CLS Workshop Model - Presenter Submission

Conscience, Compassion, and Civility: Ethical Tools for Lawyers to Fix a Broken Public Square

CLE Credit Category: Ethics / Professionalism

Conference Workshop Highlight

In an increasingly fractured culture, how can Christian lawyers advocate with conviction while upholding their highest ethical duties as officers of the court? This highly interactive CLE session equips attorneys to navigate politically and religiously charged advocacy without compromising professional integrity. From dissecting First Amendment boundaries and social media pitfalls to counseling values-driven clients through complex ethical dilemmas, this workshop provides practical tools for today's Christian lawyer. Join us to discover how prioritizing conscience, compassion, and civility can transform you into a peacemaker and virtuous leader—ready to help fix a broken public square.

Program Description

This program examines how lawyers navigate political, religious, and ideological advocacy while complying with the ABA Model Rules and New York Rules of Professional Conduct. Using constitutional doctrine, ethics rules, and practical hypotheticals, participants explore ethical boundaries and best practices governing lawyer speech, client representation, public engagement, and professional identity in a polarized public square.

Learning Objectives

1. **Identify ethical constraints on lawyers' political, religious, and ideological advocacy.**

2. **Apply the ABA Model Rules and New York Rules of Professional Conduct to representation of faith-based and values-driven clients.**

3. **Distinguish protected expression from professional misconduct.**

4. **Recognize conflicts of interest arising from ideological alignment or personal conscience.**

5. **Apply civility and de-escalation strategies consistent with professional obligations.**

6. **Evaluate ethical risks when lawyers engage in public policy advocacy or community leadership.**

Presenter Outline & Course Materials

I. Constitutional & Ethical Framework

- **First Amendment Overview: Free Speech, Free Exercise, Establishment Clause.**
    - **Joseph Holland ("JH") opens by unpacking the central tension we face every day: balancing our deeply held faith and political beliefs with our duty as officers of the court.**
- **Key Principle: Lawyers retain constitutional rights but may be regulated due to professional role.**
    - **JH reminds everyone that taking the oath of admission actually prioritizes the integrity of the system, which means our public speech sometimes has to be restricted.**
- **Key Cases:Gentile v. State Bar of Nevada; Kennedy v. Bremerton; Carson v. Makin.**
    - **JH breaks down the Gentile standard to show how our speech can be limited if it prejudices a proceeding, then pivots to Kennedy and Carson to share the good news on how we can use recent precedents to secure equal access for our faith-based clients in the public square.**
- **Ethical Rules Guiding the Framework (NY & ABA): 1.2(d), 2.1, 4.4, 8.4.**
    - **JH lays out the roadmap of the ethics rules we're going to cover, setting them up not just as restrictions, but as positive tools.**

II. Lawyer Speech, Civility, and Cultivating Unity

- **Lawyers as officers of the court.**
    - **JH emphasizes that the public takes its cues from us. If we want a peaceful public square, we have to be the ones modeling civility and de-escalation.**

- **Speech that undermines justice may be sanctionable.**
    - **ABA Model Rule / NYRPC 8.4(c) & (d) – Misconduct: "It is professional misconduct for a lawyer to... (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice."**
    - **JH makes the point that our passion for a cause never excuses deceptive or unfairly prejudicial conduct. "Believing" in what we're fighting for doesn't get us out of an 8.4 violation.**
- **Civility standards and best practices.**
    - **ABA Model Rule / NYRPC 4.4(a) – Respect for Rights of Third Persons: "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person."**
    - **JH unpacks the "no substantial purpose" test. Basically, if we're just venting our ideological frustration online or attacking opposing counsel, it serves no real client interest and violates our duty of civility.**
- **Hypothetical involving social media attacks.**
    - **JH runs through a scenario where a lawyer fires off an angry, late-night Twitter/X thread at a hostile political group. The goal is to motivate a group discussion about how this crosses the line.**
- **Ethical Resistance & Lawful Confrontation of Wrongdoing**
- **Meritorious claims.**
    - **JH talks about our duty to make sure our advocacy is built on solid facts and law, not just political posturing.**

- **Hypothetical involving concealment of illegal conduct.**
    - **JH asks the group to imagine representing an aligned, faith-based clinic where the director admits to 'tweaking' grant disclosures, claiming "the bureaucracy shouldn't stop God's work."**
- **Declining representation.**
    - **ABA Model Rule / NYRPC 1.2(d) – Scope of Representation: "A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent [NY: illegal or fraudulent], but a lawyer may discuss the legal consequences of any proposed course of conduct with a client..."**
    - **JH uses this rule to show that the noble intentions of our charitable clients never override our ethical boundaries. Ethical resistance means having the courage to refuse to file that application.**
- **Reporting misconduct.**
    - **JH walks the group through the practical steps of when and how we have to escalate or report uncorrected fraud.**

IV. Access to Justice & Service to Vulnerable Communities

- **Rule 6.1 Pro bono obligations.**
    - **ABA Model Rule / NYRPC 6.1 – Voluntary Pro Bono Publico Service: "Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year."**
- **Faith-based and community legal services.**
    - **JH discusses how faith-based and community organizations are amazing, legitimate places to fulfill this 50-hour calling.**

- **Disclosure and nondiscrimination requirements.**
    - **JH navigates the tricky balance of holding onto our religious convictions while making sure our public-facing clinics comply with non-discrimination rules.**
- **Hypothetical involving church-affiliated clinic.**
    - **JH jumps back to the main clinic hypothetical to see how they would ethically expand their legal services to vulnerable neighbors without crossing compliance lines.**

V. Strategic Collaborative Governance & Establishment Clause Boundaries

- **Neutrality and private choice doctrine.**
    - **JH counters the ideological attacks our clients often face by teaching them the current constitutional law on how religious groups can constitutionally access public funding.**
- **Cases: Lemon v. Kurtzman; Zelman v. Simmons-Harris.**
    - **JH traces the shift from the old Lemon test to the modern "neutrality and private choice" doctrines cemented in Zelman.**
- **Hypothetical involving city contract.**
    - **JH ties it back to the clinic scenario, clarifying that as long as the city grant is distributed neutrally based on secular factors, our clients aren't blocked from participating just because they are faith-based.**
- **Professional Identity, Virtuous Leadership & Democratic Stability –15 min**
- **Lawyer as public citizen.**
    - **JH brings it all together by circling back to his opening premise: we aren't just hired guns. We are public citizens tasked with protecting the stability of our democracy.**

- **Integrity, humility, respect.**
    - **JH leaves them with the reality that while social media algorithms reward outrage, our profession demands objectivity. True ethical advocacy requires the humility to treat opponents with respect.**
- **Condemning unlawful conduct and promoting peaceful resolution.**
    - **ABA Model Rule / NYRPC 2.1 – Advisor: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation."**
    - **JH wraps up by talking about Rule 2.1 as an affirmative tool. Virtuous leadership means we don't just warn clients about jail time; we actively counsel them on the moral necessity of being peacemakers.**