

# The COMMISSION QUARTERLY

News from the New Jersey Commission on Professionalism in the Law

## Chief Justice, Top Judges Push Counseling Program

Judiciary leaders have urged county bar associations to promote their professionalism counseling efforts in addition to continuing to offer seminars and other initiatives aimed at improving the professional conduct of lawyers.

The Commission recommended in 1997 that county bar associations implement a Professionalism Counseling Program that would address complaints about the conduct of individual lawyers that does not rise to the level of an ethics infraction and, where appropriate, help educate them about acceptable standards of behavior. The Commission's model program was endorsed by the Supreme Court and since then eighteen county bar associations have either adopted the Commission's model program, or have devised their own alternative. The program operates through Professionalism Committees appointed by county bar associations, some of which now include judges as members.

A survey conducted recently by the Commission indicates that approximately 60 complaints have been handled by county bar committees over the past four years. The subject matter of the complaints include abusive behavior towards adversaries and witnesses during depositions, inappropriate courtroom remarks and related behavior, bullying tactics, rude and offensive remarks to court staff, misleading statements made to judges, and *ad hominem* attacks contained in certifications and briefs.

In a recent letter to bar presidents, Chief Justice Deborah T. Poritz, who currently serves as Chair of the Commission, urged them "to promote your professionalism counseling efforts and to raise awareness among your members about professionalism issues." The Chief Justice noted that some county Professionalism Committees are inactive while others have been successful because they have publicized their activities, held seminars,

and worked cooperatively with the Inns of Court and the judiciary.

At the request of the Commission, assignment judges in all vicinages will encourage judges to refer appropriate matters to county bar Professionalism Committees, and will urge bar associations without a counseling program to adopt one. Currently, the Passaic, Sussex and Warren County Bar Associations have not implemented the program. For more detailed information about the Professionalism Counseling Program, see page 2 of this newsletter.

The Commission is planning a meeting this fall with county bar association presidents to discuss the association's professionalism initiatives and possible cooperative ventures and common problems that need to be addressed. ➤

### *New and Noteworthy*

#### **INFORMATION ABOUT ETHICS AND PROFESSIONALISM**

Anyone in need of a comprehensive listing of articles, seminars, events, and law school and bar association programs devoted to ethics and professionalism need look no further than the website of the Professionalism Center at the University of South Carolina Law School <http://professionalism.law.sc.edu>. Funded by one of the state's largest law firms, the Center and its website offer one of the nation's premier clearing houses for information about professional responsibility topics.

#### **COMMISSION MEMBERSHIP CHANGES**

The Commission is pleased to announce that it has added four new members. Past NJSBA President Richard J. Badolato joins the Commission as one of the NJSBA designees, replacing Denise Crump, Esq. who has joined the NJSBA staff. Frank Allocca of

## Awards Luncheon Set For October

### *Save The Date!*

On Thursday, Oct. 2 at the Law Center, New Brunswick, the Commission will again hold its Professionalism Awards Luncheon. The Daniel J. O'Hern Award will be presented to a lawyer for commitment to professionalism, career achievement, and bar and community involvement. Prior winners of the award include Matthias D. Dileo, Alan V. Lowenstein, and Donald A. Robinson. In addition, Professional Lawyer of the Year Awards will be presented to a lawyer selected by each county bar association, as well as lawyers selected by the New Jersey State

Bar Association, the Association of Black Women Lawyers, the Association of Criminal Defense Lawyers, the Asian Pacific American Lawyers Association, the Garden State Bar Association, the Hispanic Bar Association, and the New Jersey Women Lawyers Association. The event is intended to recognize those lawyers whose conduct, character, and commitment to the profession make them models for colleagues and the public. More information about the luncheon will be included in the next newsletter, and invitations will be mailed soon. ➤

Continued on Page 2

# Professionalism Counseling Program

As noted in the headline article on the first page, the Professionalism Counseling Program relies on county bar association Professionalism Committees. Although approved by the Supreme Court, the program is not court controlled nor is it an arm of the lawyer disciplinary system. It is a bar initiative aimed directly at improving the profession.

## OBJECTIVES

The Professionalism Counseling Program addresses conduct by lawyers that does not rise to the level of a violation of the ethics rules (the Rules of Professional Conduct). Thus, it does not handle any matter that is within the jurisdiction of a District Ethics Committee. For instance, the program deals with such things as harassing conduct, abusive litigation tactics, incivility, inappropriate courtroom conduct, and repeated lack of respect for colleagues, judges, and court staff. The program is educational in nature. No discipline or sanctions are imposed, and all matters are confidential. The only records kept are those relating to the type of complaint addressed.

## New Jersey Commission on Professionalism in the Law

### CHAIR

Hon. Deborah T. Poritz

Frank Allocca

Richard J. Badolato, Esq.

Mary-Alice Barrett, Esq.

Hon. Louis Belasco

Joseph A. Bottitta, Esq.

Hon. Rudy B. Coleman

Dean Stuart Deutsch

Alan I. Gould, Esq.

Dean Patrick E. Hobbs

Professor Douglas N. Husak

Joel A. Leyner, Esq.

Hon. Sybil R. Moses

Hon. Stephen M. Orlofsky

Ronald J. Riccio, Esq.

Dean Rayman L. Solomon

Hon. Edwin H. Stern

James Youngelson, Esq.

### ADVISERS

Hon. Virginia Long

Hon. Daniel J. O'Hern

### EXECUTIVE DIRECTOR

Charles J. Hollenbeck, Esq.

## OPERATION

The program operates through Professionalism Committees appointed by county bar associations. The precise composition, structure and operation of a committee is left to the bar association to establish, and different approaches have been taken. Some committees operate under formal operational rules, others deal with complaints on a more *ad hoc* basis. Another committee has established a mediation program to deal with disputes between lawyers. The Commission encourages such experimentation and leaves it to bar associations to determine what type of program best fits the needs of the bench and bar of that county. The Commission has, however, set some basic guidelines for Professionalism Committees:

- Each committee, and a committee chair, should be appointed by the county bar president.
- Lawyer members of committees should be highly regarded and experienced members of the bar with reputations for competence, integrity and civility. Judges, both sitting and retired, are encouraged to participate and should exhibit the same qualities.
- The program should offer assistance in the following circumstances:
  - a lawyer requests assistance in dealing with another lawyer, or in addressing specific conduct of another lawyer
  - a lawyer requests assistance in dealing with a professionalism issue
  - a judge requests assistance in dealing with a lawyer, or in addressing specific conduct of a lawyer
  - the Appellate Division encounters unprofessional behavior and refers an opinion to the Commission, for referral to the appropriate county bar committee.
- The program shall not handle complaints from clients, or members of the public.

Generally, complaints are directed to the chair of the Professionalism Committee.

Lawyers and judges seeking advice about where to bring a complaint should contact either the president or executive director of the bar association where the lawyer in question practices, or where the incident took place. The evaluation of complaints is done pursuant to committee rules and guidelines. Most committees will ask a member to look into a complaint by talking with the

## New and Noteworthy

Continued from Page 1

Chester joins as a public member. He owns and operates InterCar, Inc. and Sussex Imports auto dealerships and is a member of the District X Ethics Committee. The Chief Justice has appointed the Hon. Louis Belasco, Municipal Court Presiding Judge for Vicinage I covering Atlantic and Cape May counties. The Commission regrets losing the services of Deborah Mulvey whose term as an NJSBA Young Lawyers Division representative is at an end. She will be replaced on the Commission by current YLD Chair Mary-Alice Barrett.

## THANKS AGAIN TO DIARY AND LAWYERS SERVICE

The Commission thanks the New Jersey Lawyers Diary and Manual and New Jersey Lawyers Service for again agreeing to sponsor the Professionalism Awards Luncheon. Both companies have annually provided financial support for Commission programs and their cooperation and commitment is greatly appreciated.

## NOTEWORTHY

The **Mercer County Bar Association** has had another successful Bench-Bar Luncheon that featured a three-act play, *24 Hours in Mercer County*. The play contained a number of ethical and professional dilemmas and the cast included leading members of the bench and bar. The **Camden County Bar Association** offered a CLE seminar, One Part Ethics & Two Parts Courtesy: The Recipe for Success. The seminar explored such issues as how to handle a difficult adversary, how and why lawyers get into trouble, and how to deal with a problem client. The **Union County Bar Association** offers a mentor program for young lawyers that provides advice in specific areas of the law. Information can be found on the association's website [www.uclaw.com/sidebar.htm](http://www.uclaw.com/sidebar.htm). The **Middlesex County Bar Association** also has a mentoring program for lawyers entering new fields or experiencing problems in specific practice areas. Information can be obtained from William G. Brigiani, Esq. 732-257-0700. ☞

lawyers involved. If further action is deemed necessary, committee members will be assigned to counsel the lawyer in question, or the lawyer will be asked to appear before the committee. If a lawyer is reluctant to cooperate, the assignment judge (pursuant to Court Directive #1-97) may be asked to intercede and assist in ensuring the lawyer's cooperation. ☞