



# Professionalism - Different Perspectives from Tax Attorneys on Opposing Sides

## Annual LSBA/LDR LIAISON MEETING

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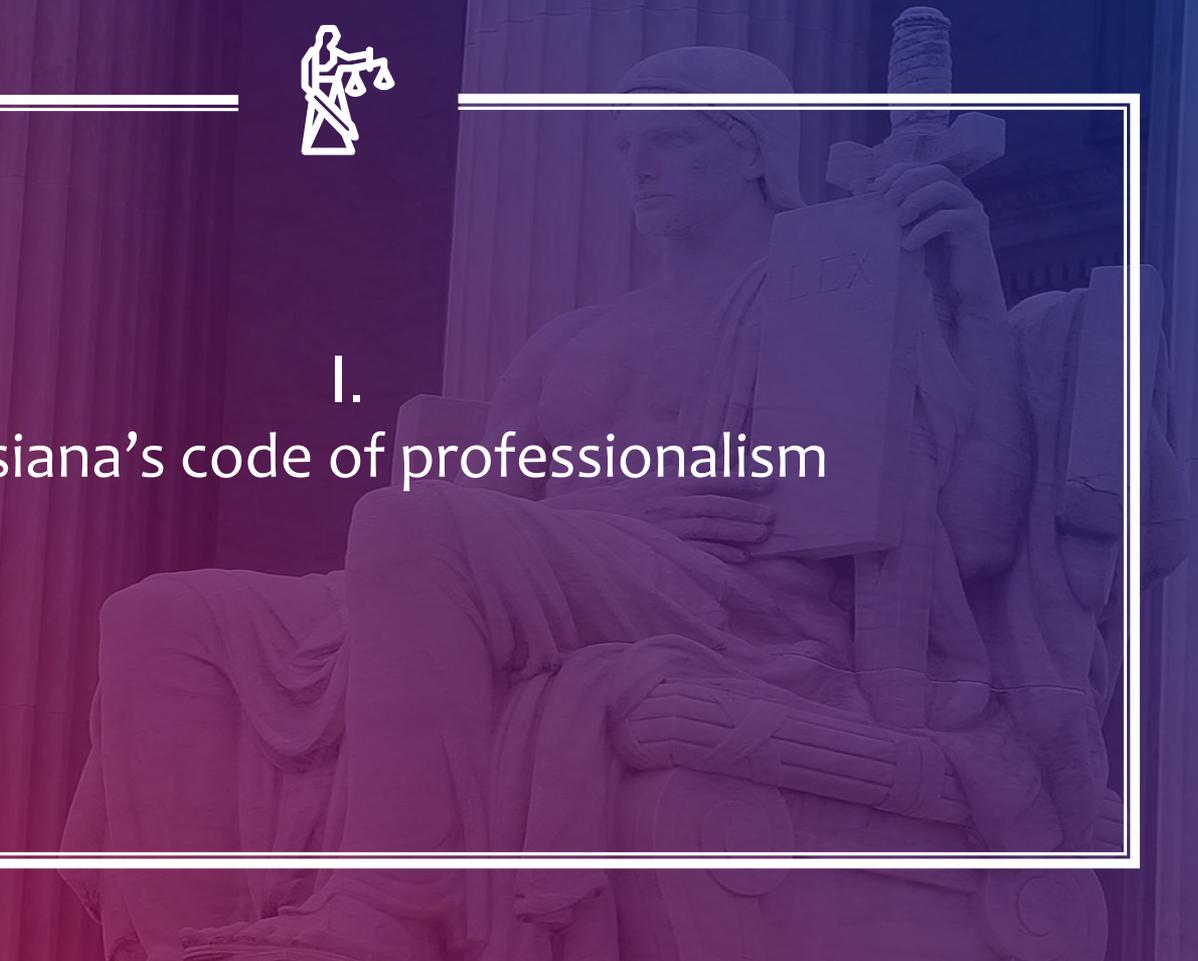
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*The legal profession is a learned calling. As such, lawyers should act with honesty and integrity and be mindful of our responsibility to the judicial system, the public, our colleagues, and the rule of law. We as lawyers, should always aspire to the highest ideals of our profession.*

- Preamble to the Code of Professionalism



# I. Louisiana's code of professionalism





## Louisiana's Amended code of professionalism : What's new?

- ❖ The new changes that have been made include: a new preamble, inclusive thinking, cooperation, public image of the legal profession, improvement of the system of justice, social media concerns, Pro Bono and Public Service, mentorship, and continuing skill development and adaptation.
- ❖ All new language is underlined and any revised or updated pledges are in *italics*

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## Louisiana's code of professionalism : Preamble to the Code of Professionalism

- ❖ The legal profession is a learned calling. As such, lawyers should act with honesty and integrity and be mindful of our responsibility to the judicial system, the public, our colleagues, and the rule of law. We as lawyers, should always aspire to the highest ideals of our profession.

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## Louisiana's code of professionalism

- ❖ My word is my bond.
- ❖ Ex: Opposing counsel asks for a continuance and/or an extension of time regarding a matter. You must honor your commitment.

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## Louisiana's code of professionalism

- ❖ I will conduct myself with honesty, dignity, civility, courtesy, and fairness and will not engage in any demeaning or derogatory actions or commentary toward others.
- ❖ Ex: Attended a recent CLE given by a judge and he referenced a recent example where an attorney in one of the briefs submitted to the court call opposing counsel “one of the most unethical attorneys in the profession.” Before the case came for oral argument, the case was settled, but the judge said he planned to ask the attorney about it at oral argument and contemplated sanctions against the attorney.



## Louisiana's code of professionalism

- ❖ *I will not knowingly make statements of fact or the law that are untrue or misleading and I will clearly identify for other counsel changes I have made in documents submitted to me.*
- ❖ Ex: settlement agreements and other documents working on with opposing counsel need to have a redline version attached. Attorneys send docs with changes and nothing to denote the changes.
- ❖ Ex: Opposing counsel representing facts not accurate at oral argument.

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## Louisiana's code of professionalism

- ❖ *I will be punctual in my communication with clients, other counsel and the court. I will honor scheduled appearances and will cooperate with other counsel in all respects.*
- ❖ Ex: I try to keep a 24 hour rule to respond to any of these groups. Not perfect, but close.

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## Louisiana's code of professionalism

- ❖ I will allow counsel fair opportunity to respond and will grant reasonable request for extensions of time.
- ❖ Ex: Generally, everyone gets first extension granted and others should be allowed for good cause. More exchange of info serves both sides in narrowing issues and getting matters to resolution.

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## Louisiana's code of professionalism

- ❖ I will not abuse or misuse the law, its procedures or the participants in the judicial process.
- ❖ Ex: Discovery- How much is too much and how much is enough to do due diligence? Fine line.

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## Louisiana's code of professionalism

- ❖ *I will cooperate with counsel and the court to reduce the cost of litigation and will not file or oppose pleadings, conduct discovery or utilize any course of conduct for the purpose of undue delay or harassment of any other counsel or party.*
- ❖ *Ex: Some procedural positions taken by opposing counsel are very suspect. Is it to bill hours or some reasonable belief that there has been an error by the other side.*

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## Louisiana's code of professionalism

- ❖ *I will not engage in personal attacks on other counsel or the court or use the threat of sanctions as a legal tactic.*
- ❖ Ex: have seen opposing counsel threaten sanctions against a new attorney to gain a strategic position. Such behavior is unacceptable.

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## Louisiana's code of professionalism

- ❖ I will work to protect and improve the image of the legal profession in the eyes of the public.
- ❖ Ex: I think we all owe a duty to conduct ourselves in the most professional manner. We should ensure our comments about the court or attorney on the other side is respectful to not degrade the confidence of others in the court and practices of law.

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## Louisiana's code of professionalism

- ❖ I will endeavor to improve our system of justice.
- ❖ Ex: Volunteer with programs and committees with your local state bar association. Give back.

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## Louisiana's code of professionalism

- ❖ I will use technology, including social media, responsibly. My words and actions, no matter how conveyed, should reflect the professionalism expected of me as a lawyer.
- ❖ Ex: The Arizona Supreme Court Judicial Advisory Committee states that Judges and Judicial employees must exercise great caution when using social media in order to ensure that they maintain an appearance of impartiality on those websites. Examples include that judges and judicial employees should avoid being friends with those who appear frequently before their court, and not “like” any potential candidate or candidate for a public office.

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## Louisiana's code of professionalism

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- ▣ Ex: The California State Bar Standing Committee on Professional Responsibility and Conduct states an attorney's blog constitutes a communication under the Rules of Professional Conduct when:
  - ▣ expresses the attorney's availability either directly or implicitly for professional employment;
  - ▣ is integrated into an attorney's or law firm's website (to the extent the website is considered a communication); and
  - ▣ is on a stand-alone site discussing legal topics and expresses the attorney's availability for employment.



## Louisiana's code of professionalism

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- ▣ Ex: The California State Bar Standing Committee on Professional Responsibility and Conduct states an attorney's blog post is not considered communication when the blog:
  - discusses legal topics but is on a stand-alone website and does not express the attorney's availability for employment; and
  - Does not discuss legal topics and is on a stand-alone site but cannot contain extensive identifying information about the attorney or else that portion of the blog will be considered a communication



## Louisiana's code of professionalism

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- ▣ Ex: The Massachusetts Judicial Branch states that judges can have Twitter accounts identifying them as a judge in Massachusetts, but should exercise extreme caution so that no reasonable viewer of the judge's tweets, retweets, likes, or who the judge follows on Twitter can believe that the judge is biased in favor of certain views and the judge's impartiality toward any proceeding before their court is protected.



## Louisiana's code of professionalism

- ❖ I will seek opportunities to be of service to the bench and bar and assist those who cannot afford legal help.
- ❖ Ex: Pro bono work and ask a lawyer programs.

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## Louisiana's code of professionalism

- ❖ I will be supportive of new members in the profession.
- ❖ Ex: New members mentorship program created by LSBA.

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## Louisiana's code of professionalism

- ❖ I will stay informed about changes in the law, communications, and technology which affect the practice of law.
- ❖ Ex: CLE

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## II. Professionalism in the courts



## PROFESSIONALISM IN THE COURTS

- ❖ General Administrative Rules, Supreme Court of Louisiana  
Section 11. The Code of Professionalism in the Courts Current  
with Amendments through October 26, 1999

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## PROFESSIONALISM IN THE COURTS

- ❖ Preamble: The following standards are designed to encourage us, the judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve twin goals professionalism and civility, both of which are hallmarks of a learned profession dedicated to public service

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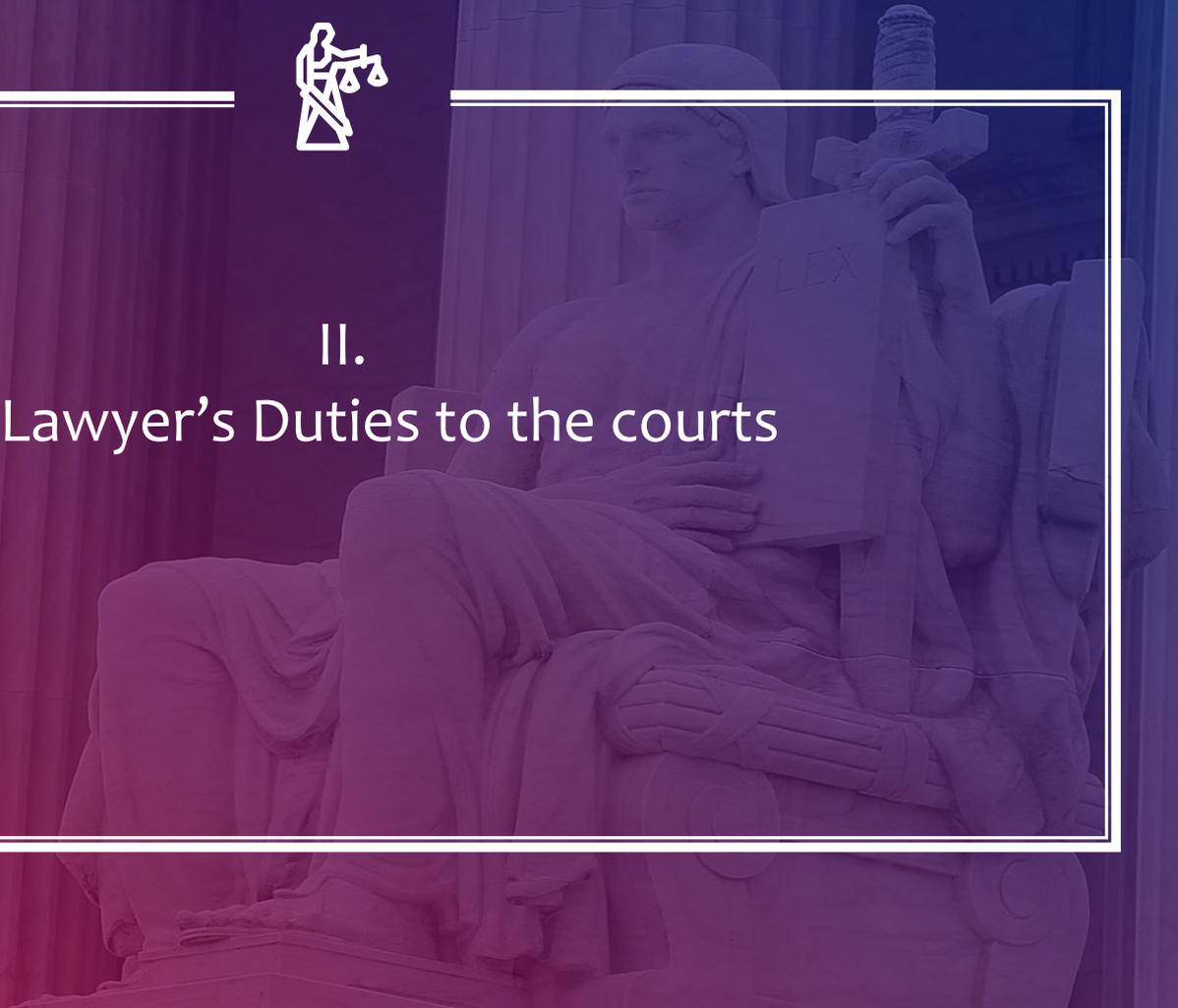
## PROFESSIONALISM IN THE COURTS

- ❖ These standards shall not be used as a basis for litigation or sanctions or penalties. Nothing in these standards alters or detracts from existing disciplinary codes or alters the existing standards of conduct against which judicial or lawyer negligence may be determined.

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## II. Lawyer's Duties to the courts





## LAWYER'S DUTIES TO THE COURTS

- ❖ We will speak and write civilly and respectfully in all communications with the court.
- ❖ We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible

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## LAWYER'S DUTIES TO THE COURTS

- ❖ We will be considerate of time constraints and pressures on the court and court staff inherent in their efforts to administer justice.
- ❖ We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court



## LAWYER'S DUTIES TO THE COURTS

- ❖ We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating order and disruption.

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## LAWYER'S DUTIES TO THE COURTS

- ❖ We will not engage in ex parte communication on any pending action.
- ❖ We will attempt to verify the availability of necessary participants and witnesses before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, so we can promptly notify the court of any likely problems.

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## LAWYER'S DUTIES TO THE COURTS

- ❖ We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks, with an awareness that they too, are an integral part of the judicial system.