Think of someone you know who’s high-strung, excitable, overreactive, and often frazzled. Someone whose panic threshold is pretty low. Someone whose words you often have to discount because they’re melodramatic and exaggerated. Someone with a tendency to fire off angry e-mails. You do know such a person, don’t you? Don’t we all?

That person has little credibility with others. The person may be in many ways lovable, but not believable, and hence unsuited to a profession in which credibility is the be-all and end-all. If you want to be a lawyer—an adviser and counselor whose words are supposed to carry weight—make sure you’re not such a person.

So what does this have to do with legal writing? Everything. It has to do with managing the tone of your prose, with your emotional stance toward your reader, and ultimately with the degree to which anything you say or write is believable to others.

Here, then, are five rules for cultivating the right demeanor for being taken seriously as a professional.

1. Develop a calm, temperate demeanor. A good lawyer needs to be all but unflappable. You’ll seem more reliable. Seeming unflappable doesn’t mean you should seem unconcerned or uncaring. It means staying relatively calm in the face of others’ excitement.

Consider Walter Hagen, one of the greatest golfers in the history of the sport. He’s the one, by the way, who popularized the phrase about “stopping and smelling the flowers.” He approached each round of golf, even in the most important tournaments, with the idea that he would have some really bad luck on occasion and that he’d hit some truly lousy shots. He remained always unfazed. His opponents reported that he would hit his ball in the water and watch the shot as if it had gone exactly as planned. He’d walk to the appropriate spot, take his penalty, and continue as if everything were going as anticipated. Meanwhile, his attitude undid many of his competitors, who became convinced that he’d never crack under pressure.

As Thomas Jefferson said in an 1816 letter, “Nothing gives a person so much advantage over another as to remain always cool and unruffled under all circumstances.”

2. Be prudent: know when to refrain from putting something in writing. Lawyers, of all people, should know that some thoughts are best left unrecorded. A famous example occurred recently when an associate at a major law firm wrote an e-mail saying, “I think we committed malpractice here!” In the ensuing malpractice lawsuit, you can be certain that the plaintiffs’ lawyers, throughout the trial, displayed that quotation on a billboard in the courtroom. By the time of trial, naturally, that associate was no longer associated with the firm.

If you’re dealing with matters that could be prejudicial to your client, your employer, or yourself, reconsider any urge to put your thoughts in writing. A phone call or face-to-face meeting might be more appropriate.

3. Whatever the provocation, write with a smile. The novelist Henry Miller wisely said, “Always write with a smile, even when it’s horrible or tragic.” Perhaps the best model is the writing of Charles Dickens, who never tells readers that certain characters in his novels are despicable. He shows us. And wrote about some of the seediest characters imaginable, always with an amiable smile.

Let’s say you’re in a pretrial dispute. You’ve just concluded a phone call with another lawyer in which you agreed to (1) a 15-day postponement for a document production and (2) a mediation with Leona Burgess, subject to a conflicts check, during the week of December 7. Ten minutes later, you receive a fax “confirming” that you’ve agreed to (1) a 30-day postponement for the document production and (2) a mediation with Ms. Burgess on December 10 at 2:30 p.m. Believe it or not, this type of occurrence is lamentably common.

These time-wasting shenanigans are potentially upsetting. But you fax off a nonchalant response: “Dear ----: Your faxed letter is...”

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“Plain Language” is a regular feature of the Michigan Bar Journal, edited by Joseph Kimble for the Plain English Subcommittee of the Publications and Website Advisory Committee. We seek to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain-English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901, or at kimblej@cooley.edu. For more information about plain English, see our website—www.michbar.org/generalinfo/plainenglish/.
at the injustices perpetrated by the other side. The minute you express anger or indignation, the judge feels like the only level-headed person in a room full of hotheads. To the extent you show yourself to be a calm, deliberate thinker, you’ve aligned yourself with the judge.

5. Play fair with the evidence: cultivate a reputation for understatement. Sometimes your adversary will have a good point or two. Concede the power of those points having some undeniable strength. Then go on to show that strong as they may be, your own point is even stronger.

Let’s say you’re with a state attorney general’s office. The father of a 14-year-old boy in foster care seeks to take the boy out of the foster-care system and take financial and parental responsibility for the boy. The father’s lawyer says again and again that the state is spending needless resources on this boy, that the state is spending resources to take the boy out of the foster-care system and take financial and parental responsibility for the boy. Meanwhile, the boy has been flourishing with his foster parents, achieving an A- average in school for the first time ever. After acknowledging that everyone admires a parent who takes responsibility, you state those facts. With 999 out of 1,000 judges, that’s all you need to say or write—and drawing further conclusions would be counterproductive.

A final thought: a theorizing rationale. Here’s the ultimate reason that you should never let a judge or jury see you upset: listeners and readers tend to conclude that you’ve gotten upset because you’ve realized you’re losing. And once a listener or reader—especially the decision maker in your case—concludes that you believe you’re losing, that tends to become the foreordained result. You seem as if you should lose. Hence, you lose.

So master your best poker face—even in your writing.

Reprinted from Bryan A. Garner’s ABA column in The Student Lawyer.

Bryan A. Garner (lawprose.org) teaches legal-writing and drafting seminars for more than 6,000 lawyers and judges each year. He is editor in chief of Black’s Law Dictionary and author of more than 20 books on writing, including Making Your Case with Justice Antonin Scalia, Garner on Language and Writing, and Garner’s Modern American Usage.