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REPORT OF WORKING GROUP #6

Elizabeth Scheuller

Working group number six was assigned the duty of creating an agenda that could be used to lead discussions on the topic of "The Duty of Confidentiality and Harm to Others." The group was comprised of a diverse group of individuals who shared common interests in the general topic of religion and its influence on the legal profession. The group members included a judge, several law professors, practicing attorneys, and a reverend. As a result, the group was influenced by different religious backgrounds, a strong knowledge of the legal profession, and the confidentiality requirement in the lawyer-client relationship.

The discussion started with some general reflections on whether ethics and morality are influenced by religion, society, community, or a combination of the three. The group framed the discussion by identifying the lawyer as a person who occupies a powerful position within our communities. Because of this elevated position, the question of how ethics influence the lawyer's relationship with clients and society has special importance for the lawyer.

The group moved next to a discussion of Professor Steven H. Hobbs' paper, *The Lawyer's Duties of Confidentiality and Avoidance of Harm to Others: Lessons from Sunday School*. Here the discussion touched on how different religions share common beliefs, and yet how they also have very different beliefs and views of history. One example was the position of the Pharisees. The Pharisees have an esteemed position in the Jewish tradition, whereas their position in Christianity is very different, and the Christian view was reflected in Hobbs' paper.

The group focused much of its attention on determining when and how religion informs a situation. The group used "informs" to mean how a person's religious background and belief system influences the framework from which she looks at a problem. This framework determines how the individual will approach the situation and determines what she perceives as potential ethical problems within a particular situation. Group 6 also focused on whether or not religion can become the sole basis for a lawyer's decision making, and how the rules of professional ethics weigh in the decision making process. The result of this discussion was a recognition that the lawyer cannot separate herself from her personal beliefs anymore than he can ignore the mandates of her profession. The group concluded with an appreciation of the confidentiality component of the lawyer client relationship and the complexity of its application to the actual work of a lawyer.

Next, the group went through a series of hypothetical examples where a lawyer's duty of confidentiality may be at odds with her sense

of justice and religious duty. The group tried to differentiate between the influence of professional ethics and religious beliefs in determining how a lawyer should or might conduct herself in this type of situation.

Finally, the group used all of the aspects of the general discussion of confidentiality and the lawyer's role to highlight the concepts that they felt would be integral to any discussion of these issues. They paid special attention to create the agenda in a way that would make it a helpful tool both for diverse groups who were already familiar with the issues as well as those who were approaching them for the first time. The end result was an agenda meant not to be a rigid guideline which completes a discussion of confidentiality and harm to others, but rather a springboard for discussion for those who are interested in exploring the topic.