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Larry Royster  
Clerk of the Court  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

**RE: Proposed Adoption of Professionalism Principles for Lawyers and Judges**

Dear Clerk Royster:

The State Bar of Michigan (SBM) recommends that the Court adopt the proposed Professionalism Principles for Lawyers and Judges with accompanying commentary, as provided in Attachment A. The Representative Assembly overwhelmingly approved the Professionalism Principles (94 in support and 14 in opposition) at its September 26, 2019 meeting.

In October 2018, SBM sponsored the [Promoting Professionalism in the 21<sup>st</sup> Century Summit](#), featuring Justice Markman as its keynote speaker. The summit challenged participants to identify how the Michigan legal profession might strengthen the role of public civil discourse and develop strategies for sustained local action on professionalism and civility. One of the most shared recommendations that emerged from the summit was to “consider the adoption of Michigan-specific civility guidelines for lawyers and judges and use them more deliberately.”

Based on this recommendation, SBM appointed a Professionalism Workgroup,<sup>1</sup> which developed the proposed Professionalism Principles. The workgroup looked at many similar efforts by bar associations and courts around the country.<sup>2</sup> In addition, workgroup members considered the principles underlying the Michigan Rules of Professional Conduct and Code of Judicial Conduct and conversed with the American Bar Association Center for Professional Responsibility about trends and new developments.

Based on this extensive research and the diverse viewpoints of workgroup members, SBM believes that the proposed Professionalism Principles reflect the full spectrum of Michigan’s legal

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<sup>1</sup> The workgroup included Sandra K. Carlson, Flint; Kevin L. Francart, Lansing; Tina S. Gray, Williamston; Thomas H. Howlett, Bloomfield Hills; Hon. Shalina D. Kumar, Pontiac; Michael S. Leib, Bloomfield Hills; Jennifer Lyons, Grand Rapids; Hon. Milton L. Mack, Jr., Lansing; Hon. Allie Greenleaf Maldonado, Petoskey; Martha D. Moore, Auburn Hills; Nicholas M. Ohanesian, Grand Rapids; Edward H. Pappas, Troy (Chair); Lorie Nancy Savin, Pontiac; Joel H. Serlin, Southfield; Daria Solomon, Shelby Township; Judith A. Susskind, Southfield; Joan P. Vestrand, Auburn Hills; Victoria A. Vuletic, Grand Rapids; Kimberley A. Ward, Ann Arbor; Jennifer M. Grieco, Birmingham (ex officio).

<sup>2</sup> Many jurisdictions have adopted civility guidelines, including Genesee and Oakland counties in Michigan and the United States District Courts for the Eastern and Western Districts of Michigan.

culture in litigation, mediation, and transactional work. The proposed Professionalism Principles will provide clear guidance to lawyers and judges about civil and professional conduct, positively affecting the practice of law and the public's confidence in a fair, civil, and impartial justice system.

Thank you for your consideration. We hope that the Court will publish for comment the proposed Professionalism Principles for Lawyers and Judges with the accompanying commentary and ultimately adopt them.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Welch", written in a cursive style.

Janet K. Welch  
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court  
Dennis M. Barnes, President  
Aaron V. Burrell, Chair, Representative Assembly

## **ATTACHMENT A**

### **PROFESSIONALISM PRINCIPLES FOR LAWYERS AND JUDGES**

In fulfilling our professional responsibilities, we, as attorneys and officers of the court, must remain mindful of our obligations to the administration of justice and its truth-seeking process designed to efficiently resolve disputes in a rational and peaceful manner. In serving in our professional capacity, we adhere to these principles of professionalism:

1. We are civil in our interactions with all people involved in a legal matter or the justice system.
2. We treat all people involved in a legal matter or the justice system with respect.
3. We cooperate with each other within the bounds of our justice system.
4. We extend professional courtesy to each other.
5. We do not engage in, or tolerate, conduct that may be perceived as rude, abrasive, hostile, or obstructive.
6. We do not disparage or attack other persons involved in the justice system, or employ hostile, demeaning, or humiliating words in written or oral communications or opinions.
7. We do not exhibit, act upon, or manifest bias against any person involved in a legal matter or the justice system.
8. We treat all people involved in a legal matter or the justice system fairly, regardless of their personal characteristics or viewpoints.
9. We act with honesty and integrity in our interactions with all people involved in a legal matter or the justice system and honor promises and agreements fairly reached.
10. We act in good faith and advance only those positions just under the facts and law.

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### COMMENTARY ON PROFESSIONALISM PRINCIPLES FOR LAWYERS AND JUDGES

Rule 1 of the Rules Concerning the State Bar provides, in part, that the “State Bar of Michigan shall . . . aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this State.” To achieve these lofty goals, we have established ten principles of professionalism (“Principles”) as guidance to attorneys in the practice of law and judges during the adjudicative process on acceptable conduct in the practice of law. The Principles are not intended to form the basis for discipline, professional negligence, or sanctions, or to replace the Michigan Rules of Professional Conduct, the Michigan Code of Judicial Conduct, or the Michigan Court Rules, although many of the Principles are derived from them. Nevertheless, lawyers and judges together should exhibit the highest levels of professionalism to preserve and advance our noble profession, and to serve as exemplars to the public we serve.

The Principles are intertwined, but each Principle deserves to be singled out because of its individual importance to professionalism. Civility is the foundation for professionalism, and it requires respect, cooperation, courtesy, fairness, honesty, good faith, and integrity. Nor can civility exist in the presence of personal attacks, bias or prejudice.

A lawyer is responsible to zealously represent a client, but zealous representation does not include unprofessional conduct. Unprofessional conduct increases the cost of transactional matters and litigation and wastes judicial resources, with no benefit to the client and to the detriment of the legal profession, and most important, of our justice system.

Besides adhering to the Principles, lawyers and judges work to achieve balance in their lives knowing that personal health and wellness are necessary for the best treatment of others. Lawyers and judges are also encouraged to devote time to reflect on their behaviors and interactions with others to grow and abide by the Principles.

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The Principles offer general guidance in the practice of law for lawyers and judges, both inside and outside the courtroom, including in alternative dispute resolution proceedings. These examples provide a better understanding of the Principles; they are illustrative and not meant to encompass all specific conduct:

### 1. Lawyers

- We allow opposing counsel to make their arguments without interruption, and we fairly consider their arguments.
- We promptly respond to communications from clients and other attorneys.
- We confer early and in good faith to discuss the possibility of settlement, but not as a means to adjourn discovery or delay trial.
- We accurately represent, characterize, quote and cite facts and authorities in our written and oral communications.
- We draft documents that accurately reflect the parties' understandings, the court's rulings, and the facts.
- We do not engage in ex parte communications unless authorized by law.
- We only make proper objections grounded in rules of evidence and procedure.
- We are punctual and arrive sufficiently before, and are prepared for, all proceedings.
- We are punctual in our professional interactions with clients, attorneys and others outside of the court.
- We are considerate of the time schedules of lawyers, parties, and witnesses.
- We are reasonable and act in good faith in scheduling hearings, conferences, depositions, and other proceedings.

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- We are respectful of the personal emergencies and exigencies of litigation or practice in scheduling.
- We attempt to verify the availability of necessary participants and witnesses before dates for hearings or trial are set, or, if that is not feasible, immediately after such dates have been set.
- We give notice of any scheduling changes or cancellations at the earliest practicable time.
- We only make good faith requests for time extensions.
- We agree to good faith, reasonable requests for time extensions and waivers of formal procedure if they are not prejudicial to the interests of our clients.
- We act in good faith in deciding when to file or serve motions and pleadings.
- We only make discovery requests reasonable in scope and nature.
- We respond promptly to reasonable discovery requests by the opposing party.
- We only engage in conduct during a deposition that is allowed in the presence of a judicial officer and is appropriate under court or evidentiary rules.
- We readily stipulate to undisputed facts.

### **2. Judges**

- We are patient and respectful of a party's right to be heard and afford this opportunity.
- We do not condone a lawyer being uncivil to another lawyer or others, and we call such conduct to the attention of the offending lawyer on our own initiative.
- We see as paramount our obligations to the administration of justice to facilitate the resolution of the matters before us consistent with the law and in a civil manner.

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- We endeavor to work with other judges to foster cooperation in our mutual goal of enhancing the administration of justice.
- We are courteous, respectful, and civil in opinions, ever mindful that we are the ultimate measure of the public's faith and confidence in our system of justice.
- We are punctual in convening the business of the court.
- We are considerate of the time schedules of lawyers, parties, and witnesses.
- We are respectful of the personal emergencies and exigencies of litigation or practice in scheduling.
- We assure that judicial proceedings are conducted with dignity, decorum, and courtesy.
- We maintain control of the proceedings, recognizing that we have both the obligation and authority to ensure that all proceedings are conducted in a civil manner.
- We do not engage in practices and procedures that needlessly increase litigation expense or contribute to unnecessary delay.
- We recognize that a lawyer has the right and duty to present a cause fully and properly and that a litigant has the right to a fair and impartial hearing. Within the practical limits of time, we allow lawyers to present proper arguments and to make an accurate record.
- We make all reasonable efforts to decide promptly all matters presented to us for decision.
- We assure that people with disabilities interacting with the court as lawyers, parties, witnesses and jurors know the court's ability to make reasonable accommodations.
- We ensure that self-represented litigants have equal access to the legal system while still holding them to the same legal standards as a litigant represented by counsel.

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- We ensure that our staff treats litigants, attorneys, and those persons interacting with the justice system with dignity and respect.
- We do not permit ex parte communications unless authorized by law.