

## **A Hard Day's Night: A Magical Mystery Tour of Professionalism and Practical Skills for Legal Professionals Young and Old**

This year our programs will emphasize the importance of professionalism in the practice of law (with a little Beatles flare thrown in just for fun). While we continue our tradition of including one ethics program each year, ethics will be a component of each presentation. Each program will highlight both practical skills and a difficult situation in the fact pattern to encourage conversation about how to ethically address that situation. Suggested formats are included in each topic description, but tables are free to present the topic as they see fit, keeping in mind the theme for the year.

Date	Location	Table	Topic
10/4/17	Puritan Manchester	1	<p><b>Help!: The DOVE Project</b></p> <p>The Inns has partnered with the New Hampshire Domestic Violence Emergency (DOVE) Project for the first presentation of this Inns season. The DOVE Project is a program of the New Hampshire Bar Association's Pro Bono Referral Program that provides victims of domestic violence with emergency services. Special guests Pam Dodge, Domestic Violence Projects Coordinator for the Pro Bono Referral Program, and Kerstin Cornell, a staff attorney with New Hampshire Legal Assistance, as well as members of our Inns, will talk to us about this important project. Table members include DOVE trained attorneys who will discuss their experiences.</p>
11/1/17	Puritan Manchester	6	<p><b>Everybody's Got Something to Hide Except Me and My Monkey: <i>State v. Richards</i>, the Fifth Amendment, and Fairness to Third Party Witnesses</b></p> <p>Lawyers' obligations as officers of the court include certain duties to both the court and third-party witnesses. The goal for this program is for the Table to craft a presentation that addresses these obligations. Specifically, the program should include discussion of <i>State v. Richards</i>, 129 N.H. 669 (1987), N.H. R. of Prof. Cond. 4.3, N.H. R. of Prof. Cond. 4.4, and the 5<sup>th</sup> Amendment of the U.S. Constitution.</p> <p>One possible fact pattern and presentation method might be to role-play a lawyer handling a workers' compensation hearing. The lawyer's client was injured while riding as a passenger in an employer vehicle driven by an intoxicated coworker while on the way to a remote worksite. The resulting accident severely and permanently injured the client. The co-worker is unrepresented. The employer is represented.</p>

12/6/17	Red Blazer Concord	3	<p><b>We Can Work It Out: Involvement in the Legislative Process and Lobbying</b></p> <p>As attorneys, some of us may have more insight into how New Hampshire's laws and rules function in the real world, and how they might be improved, than the elected officials in Concord. The goal of this program is to help members more fully understand how they can become involved in the legislative process and participate in the development of our laws and regulations. The program should distinguish between an attorney who engages in formal lobbying and an attorney who informally participates in the process, and should address an attorney's obligations if such activities are likely to materially benefit (or harm) a client.</p> <p>One possible presentation method could involve mock testimony before a legislative committee, as well as the preparation conversation between the testifying attorney and a colleague who believes the testifying attorney's involvement in the process could create a business conflict for the firm.</p>
1/3/18	Red Blazer Concord	8	<p><b>Carry that Weight: The Art and Science of Effective Cross-Examination*</b></p> <p>A trial is a search for the truth. No other aspect of a trial is more sharply focused on exposing the truth than cross-examination. This program will focus on time-tested rules of practice (and when to break them) and how to handle various types of witnesses on cross-examination.</p> <p>A suggested scenario is a second-chair attorney who is asked to cover the cross-examination of witnesses in a trial. The first-chair tells her to not spend too much time preparing. There may be areas of potential cross-examination that cross the ethical line.</p>
2/7/18	Puritan Manchester	2	<p><b>Come And Get It: Subpoenas and Abuse of Subpoenas*</b></p> <p>This intensely practical program will look at both informal and compulsory methods of obtaining evidence from third parties. The program should highlight some of the less-than-ethical practices that we occasionally see. Thus, the program will focus on both the effective use of subpoenas, including the means of obtaining subpoenas for witnesses and evidence in other states and countries, and the abuse of subpoenas. These issues can be explored through a hypothetical where a new associate is tasked with "getting the records" including 911 reports, medical records, criminal records, social media records relating to a non-party, out-of-state cell phone records, school records, third party medical records, employment records, etc.</p>

3/7/18	Puritan Manchester	7	<p><b>Shout: Trial Publicity and Transparency in the Courts</b></p> <p>The N.H. R. of Prof. Cond. 3.6 governs a lawyer's ability to make extrajudicial statements about litigation. Additionally, a number of laws protect the privacy of individuals, such as law enforcement officers (<u>see</u> RSA 105:13-b), who are frequently subjected to litigation. N.H. R. of Prof. Cond. 4.4 directs lawyers to refrain from conduct with the primary purpose to embarrass, delay, or burden a third person. Lastly, Art. 8 of the New Hampshire Constitution creates a public right of access to governmental proceeding and records. Frequently during court proceedings, parties may seek to seal filings. The purpose of the presentation is to give lawyers guidance on how to handle trial publicity and respect the private and confidential information of clients, opposing parties, and third parties. The presentation should discuss the appropriate standard and procedure for sealing a filing. One possible presentation method might be to have a panel discuss client management techniques, strategies for handling the media, and how to respectfully deal with third-parties when a lawyer is representing a town that is attempting to fire a law enforcement officer. Frequently such proceedings draw intense scrutiny from the public.</p>
4/4/18	Puritan Manchester	5	<p><b>You've Got to Hide Your Love Away: Abusive Litigation Practices in a Family Law Setting*</b></p> <p>In this program, the Table will present, to the backdrop of a nasty divorce, a fact pattern upon which the attorneys get caught up in the battle between the estranged spouses addressing a variety of issues both as to professionalism and practical skills. Examples of topics to analyze and discuss, in a method of the Table's choosing, are such topics as: (a) raising at a temporary hearing facts that, while not reasonably calculated to assist the judge in reaching a decision as to any of the relief sought, are presented to primarily or solely to embarrass the other side; (b) the use of domestic violence petitions to get a one up on the possession of the marital home; (c) hand delivering pleadings to the Court and the next day dropping them in the mail to opposing counsel; (d) frivolous ex parte requests or not revealing all the relevant facts to the judge in requesting ex parte relief; (e) invasive discovery that is not reasonably related to the issues at hand; (f) threats of reporting criminal behavior ranging from tax evasion to claims of perjury unless the other side agrees to the proposed settlement terms; (g) reporting opposing counsel to the Attorney Discipline Office to throw him off his game; and (h) threats of reporting alleged misconduct to the DCYF to get leverage.</p>

5/2/18	Puritan Manchester	4	<p><b>The Fool on the Hill: Law Office Management*</b></p> <p>This program should educate members on what is needed to run a law firm. The fact pattern can include where an attorney starts off as a solo practitioner or if the attorney and perhaps others decide to leave a larger/established firm to start a new law firm. Some questions to consider include: How do you create a conflict-of-interest system? What funds get placed into your IOLTA account? What procedure do you implement for credit card payments if you take credit card payments? How do you handle referrals from you to other lawyers and vice versa and how to address fee sharing, if at all? How do you set up a line of credit? Should you set up a line of credit (or what is a line of credit)? How do you as a law office share with attorneys or non-attorneys that are not in your law firm while maintaining client confidentiality?</p> <p>It is not anticipated that all the issues discussed are going to have right and wrong answers since there a variety of ways to meet your professionalism and ethical obligations in operating a practice. The presentation should create dialogue between the members, whether in a factual scenario or otherwise, as opposed to a straight lecture. However, the table is free to decide how to best present the program. <b>This will be the ethics program for the season, and the program should include ethical rules/guidelines.</b></p>
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*\* Indicates program will be submitted for program award consideration; table members should arrange for the program to be recorded. This does not need to be done by a table member. Program selection for award consideration is based on the topic's applicability to multijurisdictional practice and ease of duplication. Please contact Heather Menezes ([hmenezes@mcdowell-osburn.com](mailto:hmenezes@mcdowell-osburn.com)/623-9300) with questions, concerns, or assistance.*

**Other important reminders:**

- Speed Mentoring Wednesday, October 11, 2017, 4:15 to 6:30 at UNH School of Law
- Please remember to return your nametag to Judy