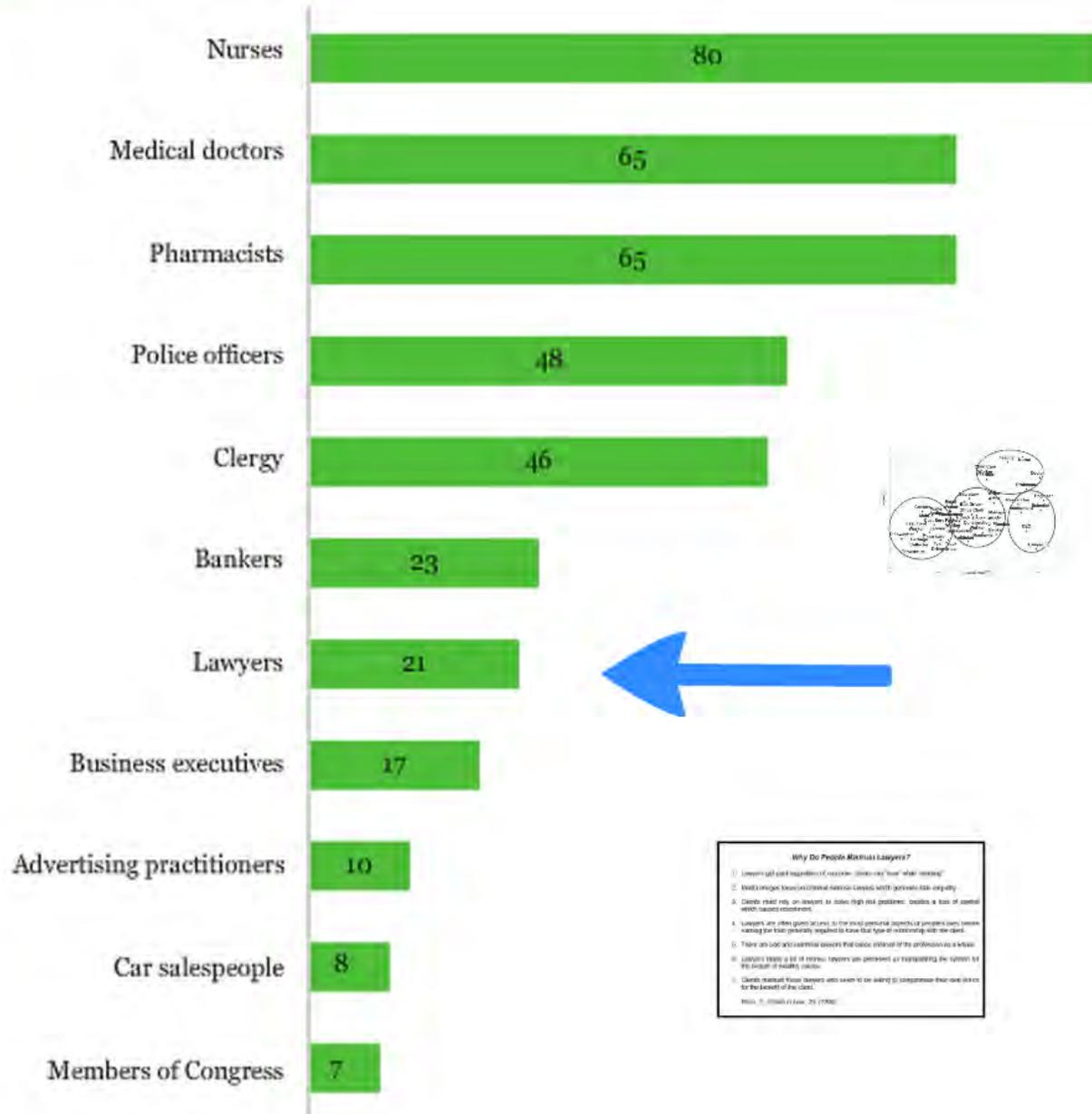
## Who Do You Trust?



Please tell me how you would rate the honesty and ethical standards of people in these different fields -- very high, high, average, low or very low?

Dec. 8-11, 2014

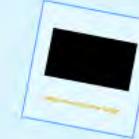
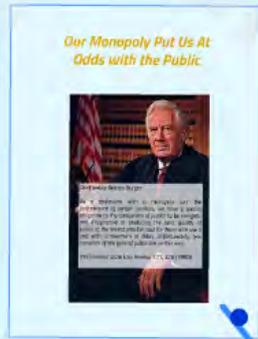
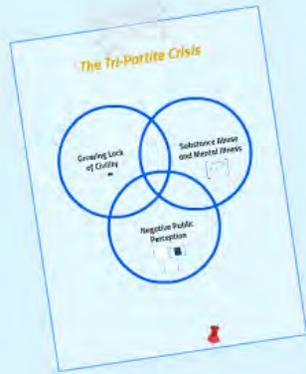
■ % Very high/High



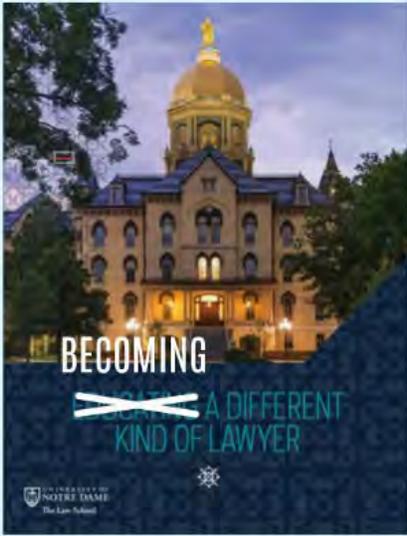
**Why Do People Mistake Lawyers?**

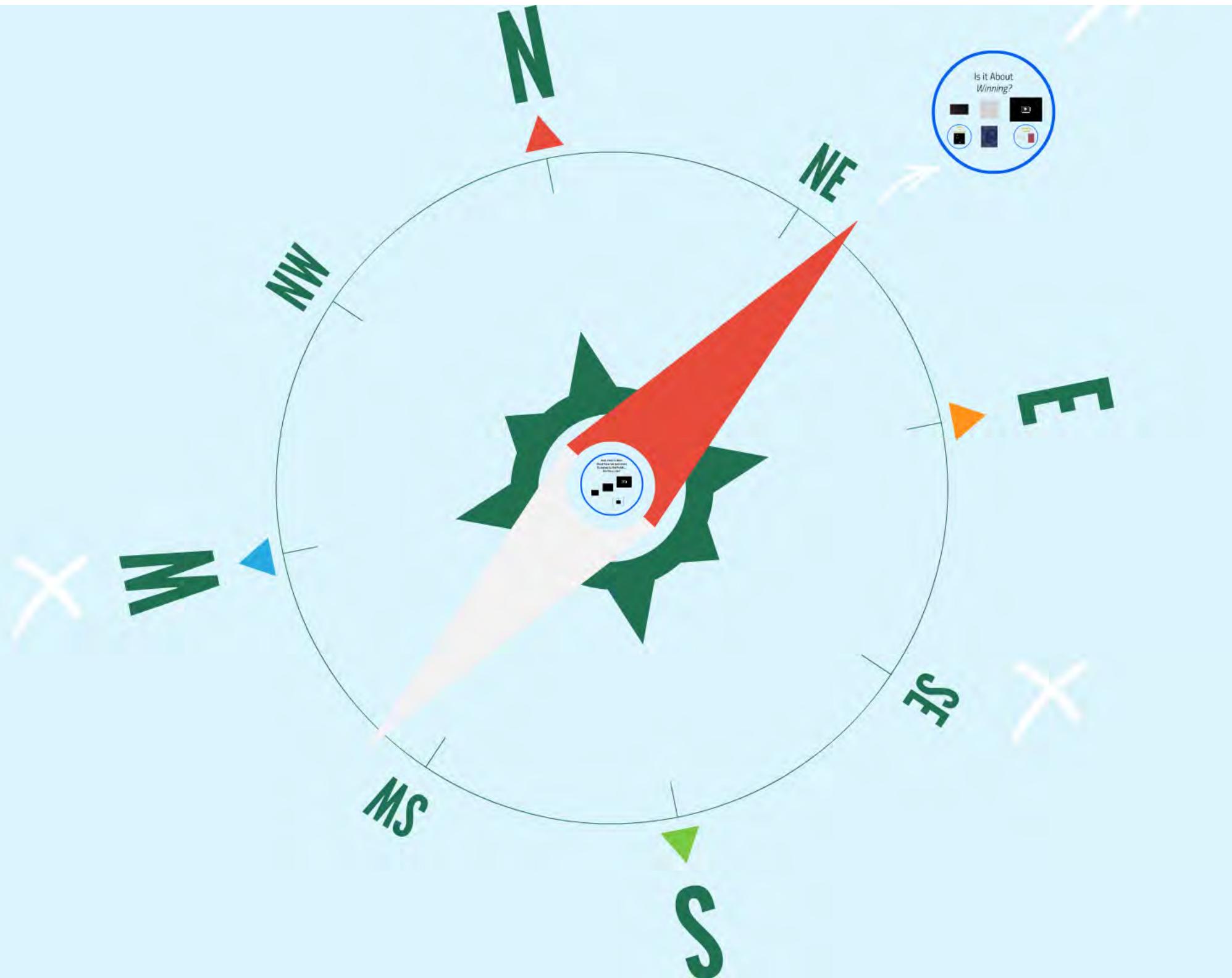
1. Lawyers tell you regardless of whether there's any "real" money.
2. Most people have no real-life experience with lawyers and equity.
3. Clients must rely on lawyers to solve high-stakes problems, create a lot of wealth, and manage risk.
4. Lawyers are often given access to the most personal aspects of people's lives, making the law generally regarded as a "type" of relationship with the client.
5. There are not any essential issues that could be solved by the profession as a whole.
6. Lawyers tend to let it evolve; lawyers are perceived as representing the system, not the client or society.
7. Clients mistake how lawyers who seem to be acting to compensate their own interests for the benefit of the client.

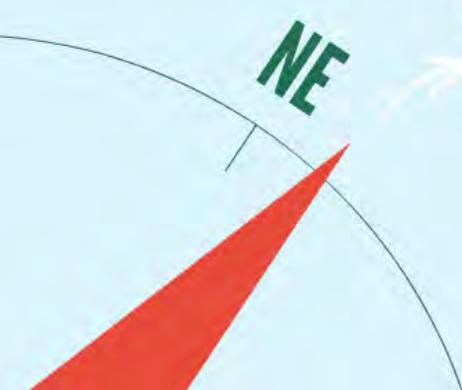
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**Current State of the Legal Profession**





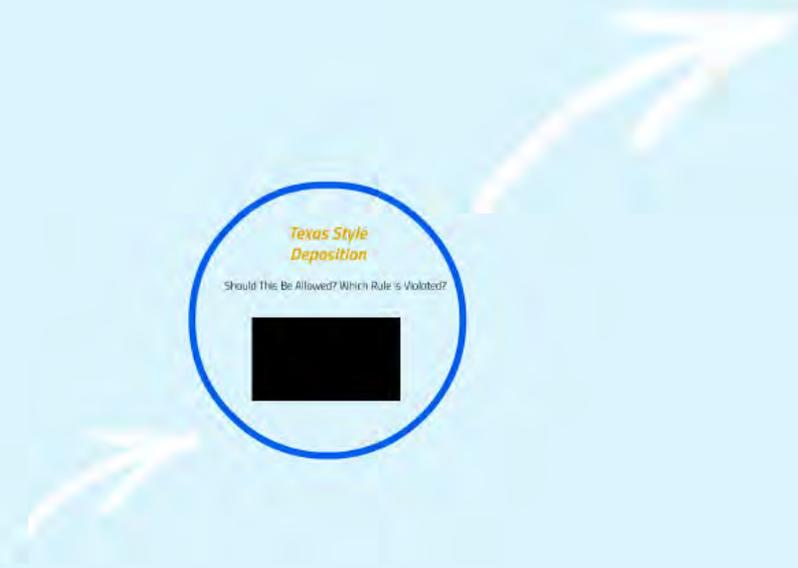


Is it About Winning?

*Texas Style Deposition*

Should This Be Allowed? Which Rule is Violated?

*An Extreme: Motivated to Win?*



# *An Extreme: Motivated to Win?*



DEVELOPING  
STORY

NEWS

# COMPLAINTS FILED IN ALLEGED "DUI SET-UP"

78° 11:04

*WTSP*.COM

"DUI SET-UP" COMPLAINTS

WOMAN BEATEN AT ATM

FIGHTING BACK WITH FLAG



**DEVELOPING STORY**

**WOMAN ADMITS TO DUI SETUP**

**HIGH PROFILE TRIAL OF SHOCK JOCKS BUBBA & MJ**

**abc ACTION NEWS**

**4:59**

**87°**



## DUI Arrest

**Philip  
Campbell, Jr.**



**DUI Arrest**

**Philip Campbell, Jr.**

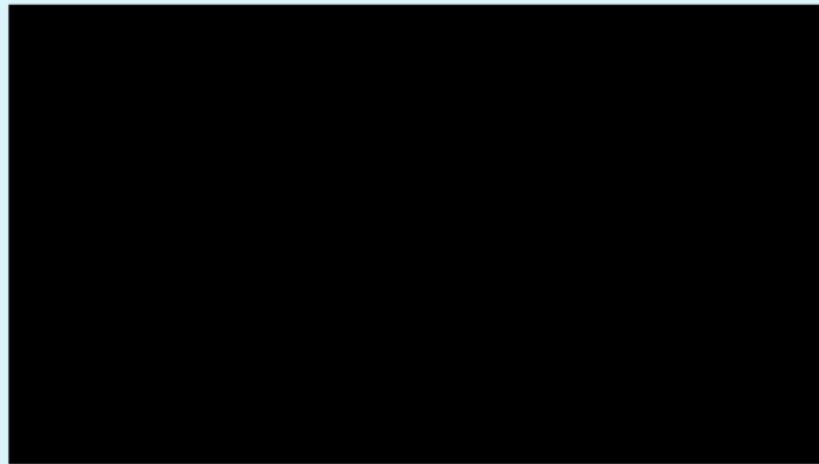


# *An Extreme: Motivated to Win?*



# *Texas Style Deposition*

Should This Be Allowed? Which Rule is Violated?





# Is it About *Winning?*



*Winning  
OR  
Professionalism?*





WINNING

PROFESSION

# PROFESSION

6. 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.

7. 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 upright person while earning a satisfactory living. The Rules of Professional Conduct prescribe terms for resolving such conflicts. Within the framework of these Rules, 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.

"What happened in the old maxim that a lawyer sees this happening and says, 'Good, I can't do this. This is wrong, I'm out of here.' I mean, out your job. Whatever. I'm out of here. I mean, I don't do that. Whatever happened to that? I'm just wondering."

"You know, people are talking about doing something wrong. Something bad. You're a lawyer. You look at a case. I can't do that. And if it means, they're not going to be getting a paycheck from the firm tomorrow...no. Go back to the Public Defender's Office, go to the State Attorney's Office, or whatever. Or, no don't do that. That's the whole thing here."

Chief Justice Jorge Labarga, Florida Supreme Court  
The Florida Bar vs. Robert Adam Pittman  
June 8, 2016

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“What happened to the old maxim that a lawyer sees this happening and says, ‘Guys, I can't do this. This is wrong. I'm out of here.’ I mean, quit your job. Whatever. ‘I'm out of here. I'm not doing this.’ Whatever happened to that? I'm just wondering.”

\*\*\*\*\*

“You know, people are talking about doing something wrong, Something bad. You're a lawyer. You took an oath. ‘I can't do this.’ And if it means, ‘Hey, I'm not going to be getting a paycheck from this firm tomorrow’...fine. Go back to the Public Defender's Office, go to the State Attorney's Office, whatever. But we don't do this. That's the whole thing here.”

**Chief Justice Jorge LaBarga, Florida Supreme Court  
The Florida Bar vs. Robert Adam Filthuat  
June 9, 2016**

# PROFESSION

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Chief Justice Jorge Labarga, Florida Supreme Court  
The Florida Bar vs. Robert Adam Pittman  
June 8, 2016



WINNING

PROFESSION

“ The entire legal profession – lawyers, judges, law teachers – has become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be healers of conflicts.

For many claims, trials by adversarial contest must in time go the way of the ancient trial by battle and blood. Our system is too costly, too painful, too destructive, too inefficient for a truly civilized people. ”

Chief Justice Warren Burger, 1984





You Tube



## Purpose

has one purpose: **winning high-stakes trials.**

# Combating "Rambo" Litigators - Practical and Effective How-to's

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for Handling Dirty Litigation*

**ORLANDO, FLORIDA**  
June 16, 2017

**PRESENTED BY**

John W. Dill  
Melanie S. Griffin  
Jeffrey S. Weiss

**CONTINUING EDUCATION**

CLE - 7.0 incl. 1.0 ethics (pending)

*See inside for details!*

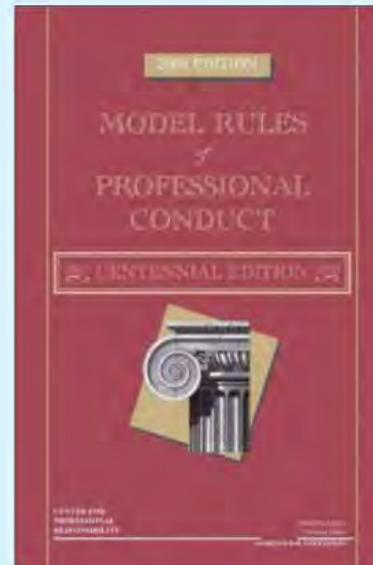
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BUSINESS  
INSTITUTE™

SEMINARS • TELECONFERENCES • WEBCASTS  
OnDEMAND & MP3 DOWNLOADS • CDS, DVDS & BOOKS

# *Lawyer as Servant*

Servant to Client

Servant to System



# Is it About *Winning?*





About... How to Make  
About How We Can Make a  
Difference for the World...  
And We're In!

**And...Here is More  
About How We Caricature  
Ourselves to the Public...  
Are We a Joke?**





You **Tube**

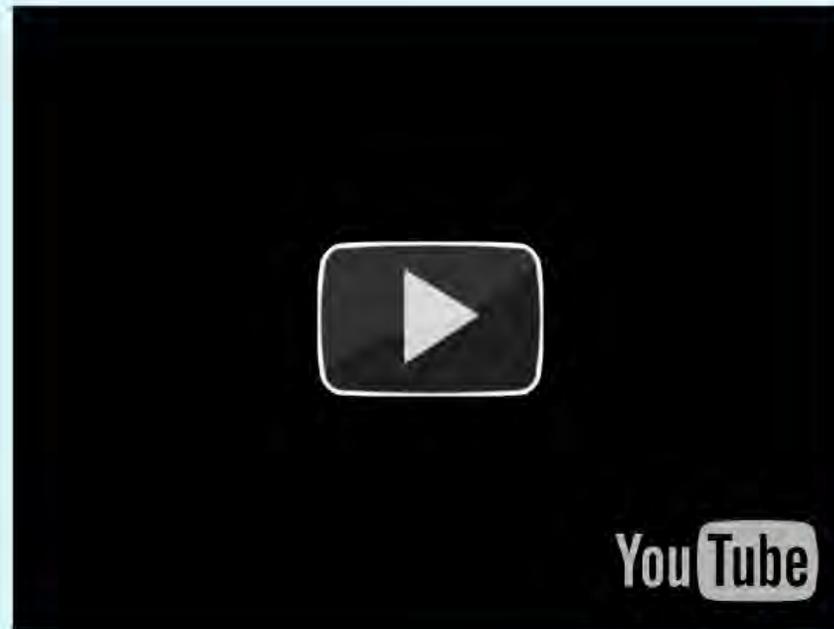


You **Tube**



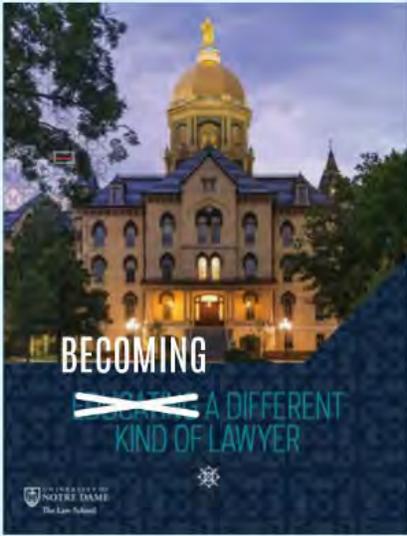
You Tube

# **And...Given All of That... What the Comedians Do To Us**





You Tube



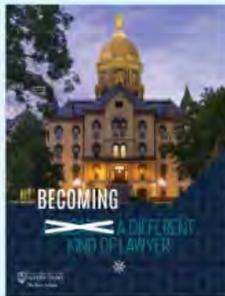


About... How to Make  
About How We Communicate  
Challenges for the Public...  
And We're In!

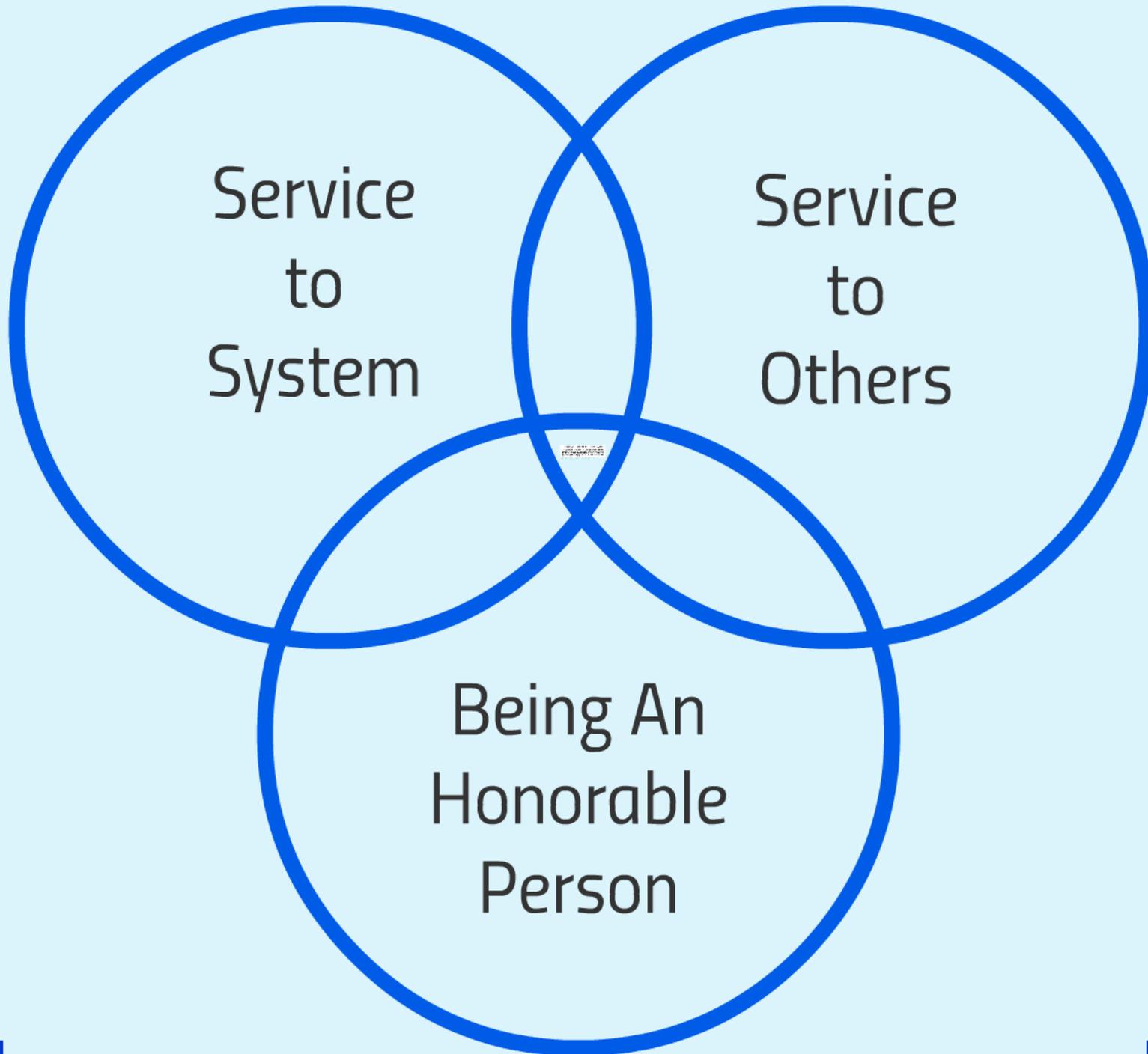
# *A Different Kind of Lawyer*



# *A Different Kind of Lawyer*



# CLINICAL PRACTICE



Service  
to  
System

Service  
to  
Others

Being An  
Honorable  
Person

**Self-respect demands that we get away from the intellectual tyranny of instrumentalism. We are not just means to someone else's ends. We have a far prouder heritage, which, unfortunately, has been obscured in the classroom. This heritage is founded on our ancient duties: to protect the rule of law as an ideal, to serve the system of justice on which our democracy is based, and to study and promote humanism—the mutual bonds of our humanity on which peace itself ultimately depends.**

Daniel R. Coquillette. "Professionalism: The Deep Theory." *North Carolina Law Review* 72, (1994): 1271-1278

# *A Different Kind of Lawyer*



# Practical Professional Path

A Jerk is a Jerk is a Jerk

"To Be a Good Lawyer,  
You First Must Be A  
Good Person"

Your Character is Embedded  
In Your Work:  
You Swore an Oath

You cannot be a bad person and a good lawyer, nor can you be a good person and a lawyer with sharp practices. A lawyer who behaves like a jerk in court is not an "aggressive advocate" with an "assertive strategy," but a jerk.

June 8, 2006 <http://www.judicialbranch.org/press/06060801.htm>



**Indiana Rules of Court  
Rules for Admission to the Bar  
and the Discipline of Attorneys**

**Rule 24. Oath of Attorneys**  
Upon being admitted to practice law in the state of Indiana, each applicant shall take and subscribe to the following oath or affirmation in the presence of a judge:

I will support the Constitution of the United States and the Constitution of the State of Indiana.

I will maintain the highest ideal of justice and public affairs.

I will not counsel or assist any person in the commission of any crime, nor will I attempt to influence any judge or juror in the performance of his or her duty.

I will maintain the confidence and secrets of my clients.

I will not engage in the practice of law in any state where I am not admitted to practice.

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**A LAWYER'S CREED**

To my clients, I will be honest, diligent, and zealous. I will be loyal to the law and to the interests of my clients.

To the opposing parties and their counsel, I will be fair, courteous, and respectful. I will not engage in any conduct that is unbecomingly or dishonouring to the profession.

To the courts, I will be respectful and obedient. I will not engage in any conduct that is unbecomingly or dishonouring to the profession.

To my colleagues in the practice of law, I will be courteous and respectful. I will not engage in any conduct that is unbecomingly or dishonouring to the profession.

To the public and our systems of justice, I will be loyal and zealous. I will not engage in any conduct that is unbecomingly or dishonouring to the profession.

# — Practical Profess

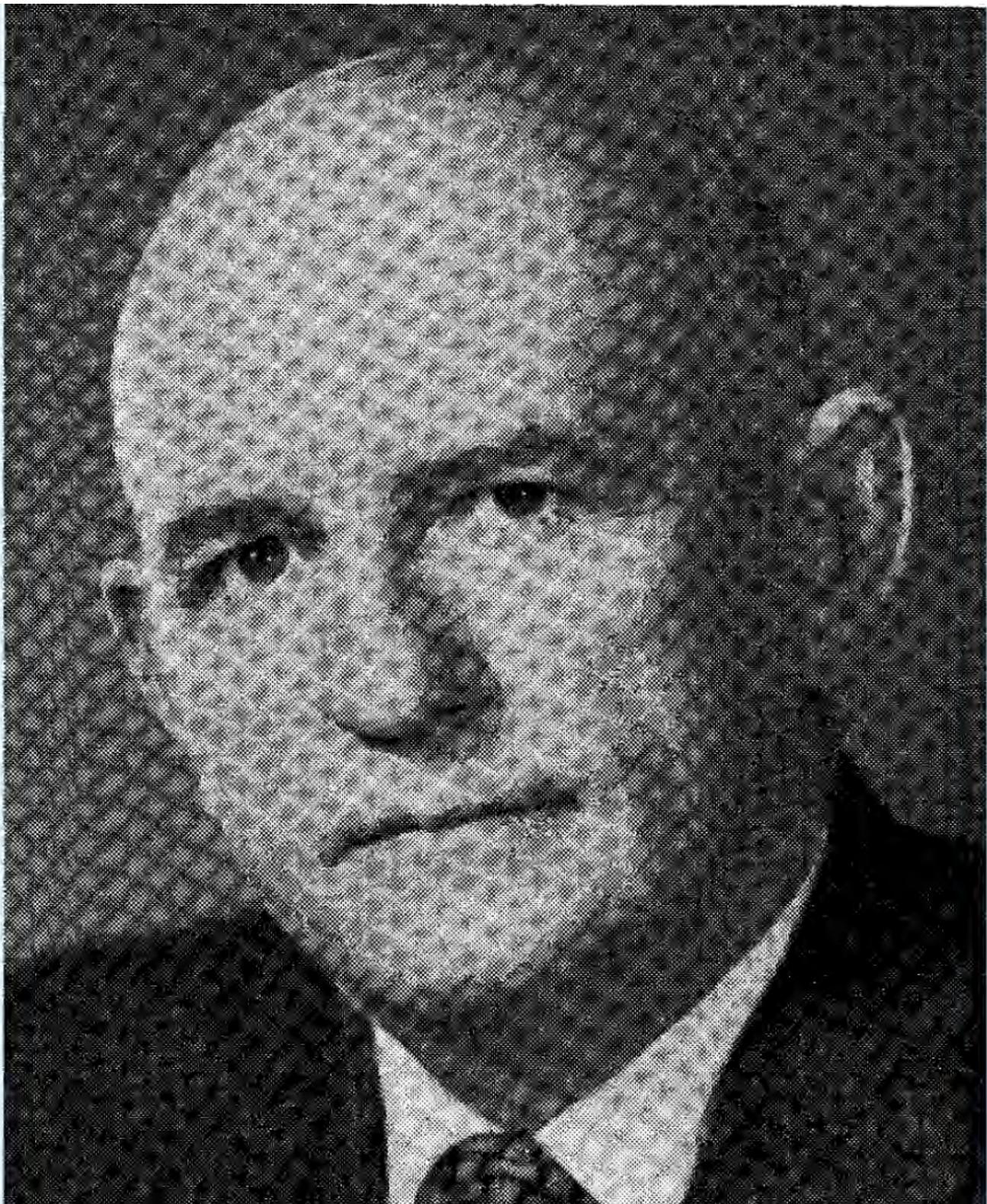
A Jerk is a Jerk is a Jerk

"To Be a Good Lawyer,

**You cannot be a bad person and a good lawyer, nor can you be a good person and a lawyer with sharp practices. A lawyer who behaves like a jerk in court is not an “aggressive advocate” with an “assertive strategy,” but a jerk.**

Daniel R. Coquillette. "Professionalism: The Deep Theory." North Carolina Law Review 72, (1994): 1271-1278

"To Be a Good Lawyer,  
You First Must Be A  
Good Person"



GOOD PERSON

Your Character is Embedded  
In Your Work:  
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"I do solemnly swear or affirm that:

*I will support the Constitution of the United States and the Constitution of the State of Indiana;*

*I will maintain the respect due to courts of justice and judicial officers;*

*I will not counsel or maintain any action, proceeding, or defense which shall appear to me to be unjust, but this obligation shall not prevent me from defending a person charged with crime in any case;*

*I will employ for the purpose of maintaining the causes confided to me, such means only as are consistent with truth, and never seek to mislead the court or jury by any artifice or false statement of fact or law;*

*I will maintain the confidence and preserve inviolate the secrets of my client at every peril to myself;*

*I will abstain from offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;*

*I will not encourage either the commencement or the continuance of any action or proceeding from any motive of passion or interest;*

*I will never reject, from any consideration personal to myself, the cause of the defenseless, the oppressed or those who cannot afford adequate legal assistance; so help me God."*

**To my cli**  
repr

**To the opp**  
seek

**To the co**

**To my colle**

**To the profes**

**To the publ**  
and our legal sys

## A LAWYER'S CREED

**To my clients,** I offer faithfulness, competence, diligence, and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.

**To the opposing parties and their counsel,** I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

**To the courts,** and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

**To my colleagues in the practice of law,** I offer concern for your welfare. I will strive to make our association a professional friendship.

**To the profession, I offer assistance.** I will strive to keep our business a profession and our profession a calling in the spirit of public service.

**To the public and our systems of justice,** I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.



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