

T H E P R I M E R U S

Paradigm

A new model for lawyers and law firms

WINTER 2009

***Forward-Looking Firms
Strive for Diversity***

**Diversity is an important
extension of the Six Pillars**

Sharing the Passion

We created Primerus 16 years ago because we saw a pressing need for an organization that would help restore honor and dignity to the legal profession and rebuild the eroding trust in lawyers and the judicial system.

Using the guiding principles of the Six Pillars, that's exactly what our 105 firms do every day. Little by little, decision by decision, client by client,

“Knowing that Primerus carefully screens its members to ensure their complete commitment to the Six Pillars allows clients to assume a deep level of trust from the start of a relationship with a new firm.”

Primerus lawyers show others what the best of the legal profession can be. It's exciting for me to hear stories of our lawyers living out the Six Pillars and passionately arguing for the causes they care most about.

We're sharing some of that passion in this issue. We asked six of our members

to write an article about each of the pillars. I hope you take their advice to heart and follow their examples to make important improvements in your firm today.

Diversity

In keeping with the Six Pillars, our feature article looks at the importance of promoting diversity within the legal profession – yet another aspect of creating outstanding firms. As we strive to create welcoming, inclusive workplaces that allow us to meet our clients' needs to the best of our ability, diversity *must* not be overlooked.

Just as following the spirit of the Six Pillars is critical to the future of the legal profession, so too is embracing diversity within it. Every day, the society we serve becomes more diverse, and our challenge is to create firms and organizations filled with diverse attorneys to reflect that – not only because it's in our economic and professional best interest, but more importantly, because it's in the best interest of our country's future and the furtherance of justice.

Living Up to a Strong Reputation

I urge you to remember that as we work every day to live out the principles outlined in the Six Pillars, our clients are watching and noticing our success.

When James A. Hatcher, senior vice president and general counsel for Cox Communications, Inc., needs a law firm in a new location, he looks to the directory of Primerus firms.

“I know I am going to get a law firm that adheres to the Six Pillars, and knowing that, I do not hesitate at all to pick up the phone and call them,” Hatcher said recently.

Knowing that Primerus carefully screens its members to ensure their complete commitment to the Six Pillars allows clients to assume a deep level of trust from the start of a relationship with a new Primerus firm. That trust breeds a deep loyalty that allows Primerus firms and their clients to create cooperative partnerships to achieve the client's goals.

Please join me in this issue as we celebrate our commitment to the Six Pillars and unite in the hope they hold for the future of a respectable and vital legal profession.



In this issue

For this publication of Paradigm, we asked six Primerus members to write about each of the pillars. We hope their enthusiasm inspires you in your legal practice.

We're also pleased to share with you the finalists in the 2008 Primerus Community Service Awards and to highlight the winner, Ogden & Sullivan of Tampa, Florida.

This issue also features a membership directory including contact information for all Primerus firms. We hope you find this handy reference guide useful. For more information about the firms, visit our website at www.primerus.com.

About our cover

The Six Pillars define the fundamental principles of excellence all Primerus members must embrace. In this issue, we celebrate those pillars and further explore how to live by them every day. An important extension of the Six Pillars is promoting diversity within the legal profession. This cover seeks to artistically convey the marriage of the Six Pillars and welcoming diversity.

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Forward-Looking Firms Strive for Diversity



If someone had told Kevin Duffis when he was a boy that someday he would be a highly respected litigation attorney, he might not have believed them.

“Growing up in the South Bronx as a person of color from an economically underprivileged background, you don’t often believe when people tell you that you can be anything you want when you grow up,” said Duffis, a shareholder with the Primerus firm of Cotkin & Collins in Santa Ana, California. “You don’t see those role models around you.”

But thanks to a single mother who insisted that his hard work and talent would yield opportunities, Duffis proved he *could* be anything he wanted to be. Before going to law school, Duffis trained as a nurse, served in Vietnam as a medic, and worked as a professional actor for 15 years.

Half Puerto Rican and half Hispanic, Duffis hopes that someday the legal profession will be more diverse than it is today. He is not alone. Across the country, law firms, bar associations and organizations such as Primerus remain focused on increasing racial, ethnic and gender diversity within their ranks.

“Primerus’ Six Pillars define what outstanding lawyers and law firms should be,” said Primerus President John C. (Jack) Buchanan. “Diversity is an important extension of the Six Pillars. Breaking down the lines that have divided us in the past and improving diversity is an important value for us.”

Striving for an Important Goal

Ten years ago, the American Bar Association formed the Commission on Racial and Ethnic Diversity in the Profession.¹ The motivation of this group of lawyers is summed up in a recent

“Growing up in the South Bronx as a person of color from an economically underprivileged background, you don’t often believe when people tell you that you can be anything you want when you grow up.”

Kevin Duffis

brochure: “Supporting diversity will help us better serve our clients, the justice system and the broader needs of our changing society. We cannot afford to wait.”

In fact, many clients are taking an interest in the diversity efforts of the law firms they retain. More and more general counsel at large companies across the country consider the number of women and minority lawyers employed by outside counsel when making firm hiring decisions. Some, like Wal-Mart, go a step further in requiring outside counsel to have suitable percentages of women and minority lawyers in the upper ranks of their firms.

In 2005, Wal-Mart announced at a diversity conference in Atlanta that its general counsel had notified its top 100 law firms that at least one person of color and one woman must be among the

top five attorneys that handle its business, according to a *Fulton County Daily Report* July 2005 article.² This past July, Wal-Mart took an additional step by implementing a new software program to monitor the diversity of its outside counsel and ensure companies are not somehow avoiding the requirements, according to a July 2008 article in the *Daily Business Review*.³ The software measures the diversity of law firms based on the hours billed. Wal-Mart works with 500 law firms on a regular basis and another 300 periodically, and the company has ended relationships with a handful of firms because of a lack of commitment to diversity, the article stated.

Beyond the bottom line, though, firms cite many more important reasons to diversify—including ensuring that the legal profession reflects the growing diversity of our society and adhering to a professional and moral commitment to justice and fairness for all regardless of ethnicity or gender.

“I believe it is critically important,” Stiller said. “When you have diversity, you also have the ability to be creative.”

Sharon Stiller, a partner with Primerus firm Boylan, Brown, Code, Vigdor & Wilson, LLP, in Rochester, New York, thinks diversity allows firms to better meet

Sharon Stiller


clients’ needs by bringing together varying perspectives and viewpoints. “I believe it is critically important,” Stiller said.

“When you have diversity, you also have the ability to be creative.”

Stiller decided she wanted to be an attorney when she was 8 years old, even though at the time, she had not heard of any women attorneys. She was one of 20 women in her law school class of 200. After law school, Stiller became one of the first two female full-time assistant district attorneys in Monroe County in 1976.

Meeting the Goal Within Your Firm

Experts agree the first critical step is to recognize and commit to diversity as a goal within your firm. Even with agreement that diversity is one of the most critically important issues facing the future of the legal profession, firms sometimes struggle to meet the challenge. But as more and more firms share their success and failure stories in an open dialogue, best practices



Forward-Looking Firms Strive for Diversity

emerge. While there are many strategies that have helped law firms meet this challenge, the following are two:

1. Expand recruitment, but also work to retain the lawyers you recruit.

One statistic is very troubling for Stiller – that women comprise more than 50 percent of law school classes, but still lag far behind men in law firm partnerships, appointments as judges and other positions of power in the profession. “Women are choosing to leave the profession, and I wonder about that,” she said.

Stiller believes the demands of balancing family with work may be a factor, and she commends law firms such as her own for their family-friendly policies including flexible hours. The real issue behind diversity, she said, is creating a welcoming, inclusive workplace for everyone.

Duffis, too, is troubled by trends within law firms to actively recruit minority associates, but then make little effort to support them and promote them to the highest levels of the firm. “We need to make efforts to bring in qualified attorneys and then hold on to them,” he said.

Jatrine Bentsi-Enchill, founder and director of the ESQ Development Institute, says in her article “Seven Reasons Why Law Firm Diversity Initiatives Fail,”⁴ that firms often over-rely on recruiting. “Firms must ensure that their work environment

can support a diverse staff,” she writes. “Retention and development of a strong and diverse pool of attorneys depends upon the firm’s ability to create a work environment that values and leverages difference, mentors cross culturally and consistently measures the progress and development of all attorneys.”

Stiller strongly believes in the value of mentoring as an attempt to nurture lawyers. A participant herself in various bar association activities, she has seen the profound difference such relationships can make.

2. Formalize your commitment to diversity by conducting a firm-wide assessment and developing a diversity strategy and plan – and then executing it.

In his article “Jump-Starting Your Law Firm’s Diversity Program,” Mauricio Velasquez, president and CEO of The Diversity Training Group,⁵ urges firms to begin by conducting a firm-wide assessment to define the firm’s current status in reference to diversity. The assessment should include a firm-wide survey, individual interviews with partners and associates and focus groups, he writes. The firm must then look for themes and trends within the feedback gathered.

Velasquez also believes firms should develop a diversity strategy that outlines all the areas within and outside of the firm that impact the firm’s diversity. He lists examples including firm image,


recruitment, development of attorneys and marketing. The diversity plan then fleshes the strategy out with detail such as initiatives, policies, procedures and actions that the firm will then execute.

Velasquez says about the growing trend of diversity consultants who help with this process, “The leading firms are out in front attempting to differentiate themselves from traditional firms with their diversity endeavors. Be ready for the day a client shares the plan of another firm as the high-water mark.”

One Career at a Time

For Duffis and Stiller, the issue of diversity in the legal profession strikes a very personal chord. It is much more than an initiative or an issue; it is a life journey. Each has experienced instances of discrimination as well as times of great accomplishment in the profession.

Stiller, who calls the legal profession “the most incredible profession on earth,” encourages her younger female counterparts not to lose hope. “We are going to be in a fishbowl and people are always going to be looking at us and holding us to a higher standard. Maybe that won’t always be the case, but I think it is now,” Stiller said. “But the understanding of the need for diversity and the treatment of women and minorities has improved. These steps, whether small or large, make our profession stronger.”

Duffis sends this message: “Work hard and be qualified and chances are someone will give you a break. Chances are the cream will rise to the top, and the cream can be any color.” 

¹<http://www.abanet.org/minorities/>

²<http://www.law.com/jsp/article.jsp?id=1120579809481>

³<http://www.law.com/jsp/article.jsp?id=1202422990269>

⁴<http://www.multiculturaladvantage.com/recruit/law/7-Reasons-Why-Law-Firm-Diversity-Initiatives-Fail.asp>

⁵<http://www.diversitydtg.com/>

A Look at the Numbers

- Women represent 31.6 percent of the country’s 1,162,124 lawyers.
- Women comprise 18.3 percent of partners in private practice, 45.1 percent of associates and 45.6 percent of summer associates.
- Women comprise 18.4 percent of general counsel in Fortune 500 companies.
- Of the J.D.s awarded in the country’s law schools, 47.5 percent were to women and 52.5 percent were to men.

Source: American Bar Association Commission on Women in the Profession’s publication “A Current Glance at Women in the Law 2008.”

- Total minority representation among lawyers is about 9.7 percent, compared to 20.8 percent among accountants and auditors, 24.6 percent among physicians and surgeons, and 18.2 percent among college and university teachers.
- African Americans are the best represented minority group among lawyers (3.9 percent), followed by Hispanics (3.3 percent).
- Minority representation among partners remains less than 4.0 percent in all but the very largest law firms, and only 4.4 percent in the nation’s largest 250 law firms.

Source: 2000 U.S. Census

We are proud to highlight this year's top-award winning firm of Ogden & Sullivan in Tampa, Florida.

Primerus Community Service Awards

Every year, Primerus names three finalists in the **Primerus Community Service Awards** at the National Conference. We are proud to highlight this year's top-award winning firm of Ogden & Sullivan in Tampa, Florida, and the finalist firms of Boylan, Brown, Code and Vigdor in Rochester, New York, and Christian & Small in Birmingham, Alabama.

Ogden & Sullivan

During the past year, Ogden & Sullivan ran two programs at Academy Prep – an inner-city middle school that identifies bright students from impoverished families and gives them a quality education. The first program, a judicial roundtable, brought in respected judges from the community. Ogden & Sullivan attorneys prepared the students for a question and answer session with the judges during a previous session, where they discussed how the courts interrelate with the other two branches of government, the relationship of the state and federal court systems and the organization of each court system.

In another program at the school, Ogden & Sullivan attorneys coached competing teams comprised of eighth graders in a mock mediation designed to introduce the students to the mediation process as a form of dispute resolution.

These programs are just the beginning of Ogden & Sullivan's deepening relationship with the students at Academy Prep. To learn more about the firm's community service efforts, see partner Timon Sullivan's article within this issue.

Boylan, Brown, Code and Vigdor

Thanks in large part to the efforts of Boylan, Brown, Code and Vigdor attorney Justin Vigdor, the city of Rochester, New York has a new building that houses all four of the city's legal service organizations in order to provide better, more efficient legal services for low-income clients and the community. As chairman of the "Partnership for Equal Justice Campaign," Vigdor led the effort to raise \$2 million to realize this goal.

Another of the firm's attorneys, Warren Heilbronner, was named the recipient of the first-ever Senior Attorney Pro Bono Service Award by the New York State Bar Association.


Attorneys at Boylan, Brown, Code and Vigdor also spend time helping students in the Rochester area. Robert Brown, a founding partner and CEO of the firm, is one of the founding board members of the Rochester Surround Care Community Corporation (RSCCC). An innovative non-profit, RSCCC was formed to help children in low-income areas of the school district get the services they need to thrive in school. The firm's attorneys also participate in the Monroe County Bar

Association's "Lawyers for Learning" program, through which they serve as mentors in School 29 of the Rochester City School District.

Christian & Small

For the past four years, Christian & Small has been actively involved in the J. Craig & Page T. Smith Scholarship Foundation. The foundation provides scholarships for underprivileged students, addressing not only their financial needs, but also providing a support network to make sure they succeed in school. It awards scholarships based not solely on scholastic scores, but also on strong commitment to service and family.

More than half of the foundation's 125 volunteers are Christian & Small attorneys, support staff and family members. They have taken on the tasks of reaching students, selecting winners, assisting with the awards ceremony (including purchasing clothing for students to wear to the event), hosting educational seminars for the scholarship applicants, providing free legal services for many scholarship winners and providing paid internships to relieve some of the students' financial burdens.

Please join us in congratulating these firms for exemplifying all that the community service pillar represents. 

Every lawyer in Primerus shares a commitment to a set of common values known as the Six Pillars.

Integrity

Research shows that integrity is the number-one quality Americans want from their lawyers. This means acting with candor by expressing the truth and refusing to mislead others in speech and demeanor; preserving confidences; treating others with respect; and acting with conviction and courage.

Excellent Work Product

Work product is more than winning or losing. It means that all of a lawyer's work for clients is of consistent, high quality. It means that records, as well as communications with clients, are detailed and clear. It means phone calls are returned, deadlines met and promises kept.

Reasonable Fees

Primerus member firms may work by the hour, on a contingency plan (pay if you win), or on other fee arrangements. But regardless of the structure, the fees must be reasonable, based on what is customary in a firm's geographic area, and on the individual attorney's knowledge and experience.

Continuing Legal Education

For Primerus members, education doesn't end with a law degree. Attorneys are required to complete an average of 30 hours of approved continuing legal education (CLE) a year (including self-study). This is more than twice the typical state bar CLE requirement.

Civility

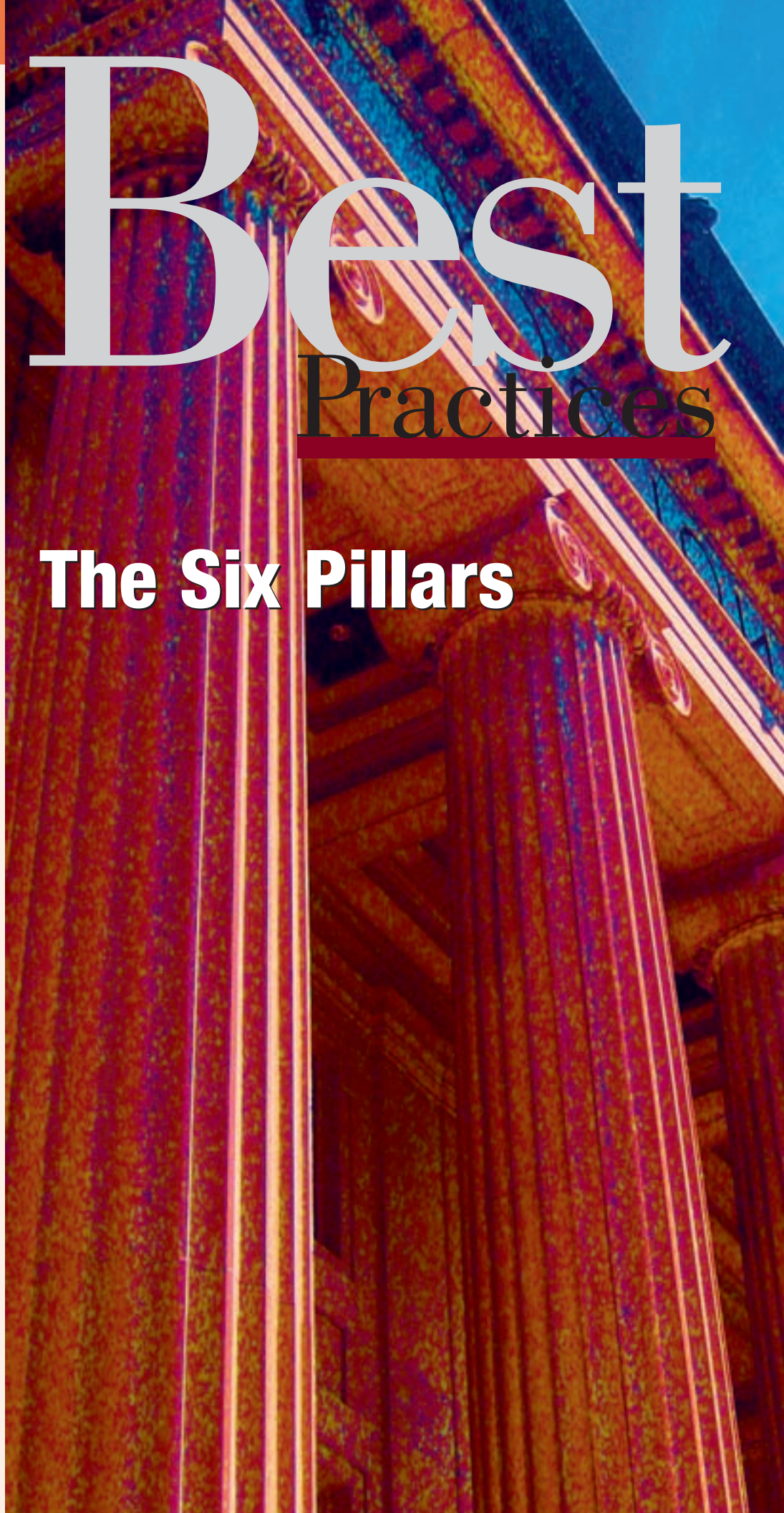
Primerus members still hold the courtroom to be a place of honor. Accordingly, as officers of the court, all lawyers and judges deserve our respect, even when in disagreement. Members may express themselves strongly, but never rudely. Primerus attorneys pledge courtesy and civility, in accordance with the profession's noblest traditions.

Community Service

Primerus members believe that law, in its purest sense, is community service. The law, fundamentally, exists to hold communities together. Primerus members pledge themselves to numerous community service endeavors including pro-bono services for those who cannot afford legal counsel.

Best Practices

The Six Pillars



Practicing with Integrity: Easier Said than Done

By Barbara Miller

When I was a young lawyer, I read one sentence which continues to impress me. In the introductory letter to his company's personnel policy, the president of the Moore Special Tool Company stated, "The hardest thing to gain and the easiest thing to lose is your reputation." Although the company excelled by developing the most precise machine tools in the world, Wayne R. Moore was most concerned with letting employees know the value of integrity.

As members of Primerus, we pride ourselves not only on our reputation as lawyers but also as people. When we gather, we often speak of serving our communities as well as building our

Handling ethical issues with clients requires judgment, patience and maturity.

legal practices. The challenge before us is not the desire to do right, but determining in fact what is right.

This dilemma was made clear in the engaging ethics seminar I attended on the first morning of the 2008 National Conference in Colorado Springs in October. The rules of ethics provide some guidance, but do not always yield a satisfactory answer. It is unsettling that rules of ethics vary from state to state. Even when an action is sanctioned by the rules of ethics, many of us felt that the permissible result was not how we would

act under the circumstance. We are often left to our inner moral compass to guide our way.

Doing what we feel is right is often contrary to the mindset of the legal advocate. We all want to get the better of the opposing side in any negotiation. For the litigator, the goal is to outsmart the adversary and win the case. As we are driven to use each opportunity to advance our client's interests, it is very difficult to evaluate the moral cost of each victory in the heat of the moment.

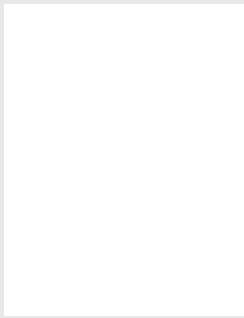
Handling ethical issues with clients requires judgment, patience and maturity. Successful business people have gotten ahead by pushing the envelope. We can-

not immediately condemn a client who

wants to take advantage of a circumstance which makes us uncomfortable. It requires an iterative process of explaining and even negotiating with the client to achieve a plan of action which is both successful and meets the attorney's standards of practice.

Even within the firm, it is all too tempting to angle for advantages such as higher compensation, the most lucrative work and the help of the best associates. It often seems easier to "play" the firm system than to fix it. The failure to address these issues openly as a group can erode the internal integrity of a practice.

Best Practices



Barbara Miller
Principal

Barbara Miller represents businesses and individuals in contract formation and negotiation, as well as business and probate disputes. She also counsels clients in the areas of environmental and employment law.

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As is true with all lofty aspirations, the devil is in the details. Although it may seem demeaning to the high purpose of doing the right thing by listing “practice pointers,” there are some actions we can take to enhance firm and individual integrity.

We all will get over losing cases and clients, but we may never recover from losing our reputation.

Lead by example. It may well be true that our values are formed early in life, but we still need to teach young lawyers to adhere to those standards in everyday practice. The importance of conflict checks, retainer letters and honesty in dealing with adversaries and tribunals must be stressed as much as billable hours. A firm culture which over-values tales of “gotcha” may not aid the development of associates who make good decisions on the tough ethical issues.

Require attendance at ethics courses. All lawyers in the firm should regularly attend ethics courses. Rules change continually. As technology advances, more challenges arise in communicating and storing information. As lawyers become more mobile among firms, new problems arise with conflicts of interest and the movement of clients to new practices.


Have a safe room. There should be a more senior partner to whom all attorneys can go to discuss difficult ethical issues

without being judged. It often helps to talk things through with a good listener to arrive at a sound conclusion. Even if a mistake is made, someone should be there to help rather than leaving the lawyer to deal with the problem alone. Just as a client can sometimes get “too close” to a problem, so can an attorney dealing with a difficult practice issue.

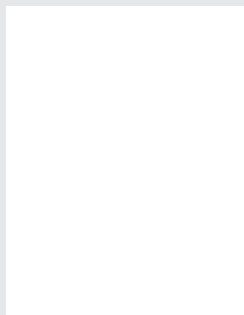
Keep the doors open. It is our business to be in everybody’s business. There is cause to worry about the attorney who is often hunkered down behind closed doors. Primerus firms are small enough that there is no excuse for not knowing what each attorney is working on. It is also a

painful truth that we have to consider how the attorneys in our office conduct themselves outside of the practice of law.

Monitor billing practices closely. A bill to a client says a lot about a law firm. Clients should have detailed knowledge of what work was done when and who did it. Clients should only be billed for what was agreed to in advance and should not be burdened with time wasted due to firm inefficiencies.

Keep losses in perspective. We all will get over losing cases and clients, but we may never recover from losing our reputation. 

Best Practices



Betty Ann Milligan
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Betty Ann Milligan has been in law practice for more than 20 years. She focuses her practice in the areas of business and commercial litigation and professional liability.

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Reasonable Fees: The Right Thing to Do

By Betty Ann Milligan

Situated prominently among the Six Pillars of Excellence of Primerus law firms is the third one: reasonable fees. It stands there, right beside integrity and excellent work product as a foundational element of our organization. The fact that this subject is a common core value of this association of law firms indicates that Primerus member firms consider their fee structures carefully before implementing them; we are keenly aware of the importance of those structures to our clients and their effect on the people we serve. The result of this serious consideration by our firms is the confidence that our clients have in choosing a member lawyer or firm.

Fees are the subject that many in the legal profession would rather not discuss: legal fees and perhaps more specifically, the reasonableness of fees charged for the services we render to our clients. Our present and potential clients deserve not only the best in service, but also to be charged for those services at rates that would be charged by a reasonably prudent and competent lawyer. Not only is it a pillar of Primerus, it is simply the right thing to do.

Today, the media bombards our homes and workplaces with information about the best, cheapest, fastest, newest items, or the most up-to-date information concerning everything from electronics to legal services. We are constantly

drilled that we should take advantage of all of these opportunities. The consumer comes to us many times with preconceived ideas about how we are poised to take advantage of them by charging unreasonable fees for services that they are unable to obtain some other place. They think we have them over the

Our present and potential clients deserve not only the best in service, but also to be charged for those services at rates that would be charged by a reasonably prudent and competent lawyer. Not only is it a pillar of Primerus, it is simply the right thing to do.

proverbial “barrel” and that they simply have no choice but to bite the bullet and pay the cost.

It is likely that today’s clients have researched potential fee structures on the Internet. They may be suspicious or even postpone seeking legal services they really need because of distrust, a fear of being charged exorbitant fees for such services, or possibly a fear of being taken advantage of by their lawyer because of their own lack of sophistication in such matters. It is not unheard of that the lawyer somehow recovers a higher fee for his or her services than the client does for his or her claim. It is this type of environment that has fostered the plethora of lawyer jokes that we disdain and the perception in our society that lawyers take advantage of their clients.

For companies and individuals who look to a Primerus firm to meet their legal needs, the experience is much different. Primerus member firms have the commitment to charging reasonable fees as a core value. As a result, future clients can approach a Primerus firm with trust and confidence that the fee arrangement will be one based upon ethical principles, and that they will be fairly charged for services rendered by competent counsel. Our clients also become aware that the fees we do receive are, in part, reinvested in our firms so that we can better serve our clients by providing higher quality service and an overall better experience. Furthermore, because Primerus members are committed to the pillar of community service, a portion of those fees is also poured into worthy causes within each member firm's community.

While Primerus firms take pride in their commitment to this pillar of reasonable fees, the truth is that all lawyers are ethically bound to conduct their business this way. The American Bar Association Model Rules of Professional Conduct serve as models for the ethics rules for most states in our country. The rules serve as guidelines for lawyers and provide structure for regulating conduct through disciplinary agencies. Included in these rules is one concerning fees: Rule 1.5. It is not surprising that this rule is part of the very first chapter of the Rules of Professional Conduct entitled The Client-Lawyer Relationship.

In my state of Tennessee, Rule 1.5(a) specifically addresses reasonable fees as follows:

(a) A lawyer's fee and charges for expenses shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:


- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) whether the fee is fixed or contingent
- (9) prior advertisements or statements by the lawyer with respect to the fees the lawyer charges; and,
- (10) whether the fee agreement is in writing.

Each factor set forth above is not relevant in every situation, neither are any of the factors exclusive. However, consideration of each of these factors when negotiating a fee avoids potential pitfalls in the lawyer-client relationship. Importantly, an understanding of the fee agreement

should be established at the time of the engagement of the services of the attorney.

Once the fee has been agreed upon, it should always be put in writing. This minimizes the possibility of a misunderstanding and, obviously is one factor in Rule 1.5(a) to be considered in analyzing the reasonableness of the fee. From time to time, during the course of any given matter, situations may develop that result in that original agreement becoming inaccurate. That requires a revision of the fee agreement containing a revised estimate of the fees expected, and, of course, this should be provided to and agreed upon in writing by the client.

Clearly, communication is the key. When a client agrees to and, perhaps more importantly, understands the fee arrangement, the likelihood of disputes and disagreements is diminished. That, coupled with the highest ethical standards when it comes to its fees, helps foster a positive, professional relationship.

Law firms that have been invited to participate in Primerus have previously been vetted about their fee schedules. They practice the principles set forth in the Rules of Professional Conduct. Thus their clients experience the satisfaction of knowing that the firm being entrusted with their affairs will only be seeking and charging fees that are reasonable under the circumstances of each case. This pillar, when combined with the other five Primerus pillars, ensures our clients that they have chosen the best. 

Reaching the “PinnaCLE” of the Profession—Through Active Participation in CLE

By Bradley C. Nahrstadt

As a member of a Primerus firm, I identify with and wholeheartedly embrace the Six Pillars of Primerus. And although I adhere to them all, the pillar that really excites me—the one that gives me the most professional satisfaction—is Continuing Legal Education (CLE).

Newton D. Baker, former U.S. Secretary of War and founding partner of Baker & Hostelter, had the following to say about the importance of continual education: “The man who graduates today and stops learning tomorrow is uneducated the day after.” Nowhere is that more true than in the legal profession. The law is never static; it is constantly adapting to meet the needs of an ever

I am a firm believer in the saying that we learn best by doing. In my humble opinion, CLE does not need to be – indeed should not be – a passive experience.

more complex and challenging world. One has only to take a quick walk through the local law library to see the physical testament to that truism as the shelves of law books continue to expand. Statutes are revised and new ones are passed; precedents come and go; new causes of action are explored and developed. The lawyer who fails to keep apprised of the latest developments in the law fails not only himself, but also his clients.

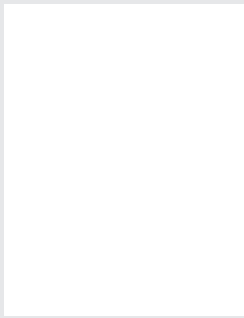
Almost three years ago, Illinois passed a CLE requirement. In the months leading up to the passage of the new rules of professional conduct requiring bi-annual CLE reporting, the legal newspapers and blogs were full of letters and postings complaining about the proposed educational requirements. All of these complaints astonished me—the lawyers in this state were being given an opportunity to better themselves as lawyers (albeit in a forced fashion—the subject of another article), and all they could do was grumble and moan about it! They all seemed to lose sight of the fact that CLE gives us all an opportunity to expand our knowledge base and make us better practitioners—which will, in turn, make us better counselors for our clients (something that Primerus recognized a long time ago).

For those, like Primerus lawyers, who embrace the concept of CLE, there are many legitimate reasons for it:

- CLE improves an attorney’s knowledge of the profession;
- CLE allows attorneys an opportunity to educate themselves about new areas of practice;
- CLE improves attorney competence;
- CLE enhances attorney skill sets; and
- CLE improves the standards of the profession as a whole.

Undoubtedly, these are all good reasons to pursue a lifetime commitment to learning

Best Practices



Bradley C. Nahrstadt
Partner

Bradley Nahrstadt focuses his practice on the defense of high stakes products liability, premises liability, insurance bad faith and commercial claims. He is the Primerus continuing legal education chair.

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in the profession. But let us not forget that by *actively* participating in CLE we can achieve more than one objective.

I am a firm believer in the saying that we learn best by doing. In my humble opinion, CLE does not need to be—indeed should not be—a passive experience. All too often, attorneys think about

The lawyer who fails to keep apprised of the latest developments in the law fails not only himself, but also his clients.

CLE only in terms of the number and types of classes or seminars that they should *attend*. I would posit that this approach leads to fewer meaningful learning events and, perhaps just as importantly, missed opportunities.

Almost all of the states that have CLE requirements (as of this writing there are 42 of them) give credit for authoring articles or giving speeches to bar associations or at industry conferences. These states recognize and reward active participation in the CLE process and although they undoubtedly do it for the reasons set forth in the bullet points stated earlier, let us not lose sight of the fact that active participation in CLE can serve our business purposes as well.

Every time you actively participate in the CLE process, by writing an article or giving a speech, you are not only

improving your knowledge and your competence, you are also participating in an activity that can help develop your book of business. Clients, and potential clients, want to know that their counsel has the expertise necessary to handle their legal issues. What better way to articulate that knowledge (and, further your legal education) than by writing an article or giving a presentation at a local or national bar function? Your articles and speeches demonstrate your expertise to those who have already seen fit to hire you and those whom you seek to make your clients.

Future First Lady Abigail Adams, in a letter to John Adams written on May 8,

1780, said that “[l]earning is not attained by chance, it must be sought for with ardor and diligence.” So get off the sidelines. Stop **going** to CLE programs and start **participating** in them. Make your continual education about more than rote memorization and staid lectures. Seek out and exploit opportunities to be an active part of continuing legal education programs. In the true spirit of the Six Pillars of Primerus, pursue the furtherance of your legal education with ardor and diligence. Your clients and your practice will be better for it and you will be able to reach the “pinnaCLE” of the legal profession. P

Best Practices

Going Beyond Drive-By Community Service

By Timon V. Sullivan

A few years ago, our firm decided it was time to re-examine our community service efforts. We felt we needed to go beyond so-called “drive-by” community service—one-time efforts which involved limited time and in our view, had limited impact. We wanted to develop an ongoing relationship with another group or organization in the Tampa community.

While we strongly believe that writing checks, attending fundraisers and participating in one-time service projects are important, we felt that investing more time and energy in one organization might allow our firm to make a more profound impact and might create a deeper sense of fulfillment in our attorneys.

That effort was the beginning of our relationship with Academy Prep—a middle school in the inner city. All of its students are from families at or below the poverty level. The school’s objective is to identify bright students from impoverished families and give them an education equivalent to Tampa’s best private schools. They attend classes 11 months a year, 6 days a week.

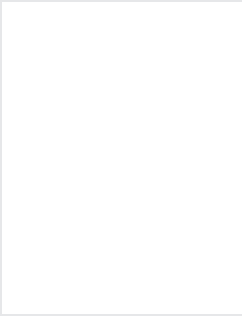
Currently, we run two programs at Academy Prep: a judicial roundtable which brought in local, state and federal judges for a question-and-answer session with the students, and a mediation program in which our firm’s attorneys coached competing teams of eighth graders in a mock mediation involving a fictional dispute.

Through these ongoing programs, we have become part of the curriculum at Academy Prep, and perhaps more importantly, we are developing relationships with the students. After they start to see your face a few times, they begin to warm up to you. As the eighth graders were preparing to graduate in the spring, they excitedly came up to tell us which

In addition to billable hours, quality of work and client development, we feel community service efforts are important to every attorney’s performance.

private high schools they had been accepted into and where they were going. It was rewarding to share their excitement and to see them be given the opportunity to excel.

Our involvement also proved to be contagious. All it took was one phone call to convince Matt Watts of The Presentation Group, a company which provides trial support for our attorneys, to help with the mediation program. On a volunteer basis, Matt’s company helped create exhibits for the mediation, and Matt coached the students on persuasion through the combination of verbal and visual presentation. And when Judge Mary Scriven, who attended the first judicial roundtable, was elevated from federal magistrate judge to U.S. District Court Judge, she asked a group of Academy Prep students to serve in the Color Guard for her ceremony.



Timon V. Sullivan
Founding Partner

Tim Sullivan has been practicing in West Central Florida since 1979. He focuses his practice in areas including transportation litigation; life, health and disability litigation; personal injury and wrongful death; and commercial litigation.

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Two years ago, we also decided to make community service part of our quarterly attorney performance evaluations. In addition to billable hours, quality of work and client development, we feel community service efforts are important to every attorney's performance. So we require our attorneys to list their community service efforts in an evaluation form they complete every quarter. The form includes sections for what the attorney has done in that quarter, as well as what they are planning to do in the next quarter. Asking them to be intentional about and plan for their community service efforts shows a firm-wide commitment and results in more action on their part, which is the ultimate goal.


We also encourage our attorneys to get involved in causes important to them. For example, Melissa Daley has devoted

countless hours in the last five years to the Guardian ad Litem (GAL) program. Through this program, attorneys advocate for vulnerable children who are in the county's dependency system. A GAL meets with the child at least monthly and works with the court in the child's best interest, with the ultimate focus of finding a permanent living situation for the child. I will share with you Melissa's words regarding her work because I think they show the impact our work can have – on us and on those we work with:

“My most rewarding experience was when I was a GAL for three little boys. These boys lingered in foster care for nearly two years. No parent had even visited them for over a year. Finally, I was able to see these children adopted by a family. This would not have happened if there had not been a GAL on that case. Overall, GAL work makes me feel good. This really came

home to me the first time that a child ran to greet me on my third visit to his foster home.”

Our firm is not unique in our desire to further our community service efforts. I hope that you, too, have experienced the rewards that Melissa and our entire firm have from giving back.

As the Academy Prep students we work with learn more about the law, several of them have told us they would like to become lawyers. I hope someday one of them comes to work for Odgen & Sullivan so we can see our relationship come full circle. 

Best Practices

The Pride of a Craftsman

By Mark S. Demorest

Primerus lawyers are busy practitioners. When coping with the daily pressures of meeting deadlines, it might sometimes be tempting to compromise on quality in order to get a document out the door. However, the pride of a craftsman keeps

Primerus lawyers focused on consistently producing the highest quality work product for their clients. Their work product is excellent, not just good enough.

Excellence of work product is more than just filling in the blanks of a form pleading or contract. It is using that form as a starting point and then editing and customizing it to better meet the client's needs. Great lawyers use words more like an artist with a paint brush or a sculptor with a hammer and chisel. The details and nuances of their work set them apart from the average lawyer. As Booker T. Washington said, "Do a common thing in an uncommon way."

Excellence in work product is demonstrated in many different ways, and it must involve every lawyer and staff member in the firm. At the most basic level, every document produced by the Primerus firm is carefully edited to eliminate typographical errors, grammatical errors, inconsistent formatting, incorrect numbering and unfilled blanks.

Sloppiness in the presentation of documents tells the reader that the author was not very concerned about the quality of

his or her work. The lawyer's credibility is immediately damaged by sloppy work.

However, excellence of work product is much more than just proofreading. It involves careful analysis of the client's legal issue and the possible solutions.

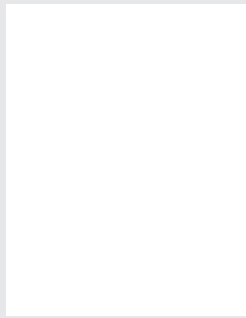
Great lawyers use words more like an artist with a paint brush or a sculptor with a hammer and chisel. The details and nuances of their work set them apart from the average lawyer. As Booker T. Washington said, "Do a common thing in an uncommon way."

The lawyer often prepares several drafts of a brief or a contract, improving it with each successive iteration.

Excellence means learning from past mistakes, and learning from the techniques and documents used by other lawyers. The Primerus lawyer does not simply do things the way they have always been done. Excellence also means participating in continuing legal education to learn about new developments in the law and learning new and better ways of doing things.

Excellence also requires a certain degree of specialization. The law is now too complicated for a lawyer to competently do everything. Taking on a case that is outside of one's normal area of practice is one of the most common causes of a legal malpractice claim.

Clients are also looking for expertise in specific areas. Along these lines, the Primerus BCI group is now developing sub-groups for labor and employment,



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Managing Member

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bankruptcy, intellectual property and real estate law. Similarly, the Primerus defense group has developed groups for lawyers with expertise in representing specific industries, such as the trucking industry.

It is important to create a firm culture of excellence, from top to bottom.

Experienced lawyers and staff must work with the “rookies” to make sure that they understand the importance of excellence. Firm standards and procedures should be developed, but it’s not enough to just write them down. They must be actively enforced or they will soon be forgotten.

The client must also become involved with the process. The lawyer must communicate with the client regularly and become an expert in the client’s business.

When a law firm produces consistently excellent work product over a period of years, the firm will develop a reputation

for excellence. This will help to attract and retain clients. This reputation may also give the firm the benefit of the doubt from a judge or opposing counsel.

Producing quality work product certainly does not mean that the Primerus lawyer will win every lawsuit, nor does it mean that the Primerus lawyer will always prevail in the negotiation of a business deal. However, a proven history of excellent work product means that the law firm’s name, as well as the Primerus logo, will give its work product instant credibility.

The Six Pillars of Primerus are not actually separate; they are integrally related. The pillar of excellence of work product supports, and is supported by, the other pillars.


Excellent work product requires the first pillar of integrity. This means not

taking any shortcuts in your work and being thorough and honest with clients, opposing counsel and courts.

Excellent work product is not inconsistent with reasonable fees. Rather, the excellent attorney learns from past experience and does not have to “reinvent the wheel” on every lawsuit or transaction. The Primerus lawyer also considers, and discusses with the client, the costs and benefits of the options available to the client.

Client satisfaction will be higher if the law firm produces excellent work product. A client is much less likely to pay the bill or use the law firm for future services if the client is dissatisfied with the firm’s work product. Quality work product helps increase client satisfaction.

The fourth pillar (continuing legal education) is closely related to excellent work product. The law is changing constantly, and more and more rapidly. Lawyers must also respond to changing economic conditions. Only by keeping up with the latest developments in the law can a lawyer continue to do excellent work for the firm’s clients.

Excellence of product must be so common and consistent that it simply becomes second nature. Each and every document produced by the Primerus law firm must be excellent. Nevertheless, the next time a similar document is prepared, it should be better than the previous one. Only through continuous improvement can a law firm continue to produce excellent work product time after time. 

Best Practices

Enforcing Civility in an Uncivilized World

By Donald J. Winder and Jerald V. Hale

“That man is guilty! That man there is a slime! He is a slime! If he is allowed to go free, then something real wrong is goin’ on here!”

“Mr. Kirkland, you’re out of order.”

“You’re out of order, you’re out of order! This whole trial is out of order!”

Al Pacino as Arthur Kirkland in *And Justice for All*¹

We have all seen the entertainment industry’s impressions of the legal profession. Fired-up attorneys in court yelling at witnesses, belittling their opponents and battling the judge hammer and tong over every perceived slight or unfavorable ruling. Despite the artistic license entertainment writers take in creating these characters for the screen, we know all too well the caricature of the uncivil attorney has a basis in reality. We live in an increasingly disrespectful and competitive world, and our profession is not immune to the general discourtesies that permeate society. The nature of our adversarial system of law can also foster an environment where it is often believed antisocial behavior can get you noticed and get results.

But does the adversarial system necessarily require incivility on the part of the participants? Does the fact that each party enters a matter with the intent to triumph over the other side require disrespect of one’s opponent? Winston Churchill did not think so. After the Japanese bombing of Singapore and Hong Kong in 1941, Churchill dispatched a letter to the Japanese Ambassador announcing that a state of war existed between England and Japan. After noting the acts of aggression, Churchill’s letter ended with these words: “I have the honour to be, with high consideration, Sir, Your obedient servant, Winston S. Churchill.” Churchill commented in his

As a result of the efforts of Primerus members and others in state and local bar associations and courts throughout the country, a quiet revolution has been taking place as bar associations and courts seek to put a greater emphasis on civility.

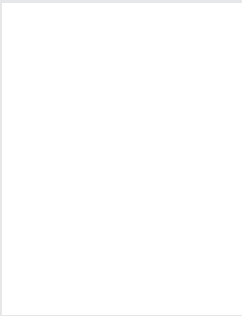
memoirs, “Some people did not like this ceremonial style. But after all when you have to kill a man it costs nothing to be polite.”² Clearly, civility can be maintained, even under the most adversarial situations.

Primerus has long been at the forefront of promoting civility in the legal profession. As a result of the efforts of Primerus members and others in state and local bar associations and courts throughout the



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Don Winder has practiced law for over 35 years and has a varied trial practice focusing on business litigation. He also served on the Utah Supreme Court Committee on Professionalism.



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country, a quiet revolution has been taking place as bar associations and courts seek to put a greater emphasis on civility. Rules of civility have been adopted, at least in part, in numerous jurisdictions.³

In the mid-1990s the incivility in the profession that had come to bear from the quest for “zealous” representation began to be called into question. As noted in a review article in 1994, “[z]ealous advocacy is the buzz word that is squeezing decency and civility out of the law profession.... [It is] the modern day plague which infects and weakens the truth finding process and makes a mockery of the lawyers’ claim to officer of the court status.”⁴ In response to the quest for more civilized dealings in the practice of law, in 2003 the Arizona Supreme Court eliminated the obligation of attorneys to be “zealous” advocates of their clients in favor of a duty to “act honorably” in furtherance of their client’s

interests.⁵ Indiana, Louisiana, Montana, Nevada, New Jersey, Oregon and Washington have likewise omitted all references to zealousness in their rules, preambles, and commentaries.⁶

In 2003, the South Carolina Bar amended its Lawyer’s Oath to include “To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.” In Utah, the Attorney’s Oath was recently modified to include a promise to “faithfully observe the Standards of Professionalism and Civility....”⁷ It is believed that Utah is only the second state to follow the South Carolina model.

The next inevitable step in the progression toward more civility in our profession is determining how to enforce the civility provisions that have been enacted.

Courts around the country have entered the fray to find a way to enforce what are generally seen as non-binding

suggestions on civility. In the Utah Supreme Court case *Peters v. Pine Meadow Ranch Home Ass’n.*,⁸ the petitioner was appealing an appellate court affirmation of a trial court’s grant of summary judgment to a homeowners’ association regarding the enforceability of its covenants, conditions and restrictions. Rather than reach the issues raised in the appeal, the Utah Supreme Court focused on the petitioners’ briefs and the uncivilized language and tone of the briefs to affirm the holding of the lower court.⁹ Specifically, the Court noted:

“petitioners’ briefs... are replete with unfounded accusations impugning the integrity of the court below. These accusations include allegations, both direct and indirect, that the [Court of Appeals] panel intentionally fabricated evidence, intentionally misstated the holding of case, and acted with

Enforcing Civility in an Uncivilized World

improper motives. Further, petitioners' briefs are otherwise disrespectful of the judiciary.¹⁰

Rather than rule on the merits of the petitions, the Court dismissed the petition and ordered the offending attorney to pay the other side's attorney fees, which at the time had amounted to approximately \$17,000. The Court noted if attorneys

Primerus has long championed civility and it appears that both bar associations and courts are ready to step in and force the issue where efforts at self-policing have apparently failed to achieve the desired results.

continue to adopt the "scorched earth" approach to advocacy, they do so at their own peril.

The Utah Supreme Court also has created what is believed to be the first program in the country of professionalism counseling for members of the Utah Bar.¹¹ The program functions through a board of five counselors, appointed by the Utah Supreme Court, who generally counsel and educate members concerning the Standards of Professionalism and Civility. The Court recommended the counselors would serve a four-fold purpose: (1) to counsel members in response to complaints by other lawyers or referrals from judges; (2) to provide counseling to members who request advice on their own obligations under the Standards of

Professionalism and Civility; (3) to provide CLE on the Standards; and (4) to publish advice and information relating to the work of the counselors. Of these functions, it is the counseling function which is most critical to the notion of enforcing civility in the profession.

The goal is to provide a method by which incidents of incivility or unprofessional conduct could be reported and addressed. The focus, however, would not be punitive in nature, but rather, educational. In responding to a complaint from a fellow attorney or judge, the counselors may issue a written advisory to the offending lawyer, or may simply counsel with the lawyer in a personal meeting, with the goal of educating the offending lawyer as to alternative modes of practice in harmony with the Standards. In addition, the counselors would publish an annual report concerning the Standards it has interpreted, as well as periodically publishing selected portions of its advisories in the Utah Bar Journal for the benefit of all practicing lawyers.

Primerus has long championed civility and it appears that both bar associations and courts are ready to step in and force the issue where efforts at self-policing have apparently failed to achieve the desired results. Every Primerus firm should urge their respective states to: 1) adopt principles of civility, 2) modify attorney's oaths to eliminate "zealous" advocacy and require adherence to principles of civility, 3) establish judicial

precedence enforcing those principles, and 4) create a counseling program. As recognized by the Utah Supreme Court, education is the key component to any successful effort to enforce civility. As attorneys learn what is expected in the practice of law, the "culture of belligerence,"¹² like the typewriter and carbon paper, will become a relic of a bygone era in our profession. P

¹Valerie Curtain & Barry Levinson, *And Justice for All*, Columbia Pictures, 1979.

²Churchill, Winston S., *Memoirs of the Second World War*, Boston, Houghton Mifflin, 1959.

³Some, but certainly not all, of these jurisdictions include Arizona, California, Florida, Georgia, Texas, Utah and even the San Diego County Bar Association.

⁴Kathleen P. Browe, Comment, *A Critique of the Civility Movement: Why Rambo Will Not Go Away*, 77 Marq. L. Rev. 751, 767 (1994).

⁵See Ariz. R. S.Ct. 42.

⁶See Indiana Rules of Professional Conduct, www.in.gov/judiciary/rules/prof_conduct/index.html; Louisiana Rules of Professional Conduct, www.lsbba.org/2007/memberservices/codeofprofessionalism.asp; Montana Rules of Professional Conduct, www.montanabar.org/associations/7121/files/ethicsrulecomparison.pdf; Nevada Rules of Professional Conduct, www.leg.stat.nv.us/courtrules/rpc.html; New Jersey Rules of Professional Conduct, www.judiciary.state.nj.us/rpc97.htm; Oregon Rules of Professional Conduct, www.osbar.org/_docs/rulesregs/orpc.pdf; Washington Rules of Professional Conduct, www.courts.wa.gov/rules/?fa=court_rules.list&group=ga&set=rpc.

⁷Found in the preamble: A Lawyer's Responsibilities, Utah Supreme Court Rules of Professional Conduct.

⁸151 P.3d 962 (Utah, 2007).

⁹Id. at 962.

¹⁰Id.

¹¹See Utah Supreme Court Standing Order No. 7, issued January 9, 2008, effective April 1, 2008; <http://www.utcourts.gov/resources/rules/urap/Dupctso.htm#7>.

¹²See Hagen v. Faherty, *Supra*, 66 P.3d at 979-80.

Primerus to Expand in Europe in 2009

Building on the momentum gained from the addition of Primerus' first non-North American firm, Ford & Warren, in Leeds, England, in 2008, Primerus has set a goal of adding 20 European firms to its membership in the next 18 months.

"The objective is to establish Primerus as the leading international law network in Europe," said Robert Brown, chief executive officer of the Primerus firm Boylan, Brown, Code, Vigdor & Wilson in Rochester, New York. "The middle market practice of law, particularly in the business arena, is now clearly international. It's increasingly important that as Primerus members we can call upon people in other countries to help our clients."


Brown, a Primerus board member, is serving as chairman of the Global Private Capital Conference to be held in Munich, Germany, beginning April 28, 2009. The conference will play a pivotal role in recruiting European Primerus members, Brown said. This year, Primerus will co-sponsor the conference, along with last

year's sponsors – the Transatlantic Business Council and the Alliance of Merger and Acquisition Advisors.

"We are delighted they have invited us to participate with them, and it gives us a really excellent forum for recruiting additional Primerus business members in Europe," Brown said.

Primerus will sponsor a reception for all conference participants, as well as present seminars and panel discussions on topics affecting the middle market, including global financial markets, bank risk and credit crunch, mergers and acquisitions, and global life-science investment.

Following the conference, Primerus will continue its efforts with other activities under the direction of a new European advisory board. Its members will be named in the coming months.

Brown encourages Primerus members to attend the conference in Munich. More information and details about the conference will be available in coming months from Primerus. 

Primerus 2009 CALENDAR

Save the Date

January 20, 2009

Business | Corporate | International
(BCI)

Winter Conference
Orlando, Florida

January 22-23, 2009

Primerus Defense Institute (PDI)
Transportation Seminar
Orlando, Florida

February 26-28, 2009

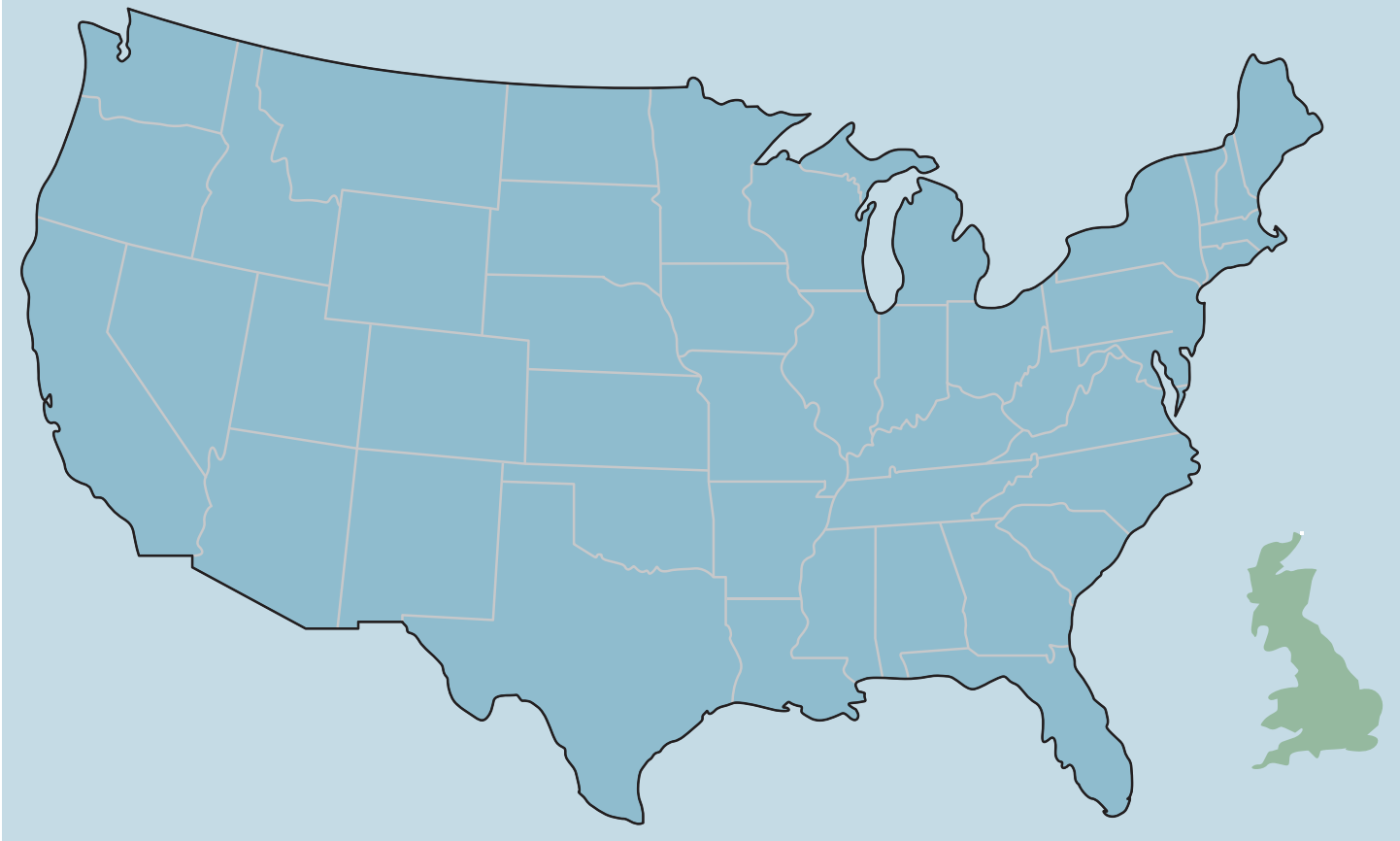
Plaintiff | Consumer (PC)
Winter Conference
Tucson, Arizona

April 23-25, 2009

Primerus Defense Institute (PDI)
Convocation
Tucson, Arizona

October 22-24, 2009

Primerus National Conference
White Sulphur Springs,
West Virginia



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Business | Corporate | International

Question: How many lawyers does it take to screw in a light bulb? Answer: How many can you afford? The old joke, although intended to be derogatory, has new significance in today's challenging economic climate. Companies in every industry face escalating financial constraints, and in-house counsel are under increasing pressure to hold legal fees down.

Primerus offers an ideal solution, since the overhead structure of small and mid-sized firms allows us to offer more competitive fees than the big firms that many in-house counsel are accustomed to. We are emphasizing two of the Primerus pillars – reasonable fees and excellent work product – in our current initiative to reach out to corporate counsel. The group of Primerus defense litigation firms has successfully developed strong relationships with many in-house counsel and corporate executives with their very successful launch of the Primerus Defense Institute (PDI) four years ago. Bob Brown and Hugh McCabe (PDI Chair and Vice Chair, respectively) have graciously agreed to work with the BCI Group to build upon the PDI's relationships with this group of clients.

Many of the recent initiatives developed during Brian Davidoff's tenure as Chair of the BCI Group have laid the groundwork that strengthens the appeal of Primerus firms to in-house counsel. In addition to our multi-jurisdictional legal opinion service, we have established practice groups in the areas of bankruptcy, labor and employment,

and intellectual property. We have already developed brochures, web pages and listservs for each of these initiatives. We



Primerus Defense Institute

Bob Brown

PDI Chair

Based on my personal interactions with clients in my role as chair of the PDI, I can tell you that our clients do not see the Six Pillars as just a catchy marketing phrase. The Six Pillars are what initially brought Primerus to the attention of a great number of those clients, and as Susan Cook of Tamko so eloquently stated at the last Convocation, they are what distinguishes our firms from the rest.

I have had the great privilege of sending my clients to a large number of Primerus firms. I can proudly state I have never received a bad report back from any of them. And many of the clients I have invited to the Convocations now use Primerus firms whenever possible. It is clear we as a group are not only “talking the talk” but are also “walking the walk.”

While I am ecstatic the Six Pillars have given us an identity and have served us well in setting us apart from the competition, what does it say about the current state of the legal profession or the public’s perception of the state of the legal profession that adherence to these pillars sets us apart? When one looks at the individual pillars, you would think that every attorney, whether affiliated with Primerus or not, should aspire to practicing according to these principles.

Integrity. An issue came up in the very first case I ever tried. The issue itself has blurred over time, but what the judge said at the time has stuck with me over the years: “I don’t know Mr. Brown, as this is the first time he has been before me, but if someone from his firm tells you something, you can take it

to the bank.” I have spent the remainder of my career trying to live up to those words and have made it clear to all new hires this is the perception we want to maintain from both the judiciary and opposing counsel.

Excellent work product. I was taught as a child that if something was worth doing, it was worth doing right. Everything that leaves my office is a reflection of me and should be as close to perfect as possible. It may take more time and effort than copying a form, but the clients deserve this effort, and my reputation means enough to me to give this effort.

Reasonable fees. The disciplinary rules require this of each and every lawyer practicing in the United States. Yet, when talking with clients of Primerus, how many horror stories do we hear about bills they have received from other firms? In the current economic times, this pillar will move to the forefront of what clients are looking for in law firms. We, as a group, will be ready to serve these clients by providing reasonable fees – not cheap fees, but fees reasonable given the complexity of the work, the experience level of the attorney, and the jurisdiction in which the case is pending.

Continuing legal education. How can one possibly compete in the ever-changing and complex field in which we endeavor without committing to staying on top of the issues we face every day?

Civility. We have all dealt with lawyers that would fight you about the color of the sky, that treat witnesses and sometimes even the judiciary with no respect, that make every encounter with them one to be dreaded.

How miserable must these people be? How do they treat their spouses and children? How do they come to the office every day?

Community service. For all the complaints about the trying economy and the difficulty in finding new work, the vast majority of us enjoy a standard of living that most people in this country can only imagine. Giving back is the right thing to do. All of us have been touched in our lives by some cause that is near and dear to our hearts. For me, it is the fight against Type 1 Diabetes, something I was virtually ignorant of until my son was diagnosed a few years ago. Find a cause that has touched you, and get to work!

It is my most sincere hope that someday our adherence to the Six Pillars will not set us apart from the rest. It is my hope that those lawyers who do not live their professional lives in accordance with the Six Pillars will be the exception, rather than the rule.

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Plaintiff | Consumer

Edward Ricci

PC Practice Group Chair

In keeping with this issue's theme of the Six Pillars, I want to share with you about a community service program that has become very close to my heart.

In 1980, my wife, Mary Lupo, and I provided an initial gift to Hope Rural School in Indiantown, Florida. That gift helped found the school and since that time, we have watched with great interest as the school and its students have flourished.

The mission of Hope Rural School is to educate the immigrant children of migrants and farm workers in an environment of love and encouragement. Hope Rural is a private Catholic elementary school (K-6) with a 501 (c) status. The student population represents a diversity of cultures from Guatemala, Mexico, Haiti, Puerto Rico, Jamaica, Columbia and the United States. There are currently 120 students enrolled at Hope Rural School.

Regardless of the number of siblings attending, the school only charges \$100 in annual tuition per family. The school's operating income comes from private gifts, grants and donations from civic and church groups, employers' matching funds, foundations, memorials, trusts and individual donors. The dedicated faculty and staff provide a full education that encompasses the academic year, summer school, after-school care, breakfast, lunch and snacks.

For almost two decades, the school's students have provided the artwork for the Thanksgiving cards I send to my clients. Each year in appreciation for their creative efforts, I treat them to a pizza lunch and an honorary visit by Bishop Gerald M. Barbarito, Bishop of the Diocese of Palm Beach.

I tell you this story to show that you never know where your firm's community services commitments might take you. Nearly 30 years since my first involvement, Hope Rural School is still an

important part of my life. I'm so honored to be part of the school, and I know its children are our hope for tomorrow.

In closing, I would like to invite you all to attend the Plaintiff | Consumer Winter Conference February 26-28 in Tucson, Arizona. I encourage you all to join us for what will be some invaluable insights on managing your practice. Noted author, business owner and attorney John Leonetti will teach us about succession planning. John has years of experience in exit strategies for business owners and will reference his recently published book *Exiting Your Business, Protecting Your Wealth: A Strategic Guide for Owners and Their Advisors*.

I hope to see you there.

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Discounted Malpractice Insurance Now Available to Primerus Members

Partnering with Willis-HRH of Michigan and Hanover Professionals Direct, Primerus is pleased to offer its members a new Lawyers Malpractice Insurance Affinity Partnership Program.

The program offers Primerus law firms special pricing advantages, starting with an upfront 12.5 percent discount off standard rates, with a group dividend plan to follow, when overall premiums reach a realistic threshold.

Some coverage highlights include:

- “First Dollar Defense” – your deductible will only apply to indemnity payments, not to defense expenses
- Available limits up to \$10 million per occurrence/\$10 million aggregate
- “Career” Prior Acts Coverage available
- Coverage for predecessor firms if

they are named on the application

- Available coverage for “Of Counsel” lawyers and independent contractors for the work they do on behalf of the insured firm
- Claim Expenses Outside the Limit (CEOL) Endorsement available
- Coverage extensions for Employment Practices Defense and Lawyer Discipline Defense
- Personal injury coverage for malicious prosecution, false arrest, abuse of process, invasion of privacy, and libel or slander that results from a professional act.

For more information or to complete an application form, please contact Russ Lindemann or Barb Zeak at 800.472.1231.

Board Approves Further Modifications to Charter

At its October 2008 meeting, the Primerus Board of Directors approved further modifications to the Exclusive Territory Charter, first adopted in February 2005 and later amended in May 2006. Primerus members were notified in December 2008, by email, that the Exclusive Territory Charter was further modified by the Board, and that the revised Exclusive Territory Charter may be viewed on www.primerus.com. The revised Charter will become official 90 days after the date of email notification.



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