



Professionalism Illustrated on Film: A Platform for Discussion by Law Students & Lawyers

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The vignettes on the website are designed to be used to teach law students about concepts of professionalism.¹

Descriptions of the vignettes:

1. Natalie:

The “Natalie” vignette addresses the lawyer’s duty of candor including (1) a law student misrepresenting her class rank on a resume and then failing to acknowledge the discrepancy when caught; and (2) the same student (now a lawyer) purposely omitting possibly relevant law in a brief and then having to address that deficiency at oral argument.

2. George:

The “George” vignette is designed to be a springboard for discussing (1) the importance of developing good habits related to independent thought and analysis early on in law school, and (2) how habits (good or bad) will be perceived in law practice (or at a summer job).

3. Larry

The “Larry” vignette addresses preparedness, timeliness, professional demeanor, and respect for colleagues and the court. The similar conduct in different factual settings highlights that habits (good or bad) are formed early on, and that poor habits have negative consequences for the lawyer and his or her client.

Discussion questions are included on the pages that follow.

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Possible Discussion Questions for Each Vignette

Natalie Possible Discussion Questions

Scene #1

1. Assume the school's Honor Code includes this provision:
"It shall be a violation of the Code for a student to misrepresent a material fact with respect to academic performance or requirements."
Did Natalie violate the Honor Code?
2. Would it be a violation even if the resume was never sent to a prospective employer?
3. Can Professor Whitman believe that Natalie has not sent the resume to any prospective employers?
4. Who do you think Professor Whitman is calling at the end of the scene?
5. Even if Professor Whitman doesn't report Natalie for an Honor Code violation, are there other consequences of her behavior?

Scene #2

Model Rule of Professional Conduct Rule 3.3 (Candor Toward The Tribunal) provides in part: "A lawyer shall not knowingly . . . fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel."

1. Can we tell if Natalie violated Rule 3.3?
2. What does the Clerk think?
3. How do you think the Clerk handled the situation?
4. Assume these additional facts:

Natalie is defending Robert Smith, who was involved in a car accident. In addition to being sued for negligence by the person who was injured (P), Smith is also being sued for negligent infliction of emotional distress (NIED) by the injured person's domestic partner (P2) who has been in a same-sex relationship with P for two years. P2 witnessed the accident in which P was badly injured. P2 alleges that she has nightmares and physical symptoms of stress ever since the accident.

In Smith's defense, Natalie filed a motion for summary judgment. Natalie's argument is that summary judgment is appropriate because (1) there is no issue of material fact (conceding that P2 witnessed the accident) and (2) Smith is entitled to judgment as a matter of law because under Pennsylvania law, bystanders are only allowed to recover for NIED when the victim of the accident is "closely related," defined as immediate family or blood relation. The motion was granted by a federal court judge in the District Court for the Eastern District of Pennsylvania. (The federal court has jurisdiction because of diversity of citizenship, and all parties agree that Pennsylvania law governs.) P2's lawyer has appealed to the Third Circuit Court of Appeals.

Between the time the Motion was filed and the briefs are due, the Pennsylvania Superior Court decided Snow v. Storm and allowed recovery by a victim's fiancé for NIED.

With this additional information, what do you think about Natalie's choice? (Remember that there may be a difference between actual misconduct and bad judgment. Is this misconduct under Rule 3.3? Is it bad judgment?)

5. Does her justification based on the differences in the facts make sense?
6. Does Natalie's reasoning that Snow v. Storm may be appealed justify her decision to omit the case?
7. What do you think will happen in court?

Scene #3

1. Did you expect that the judges would know about Snow v. Storm?
2. Were you surprised when they did not let Natalie file a supplemental brief?
3. What do you think Natalie's client thought?
4. How is this like Natalie's choice in law school to misrepresent her class rank on her resume?
5. How is it different?

George

Possible Discussion Questions

Scene #1

1. What did you think about George's interactions with the professor?
2. What did George want from the professor?
3. Why didn't George get what he wanted from the professor?
4. How could he have handled the situation differently?

Scene #2

Let's focus on George's interaction with the partner at the firm.

1. Were you surprised by the partner's reaction?
2. What went wrong?
3. What could George have done differently?

General Questions

1. You often hear people say that there are no dumb questions. Is that true? Was George asking dumb questions?
What should George have done before asking a question?
2. Are there any implications under the Model Rules of Professional Conduct?
Rule 1.1 of the Model Rules of Professional Conduct deals with the lawyer's duty of competence and provides as follows:
"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."
Does George's behavior demonstrate a lack of competence?
Is it possibly a lack of confidence instead?
3. What kinds of questions would be appropriate to ask of the following people:
A professor?
A supervising partner in a law firm?
A colleague at a law firm? (E.g., "Hey, I have to file a complaint; can I see a sample that you did in another case so I can get a feel for this?")

Larry **Possible Discussion Questions**

Part #1

1. What was wrong with Larry's behavior in class?
2. How do you think his conduct in the classroom affected those around him?
3. Does it appear that Larry considered how his conduct would affect his colleagues or his professor in the classroom?

Let's focus on Larry's conduct in his professor's office.

1. Were there any negative consequences of Larry's behavior during class? What were they?
2. Were you surprised at the professor's suggestion to Larry to reschedule his conference?
3. Consider Larry's reaction to the professor's suggestion to reschedule. Were you surprised by the Larry's tone during the conversation?
4. What could Larry have done differently?
5. How was the student in the professor's office for his conference affected by Larry's conduct and behavior?

Part #2

Let's focus on Larry's behavior in the courtroom.

1. What did Larry do wrong?
2. What should Larry have done when he realized he was going to be late?
3. Who was affected by Larry's conduct?
4. What were the consequences of Larry's conduct? Were you surprised by these consequences?

Let's focus on Larry's behavior in the clerk's office.

1. What did you think about Larry's interaction with the clerk of the court?
2. Do you see a common theme in Larry's conduct?
3. What sort of traits do we keep seeing in Larry's interactions with others?

Model Rules of Professional Conduct

Lawyers are bound by rules of professional responsibility. Rule 1.1 of the Model Rules of Professional Conduct deals with a lawyer's duty of competence and provides as follows:

"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

Did Larry's behavior in court demonstrate a lack of competence? Why or why not?

Professionalism Codes

Apart from the MPRC, many states and local bar associations have adopted professionalism or civility codes. You can find many professionalism codes on the website for the ABA's Center for Professional Responsibility:
http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes.html
(If the embedded link doesn't work, you can go to the ABA's website and click on the link for "Ethics and Professionalism" under "Resources for Lawyers.")

Consider whether Larry's conduct violated any of the tenets of your local or statewide professionalism code.

We welcome your questions and comments. Please feel free to contact either of us:

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