



“It’s fun to interact with children who are curious about the law and may not often have the opportunity to ask questions of an attorney.”

Practice Tips

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TALK TO KIDS ABOUT THE LAW, GET PRO BONO CREDIT

This month’s *Nevada Lawyer* theme is “Children and the Law.” As far as day-to-day discipline, children usually aren’t directly involved in a grievance – although grievants occasionally do write to us in crayon. Some actually send us drawings. A few years ago, one grievant in particular drew a (pretty accurate) portrait of the complained-about lawyer, just in case we needed help in identifying him.

Although children usually aren’t part of disciplinary proceedings, the Office of Bar Counsel’s staff and other members of the state bar often participate in Law Day, during which we get to speak with elementary or high school children about the year’s legal theme.

For attorneys, such participation counts towards the Supreme Court’s goal for each attorney to contribute at least 20 hours of pro bono service each year pursuant to Rule of Professional Conduct 6.1(a)(2)(iii) (Pro Bono Publico Service).

RPC 6.1(a) states:

Professional Responsibility. Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 20 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

- (1) Provide a substantial majority of the 20 hours of legal services without compensation or expectation of compensation to:
 - (i) Persons of limited means; or
 - (ii) A public service, charitable group, or organization in matters that are designed primarily to address the needs of persons of limited means; and
- (2) Provide any additional services through:
 - (i) Delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of

standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate;

- (ii) Participation in activities for improving the law, the legal system, or the legal profession; or
- (iii) *Delivery of services in connection with law-related education sponsored by the State Bar of Nevada, the Nevada Bar Foundation, a county bar association, or a court located in Nevada.* (Emphasis added).

Even without RPC 6.1, I would still speak with elementary school students each year. The students and teachers are always appreciative of the speaker’s time and the students are attentive, pay attention and ask good questions.

For example, a couple of years ago, the Law Day theme was copyright law and piracy. After giving a primer on an author’s rights under copyright law (e.g., reproduction, derivative works, distribution, public performance and public display), a fifth grader asked if it was OK to download songs from Limewire, given an author’s exclusive rights.

Limewire, at the time, was a peer-to-peer sharing network from which music could be downloaded (similar to Napster in the late 1990s). Literally one week later, a United States District Court found Limewire guilty of copyright infringement. (*See Arista Records LLC v. Lime Group LLC*, 715 F. Supp. 2d 481 (E.D.N.Y. 2010)). The website has since been shut down. Pretty good issue spotting for a 10 year old.

This year’s topic was privacy, and centered on *Hiibel v. Sixth Judicial District Court of Nevada*, 542 U.S. 177 (2004). *Hiibel* concerned a misdemeanor conviction for refusing to tell a police officer his name, believing it was none of the police officer’s business. The conviction was appealed and eventually affirmed by the United States Supreme Court.

Discussing the case not only involved the underlying facts, but also explaining the different types of courts in Nevada, given it involved Humboldt County Justice Court, the Sixth Judicial District Court, the Nevada Supreme Court, and ultimately the U. S. Supreme Court.

I also explained the difference between state and federal courts, and answered a question about whether or not Nevada also has an appellate court like the Ninth Circuit – the answer is no – (and took the opportunity to note that our Supreme Court carries an extremely heavy case load as a result).

The conversation also involved discussing privacy rights under the U.S. Constitution and applying some examples relevant to schools. For example, a school could check a student's locker without violating a student's privacy rights¹ but a school probably cannot monitor students at home through a webcam in a school-issued laptop without the parents' consent (a student in Pennsylvania was accused by his school of engaging in improper behavior in his home; the evidence was a photo taken by a teacher through a webcam).²

The class also asked some pretty good questions on their own initiative:

- *What if an attorney lied in court to help his client get away with it? An attorney has responsibilities to the court as well as the client.*
- *If a defendant was found innocent but later evidence was discovered that proved he/she was guilty, could the defendant be retried?* Nope, that would be double jeopardy.
- *What if a defendant lies during a trial and the lie isn't discovered until after the trial?* I informed the class that doing so is crime of perjury, which led to the follow up question:
- *If you're found guilty of perjury, do you get the punishment you would have received in the first trial?* That depends on the initial charges. But if it's a murder case, the answer is probably no.

In short, it's fun to interact with children who are curious about the law and may not often have the opportunity to ask questions of an attorney. It's also good way to brush up on Constitutional law. And it counts towards pro bono. ■

1. I didn't mention the specific decision to the class, but the relevant case is *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

2. A lawsuit based on the incident was filed in February 2010. See http://news.cnet.com/8301-30977_3-10457077-10347072.html.