

*Evaluation of Joint Professionalism Training*  
*9:00 pm – 3:00 pm, September 29, 2017*

*Essay Assignment*

Due: October 23, 2017 at 4:00 pm (*via* assignments.law@utoronto.ca). 500 word limit—approximately 250 words for each question. Please use the Faculty of Law written work cover page, identify yourself by your pseudonym, and be sure to include the word count. These essays will be marked on a credit/no credit scale.

Please choose **two** of the following four questions to answer:

**Question 1:**

Justice Iacobucci cited Roscoe Pound’s understanding of a profession as including organization, learning, and, most important, the spirit of public service. In explaining the “learning” part of his definition, Pound wrote,

“Learning, the pursuit of a learned art, is one of the things which distinguishes a profession from a calling or vocation or occupation. Professions are learned not only from the nature of the art professed but because they have historically a cultural, an ideal side which furthers the effective exercise of that art. Problems of human relations in society... are to be dealt with by the resources of cultivated intelligence by lawyer[s]...and to carry on their tasks they must be more than resourceful craftsmen, they must be learned men.”

Please comment on Pound’s explanation, which was published in “What is a Profession—the Rise of the Legal Profession in Antiquity,” in 1944. What (and who) does this formulation leave out? How does it fit with Justice Iacobucci’s description of the legal profession during his education and early years of practice? If you take Pound seriously, what culture and ideals should a law school education attempt to impart to equip future lawyers to deal with problems of human relations? How might a diverse student body contribute to that objective?

**Question 2:**

You are working on a claim on behalf of a plaintiff. You made a request for material disclosure in accordance with Rules of Procedure. Opposing counsel failed to comply with this request. You have prepared a motion for summary judgment on this basis. As a professional courtesy you attend his office to serve him with a copy of your motion.

When you arrive at opposing counsel’s office you notice stacks of unopened mail on the floor and on his desk, piles of apparently disorganized papers throughout the office including confidential client materials intermingled with takeout containers and some dirty dishes. He appears markedly disheveled, pale, and nervous in contrast to your handful of previous interactions with him.

You make a casual comment inquiring “Is everything ok?” and he responds that his father, with whom he did not get along, died recently and “it’s been unbelievable chaos.” He accepts the papers you leave with him, but brushes off your attempt to discuss the motion, assuring you that he is “on top of it.”

How do you deal with this situation? What factors do you consider when deciding what course of action to pursue?

**Question 3:**

As a senior partner at a prestigious law firm, you’ve been asked to speak to first year students about the components of professionalism. You plan to go over the principles of Civility, Service, Leadership, Collegiality, Independence, Honour, and Balanced Commercialism.

Stopping for coffee at a café in the law school lobby, you wait in line behind a group of students. You overhear one of them making an unmistakably homophobic remark about the man behind the counter, and notice the other students laugh (some of them uncomfortably). You follow them into the lecture hall. You choose not to speak to

the students directly, or specifically refer to the incident. But you decide to alter your remarks to address the situation. Which principle(s) do you use as a springboard for your newly added content? What do you say?

#### **Question 4:**

For decades a small liberal arts university has practiced a “Day of Absence” on which students and faculty of colour stay away from campus, leaving those left to reflect on the meaning of their community without these essential members. Over the years the practice has been perceived as a well-respected grassroots collective action. In 2017, the student group that organized the event proposed that the Day of Absence be replaced by A Day of Presence. They reasoned that that this year it was necessary for white people to remove themselves from campus because some groups felt like “they are unwelcome on campus, following various troubling events on campus and student reactions to the events in Charlottesville, North Carolina and some racist graffiti that had recently appeared on campus. A faculty member objected to this change, and wrote the following email to the student organizers:

“Dear Rashida,

“There is a huge difference between a group or coalition deciding to voluntarily absent themselves from a shared space in order to highlight their vital and under-appreciated roles (along the lines of the recent Women’s Day walkout), and a group or coalition encouraging another group to go away. The first is a forceful call to consciousness which is, of course, crippling to the logic of oppression. The second is a show of force, and an act of oppression in and of itself.

“You may take this letter as a formal protest of this year’s structure, and you may assume I will be on campus on the Day of Absence. I would encourage others to put phenotype aside and reject this new formulation. On a college campus, one’s right to speak—or to be—must never be based on skin color.

“If there was interest in a public presentation and discussion of race through a scientific/evolutionary lens, I would be quite willing to organize such an event (it is material I have taught in my own programs, and guest lectured on at Evergreen and elsewhere). Everyone would be equally welcome and encouraged to attend such a forum, irrespective of ethnicity, belief structure, native language, political leanings, or position at the college. My only requirement would be that people attend with an open mind, and a willingness to act in good faith.”

Draft a response to Professor Weinstein.