

Regional Judicial Seminar

January 30, 2018
Hall of Justice, Lansing, Michigan

Civility in the Legal Profession

Hon. Terry Clark, 70th District Court

Hon. G. Patrick Hillary, Kent County Probate Court

Hon. Matthew Leitman, US District Court, Eastern District



Civility in the Legal Profession

Session Description

Civility in professional conduct is the responsibility of every judicial officer. Is there an expectation of professional integrity and personal courtesy in your court? How is that expectation communicated? What do you do when it gets lost in the course of heated advocacy that spirals into personal verbal sparring? A session to learn of others' strategies for promoting civility in the courtroom.

Session participants will:

- Describe a process for developing a professional civility program within a local legal community

MJI Regional Judicial Seminar
January 30, 2018

Civility in the Legal Profession

Hon. Terry Clark, 70th District Court
Hon. Matthew Leitman, US District Court (ED Mich)
Hon. Patrick Hillary, 17th Circuit Court

Defining Civility

Hon. Terry Clark, 70th District Court

Civility...What
is civility?

Top Ten Strategies for Encouraging Compliance with Civility Standards

Hon. Matthew Leitman, US District Court (ED Mich)

Reaffirming Civility

Hon. Patrick Hillary
Kent County Circuit Court 17th Circuit

Where are we
from?
(Who are We?)

Started as a conversation November 2016
between two local attorneys on opposite
sides of the political divide, exploring the
dynamics of the 2016 presidential election.

Quickly realized the societal issue is not our
differences, rather the loss of our ability to
solve issues civilly.

The West Michigan Civility Project

Where are we from?
(Who are We?)
cont'd

Legal Civility Project

Comprised of :

- Two Kent County Circuit Court Judges
- Practicing attorneys
- Professor from WMU Cooley law school
- Representative of American Board of Trial Advocates
- MJI & SCAO
- Law students
- Supported by all Kent County Judges
- Future possibility: State Bar of Michigan

Where are we now?

Pilot program to foster and strengthen civility among lawyers and judges

Started with an exhaustive study of professionalism materials including:

- Federal Civility Standards
- Florida Bar – Practicing with Professionalism Program
- American Board of Trial Advocates Civility Code
- American College of Trial Lawyers Civility Standards
- National Conference of Professional Responsibility
- State of Utah – New Lawyer Training Program. Also U.S. District Court – Utah
- State of Oregon – New Lawyer Mentoring Program
- ABA Section of Dispute Resolution - Civility and the Legal Profession
- Business Law Section – American Bar Assoc. “Business Law Today”
- Georgia ICLE Materials and Georgia Commission on Continuing Lawyer Competency
- Attorneys Civility Characteristics from Grand Rapids Bar Association

Where are we going?

10 Civility Standards

1. I understand that an attorney's and judge's duty to be civil is of utmost importance and displaying civility does not equate to weakness on my part.
2. I will follow proper protocol in and out of the courtroom, as well as assure accuracy of pleadings, statements and representations.
3. I affirm that compliance with reasonable counsel requests will occur when practicable and aggressive representation of litigants will be done without displaying aggression towards others.
4. I understand that being agreeable does not correlate to agreeing to be defeated and that obliterating the opposition is not part of winning.
5. Respect will be shown at all times to litigants, participants, lawyers and judges in and out of the courtroom. I will treat others as I would like to be treated (The Golden Rule).

Where are we going? cont'd

10 Civility Standards (cont.)

6. I will be a professional first and a businessperson second by attempting to resolve issues in person or telephonically and submitting only professional communications at all times.
7. As an attorney or judge I assert that I will maintain control of the client or courtroom rather than allowing emotions to control the case.
8. I assert that if constructive criticism is needed, it will be offered in private and never harshly or in public.
9. I will cultivate a proper demeanor in actions as well as speech by understanding *how* I say something often means more than *what* is said.
10. As an attorney or judge, I will surround myself with respected mentors, continue to actively learn civility and the law while teaching the same to others.

Where are we going? cont'd

Future Seminars

- ABOTA presentation
 - full of great, real life examples and practical tips for handling situations
- Local bar involvement in developing the seminars
- Designed for new lawyers joining the local bar and other interested lawyers.

Thoughts?
Interests?

Bridge the Divide

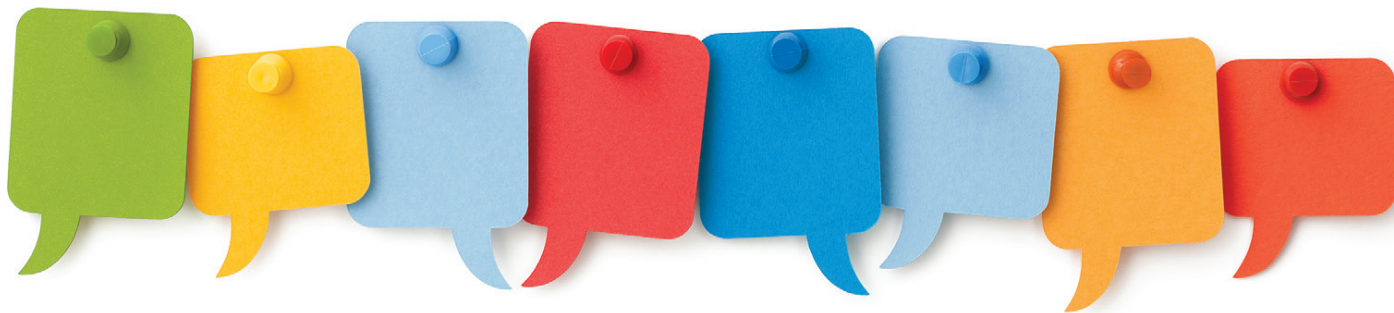




THE NATIONAL
JUDICIAL COLLEGE

Promoting Trust and Confidence

Recommendations from
The National Judicial College's
2013 SYMPOSIUM ON CIVILITY



50th Anniversary
2013

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Introduction and Acknowledgement

For years, judicial systems, bar associations, professional entities and academics across the United States have been publishing guidance on how judges, attorneys, and court staff should behave as “professionals.” Such guidance about professionalism almost always gives a nod to the notion of civility.

To build upon the work of the past and continue the conversation on civility within the courts, The National Judicial College hosted a symposium in 2013 entitled *Civility in the American Justice System: Promoting Public Trust and Confidence*. The event, held at the National Constitution Center in Philadelphia, Pennsylvania, brought together distinguished members of the bench and bar, experts, and scholars. Based on their wise counsel and invaluable input, the NJC was able to develop these *Principles of Civility* (principles) and outline the ways that the principles apply to all persons within our nation’s courts.

The National Judicial College wishes to thank all who contributed to the symposium with special appreciation for the commitment of the participants and the civility program planning committee to making this project a success.



50th Anniversary: Civility in the American Justice System

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The Principles of Civility

The law preserves our freedom and courts preserve our laws. Fair, impartial, and accessible courts are fundamental to democracy, as they support the stability of government, preserve constitutional rights, ensure social order, and promote predictability in commerce. How we conduct the work of courts impacts the real or perceived legitimacy of our justice system. Civility encompasses a form of courtesy in behavior and speech that is essential to the role of courts in a democratic society. It is, therefore, important that all involved with the court – judges, attorneys, jurors, witnesses, court staff, parties – act with civility to ensure the fair administration of justice and resolution of disputes. Essential elements of justice system civility include integrity, personal dignity, candor, respect, courtesy, and cooperation with others.¹ Civility in action and words is fundamental to the effective and efficient functioning of our system of justice and public confidence in that system.

These recommendations provide an introduction to what can and should be done to incorporate the principles into the operation of a local justice system. Hopefully, they serve to initiate an exploration of actual changes in conduct that are embraced by all. It is hoped that courts will develop materials to post in courthouses, statements to be included in forms and notices, and handouts for parties, witnesses, and other court users. The bench and bar should lead further discussions on civility and the implementation of these principles and develop other approaches to inform all involved in the justice system on the foundational role civility plays in the administration of justice.

The following four principles are intended to foster a level of civility and create a standard of conduct exceeding the minimum required under state-issued rules of professional conduct and canons. After each principle are some key points about its importance. In the subsequent pages, these principles are applied to judges, attorneys, court staff, parties, jurors, and witnesses.

The final page is intended for use as a bench card for judges to provide ideas for implementing these principles on the bench.

¹ See, for example, the State Bar of California, *Civility Toolbox* (2009).

The Principles of Civility

1 Prioritize courtesy and treat others with respect at all times.

Courtesy and respect are the hallmarks of civility. Respect within the justice system is executed by exercising patience with people and the process. It is also important to respect the rights of parties and non-parties as well as refrain from acting inappropriately, even if someone initiates unprofessional conduct. At all times it is essential to model civility by being courteous and respectful toward the rule of law as well as to all coming into contact with the justice system. Remember that courtesy and respect should also be practiced in all forms of communication, both oral and written.

2 Remember that time is precious, for everyone.

A high-functioning system of any kind operates at its best when efforts are applied to complete processes in a timely fashion. A reasonable amount of time is required for pleadings, discovery, and other court events, especially if a case is complex. However, to promote civility, the goal should be the timely resolution of cases. Justice delayed is justice denied² is a maxim that is often invoked by the justice system to fulfill the implicit promise of timely resolution. Another maxim is that time is money. Public confidence in the courts decreases as the costs of court proceedings increase due to unnecessary delay. Civility suffers and often erodes when parties are unable to receive resolution in a timely fashion. Additionally, delay reduces the ability to establish relevant facts as memories fade resulting in uncivil exchanges, to say nothing of lost evidence, and can needlessly heighten anxiety with a direct impact on civility. Communication and actions can become combative. Time, and the proper use of it, is an important element of civility and the administration of justice.

3 Preserve and improve the law, the legal system, and associated dispute resolution processes.

Civility has the capacity to preserve the value and importance of the legal system and its associated dispute-resolution processes and improve the administration of justice. All persons involved in the system profit when the benefits and the burdens of the law are applied equally and with civility. This principle is an effort to express the importance of a collective commitment to fairness, both actual and perceived.

4 Effectively and clearly communicate your role and any expectations you may have.

Effective communication is the foundation to the administration of justice. Tied to this principle is the notion that each person enters the courts with his or her own feelings and attitudes (implicit bias) about other system players based on a host of characteristics. Civility and effective communication can help reduce the impact of implicit bias³ and ensure that justice is administered efficiently, impartially, and fairly.

² Attributed to British Prime Minister William E. Gladstone (1868).

³ See, e.g., Stanford School of Medicine, Office of Faculty Development and Diversity, FAQ on Implicit Bias (available at http://med.stanford.edu/diversity/FAQ_REDE.html).

Judges

- 1 Prioritize courtesy.** The judge is perceived as a leader in and out of the courtroom. The judge should model respect and courtesy at all times. Through his or her own behavior, the judge sets the tone with court staff, attorneys, parties, jurors, and witnesses. Further, the judge has the responsibility to address incivility in a positive manner whether in chambers, the courtroom, the courthouse, or the community. It is important for the judge to be consistent, keep a calm demeanor, be engaged in the process, and practice good listening skills. In particular, judges need to practice using procedural fairness with regard to the parties, attorneys, and witnesses as well as in addressing and responding to other judges. According to Tom Tyler, procedural fairness is attained when the judge conducts proceedings so that the parties have a *voice* to tell their story, perceive that the court system is *neutral*, are treated with *respect*, and believe the judge is *trustworthy* and sincerely trying to help them.⁴
- 2 Be timely.** Timely justice is best honored when all matters begin and end according to a reasonably-set schedule. Maintaining a well-run schedule with accommodation as required shows respect to court staff, attorneys, jurors, parties, and witnesses. It is also essential that judges make decisions, rule on motions, and issue opinions timely and keep all advised when a matter taken under advisement will be addressed.
- 3 Preserve and improve the law.** This principle of civility is especially critical for judges in their leadership role. As leaders, it is important that they take a strong role in ensuring that all persons receive fair, timely and equal treatment under the law. Judges should be taking the message to the community that uncivil behavior does not achieve a better justice. The courts can model that disagreements can be addressed in a civil manner. Judges can join with attorneys to initiate community outreach about civility by promoting justice-improvement initiatives focusing on positive aspects of the court’s work and engage in much needed civic education to social and community organizations.
- 4 Communicate.** Clear, concise, and informative communication from the judge is imperative to procedural fairness. As stated earlier, procedural fairness is attained when the judge conducts proceedings so that the parties have a *voice* to tell their story, perceive that the court system is *neutral*, that they are treated with *respect*, and believe the judge is *trustworthy* and sincerely trying to help them.⁶ It is the judge’s responsibility to lay out the expectations and set the agenda for all persons involved with in- and out-of-court processes, procedures, and timelines. The judge needs to clearly and concisely communicate the expectations of the court.

“The rule of law cannot effectively exist without civility.”

HON. WILLIAM DRESSEL
(Colorado, ret.)

⁴ Tom R. Tyler, Ph.D., *Procedural Justice in the Courts* 44 COURT REV. 26 (2009).

⁵ Tom R. Tyler, Ph.D., *Procedural Justice in the Courts* 44 COURT REV. 26 (2009).

Attorneys

- 1 Prioritize courtesy.** Attorneys, like judges, are visible representations of civility in and out of the courtroom. In fact, several bar associations have adopted notions of civility into their statements on professionalism. As advocates, attorneys have many opportunities to demonstrate to their clients and colleagues these principles of civility. Zealous representation is not only compatible with civility but believed by those who embrace civility to enhance the adversarial process, resulting in quicker resolution at less cost. First and foremost is modeling respectful and courteous behavior, especially when confronted with inappropriate behavior. Attorneys should inform their clients that respect and courtesy are expected of them and not equated with weakness.
- 2 Be timely.** Attorneys can contribute to the timely administration of justice by filing pleadings, responding to discovery, and communicating without needless delay. However, it is important to keep in mind that there are sometimes situations when an extension to respond or a waiver is appropriate. Civility can be achieved by consulting with opposing counsel when scheduling meetings, hearings, and depositions, and conferring early to make efforts to resolve matters or engage in early settlement of the controversy.
- 3 Preserve and improve the law.** One of the best ways attorneys can promote justice is to be ever-conscious of the broader judicial system to which the attorney is a part. Attorneys must be loyal and committed to the client's cause and have fidelity to the client, but maintain a relationship that permits objective and independent advice. This balance helps ensure that the attorney is able to provide advice that may include advising against pursuing litigation that is without merit. Attorneys are encouraged, through their codes of conduct, to use the law's procedures only for legitimate purposes and are required to uphold legal process.⁶ Additionally, attorneys should be a partner with the court in civic education.
- 4 Communicate.** It is important that attorneys provide legal advice to their clients that will properly steer the clients toward good decision making. Attorneys have the dual role of being clear with the client about the merits of the case and mitigating uncivil behavior. Getting one's client to accept reality different from the client's expectations is invaluable in promoting the administration of justice and the professionalism of the legal profession. Attorneys should also communicate with opposing counsel with the goal to resolve the dispute as efficiently as possible within the interest of the client. Attorneys should honor their promises and commitments. Their communications, orally or in writing, should be factual, clear, concise, and use plain language.

“Civility is not just about treating others with courtesy, dignity, and kindness. It is also about maintaining the public’s trust and confidence in the American justice system and ultimately adherence to the rule of law.”

CHIEF JUSTICE
PAUL DEMUNIZ
(Oregon, *ret.*)

⁶ See, American Bar Association, *Model Rules of Professional Conduct* (preamble, 2002).

The Principles of Civility

Court Staff

- 1 Prioritize courtesy.** Court staff are often the first people with whom the public comes in contact. As such, their role in civility is a great one. Court staff should see opportunities to learn more about procedural fairness and understand implicit bias and how it can affect courtesy and communication. It is essential that court staff exercise a high level of professionalism, which includes the same courtesy and respect to all who come into the courts.
- 2 Be timely.** Court staff should endorse and provide informative and timely customer service to all who come into contact with the court system and consider how court processes can be streamlined. Like judges, it is important for court staff to be respectful of everyone's time. This is especially the case for parties, jurors, and witnesses who are likely anxious about their involvement with the court. Court staff should embrace efforts undertaken to respect the time of jurors whose lives have been interrupted to allow them to fulfill their civic duty by serving on a jury.
- 3 Preserve and improve the law.** Court staff's role in promoting justice is multifaceted. Court staff are often the front line of access to justice as they provide information which allows citizens to navigate the justice system. This role is especially true for self-represented litigants. Court staff can and should participate in community outreach initiatives.
- 4 Communicate.** Similar to judges, court staff need to be aware of the tenets of procedural fairness and follow its values of voice, neutrality, respect, and trustworthiness. Court staff are primary contacts and key information sources that allow citizens to enter and navigate the justice system. At times, they may need to strike a balance of providing superb customer service while ensuring that they do not provide legal advice.

“Civility is not about dousing strongly held views. It’s about making sure that people are willing to respect other perspectives.”

CONGRESSMAN JIM LEACH
(Iowa, ret.)

Parties

- 1 Prioritize Courtesy.** Parties to litigation, whether as individuals or a corporate entities, often bring a high level of emotion with them into the court system. There is emotion due to the loss or harm that has been done from the precipitating event and possible escalation in acrimony as the parties enter litigation. Because of inherent conflict, it can be difficult for parties to remain civil. However, by doing so, it reduces the hostility between the parties and begins the process of resolving the conflict. Parties who are able to act with courtesy and respect to the opposing party and others involved in the justice system, will experience a reduction in the level of contentiousness and stress and, as noted, reach a resolution more quickly at less cost. Therefore, it is in the best interest of parties involved to exercise courtesy and respect during the process. As with the attorneys, parties who behave in a respectful and courteous manner are not viewed as weak but show strength of character.
- 2 Be timely.** It is important for parties to be responsive to the requests of their attorneys to ensure that the litigated matter is resolved at its earliest possible moment. Parties should make themselves available, as appropriate, for time-sensitive events such as discovery in the form of interrogatories and depositions and court hearings and events. Sometimes one or both parties may have a desire to use time to harass the other party by using delay tactics with the intention of obtaining an advantage in one's case. This manner of conducting business is a detriment to the fair and efficient administration of justice. It increases the costs to the parties and the court. Lengthy delays may cause confusion and take the attention away from focusing on the crucial issues and facts of the case.
- 3 Preserve and improve the law.** The court system is available as a forum for parties to resolve certain disputes. Thus, it is important that citizens understand the jurisdiction of courts and the relief available. When appropriate, parties should consider remedies in appropriate forums, including seeking resolution outside of court. The issue of how to address frivolous lawsuits remains a challenge. Further, once a case commences, parties should work to resolve the dispute as quickly and efficiently as possible.
- 4 Communicate.** Represented parties need to ensure that they communicate effectively with their attorneys and with the court when appropriate. Self-represented parties need to avail themselves of the tools and resources that the court and legal community offer in order to be prepared and properly communicate information about their dispute to the court while following court protocols.

“When once the forms of civility are violated, there remains little hope of return to kindness or decency.”

English writer and poet
SAMUEL JOHNSON

The Principles of Civility

Jurors

- 1 Prioritize courtesy.** Jury service is one of the most important duties of citizenship and is the cornerstone of our legal system. It is also an important opportunity for citizens who have not previously interacted with the justice system to participate in a meaningful way. They are the finders of fact and, like judges, it is important for them to understand the crucial role of being respectful and courteous. Jurors should be attentive, honest, impartial, patient, good listeners, and, of course, willing to keep an open mind during the presentation of evidence by each party. The protection of rights and liberties in our nation's courts largely is achieved through the teamwork of a judge, attorneys, court staff, and the jury.
- 2 Be timely.** Using a jury trial to bring a case to final resolution is a core component of our system of justice. It is each citizen's duty to serve even though it may occur at a time that is not convenient. It is each juror's responsibility to timely respond to a summons requesting that he or she serve on a future jury. Once sitting on a jury, it is important for each juror to meet the schedule of the court by arriving on time and returning from breaks on time. It is also important at deliberation for each juror to take the appropriate amount of time to review the evidence and deliberate the case as efficiently as possible with the understanding and knowledge that the parties are awaiting the results.
- 3 Preserve and improve the law.** As juries are a key feature of our legal system, jurors can preserve and improve the law by ensuring they are prepared for their service. As is practical, jurors should seek resources to inform them what will be expected of them and to inform them about court procedures. Jurors should also understand that as the finders of the facts that they must follow rules and model civil behavior. Courts should ensure that there is appropriate debriefing after the conclusion of the case as jurors can be ambassadors for the justice system in the community.
- 4 Communicate.** The role of juror is difficult. It is important that jurors are able to communicate their needs during their service. Jurors may need to communicate personal or logistical needs they may have to the court. Being able and willing to communicate such issues will help ensure that the process proceeds efficiently. Jurors should follow the rules and expectations of the court regarding juror conduct during the trial, especially around seeking information through the internet, various forms of media, or participating in social media. If a juror sees any misconduct occur among other jurors, he or she needs to immediately inform the judge.

*“Civility costs nothing,
and buys everything.”*

LADY MARY
WORTLEY MONTAGU

Witnesses

1 Prioritize courtesy. Being a witness is often stressful, whether testifying in court as part of a trial or testifying in an office environment as part of a deposition. Witnesses can reduce this stress by seeking information about the process and what is to be expected of them. Witnesses should be respectful and courteous to all whom they come into contact, which may be difficult when faced with a contentious issue or unknown procedure.

2 Be timely. Witnesses have a role to play in ensuring that the schedule as set by the judge and the attorneys is met through their timely testimony and delivery of exhibits. The cooperation of witnesses is essential to keeping proceedings on time and can be achieved with notice and reminders. As stated earlier, witnesses need to be prepared and informed of the process. They need to know why it is important to arrive at a deposition location or at court at the time requested, ensuring sufficient planning time to navigate to the proper location.

3 Preserve and improve the law. How a witness behaves or is treated while testifying is transmitted to the community and can impact how justice is viewed. Witnesses should be informed that their statements may be challenged to ensure their truthfulness and completeness to preserve the administration of justice. Witnesses, therefore, should be prepared and take responsibility of their role and their oath.

4 Communicate. Attorneys initially have the communication role with witnesses. Witnesses need to work with the attorneys to ensure they are prepared to testify at a deposition or in court, including understanding the process and procedure that will occur in the deposition or court and what behavior is expected of them. Witnesses should be aware of their responsibility to communicate with court staff upon arrival at the courthouse. If the witness has any special needs, court staff should be advised in advance in order to provide an opportunity for those needs to be met.

“We have a choice about how we behave, and that means we have the choice to opt for civility.”

Author DWIGHT CURRIE

In Closing: Education and Mentoring

Education and mentoring are two core elements to ensuring that these principles of civility are applied and modeled every day in America's justice system. Education should occur at every junction possible. It includes law schools, new attorneys and judges programs, continuing legal and judicial education, court staff orientation and continuing education and a variety of civics education for citizens of all ages. Judges and attorneys need to participate in outreach at any number of community and service organizations, school groups, and even to legislative and executive members. Every opportunity to provide civics education helps to promote the legitimacy of the justice system.

Judges also have an obligation to mentor new judges, and attorneys have an obligation to mentor new attorneys. Many states have implemented programs to provide just that type of mentoring, and these states have found that it has increased the civility of the legal profession and has had a collateral outcome of increasing the efficiency of the justice system. Further, court staff should not only receive education about the court system, but on all matters of customer service, procedural fairness, and best practices to reduce and eliminate implicit bias.

Besides general civics education for the public, it is important to educate parties, witnesses, and jurors prior to their first contact with the justice system. Many courts have FAQs, mini-guides, and even videos to help prepare people for their interaction with the courts. These tools are helpful in increasing the level of procedural fairness that is administered because people are better prepared for the experience. When a court plans to develop tools to inform people about their various roles in the justice system, it is important to write those guides from the perspective of the party, witness, and/or juror rather than from just the perspective of what the court wishes to tell each of these constituencies. Special attention should also be paid to self-represented litigants. Many states have put together tools, customer service options, and kiosks to help assist self-represented litigants. These efforts are important to ensure that everyone has access to justice and that self-represented litigants are able to efficiently and affordably obtain the justice they seek.

The Principles of Civility: A Guide for Judges

1 Prioritize courtesy and treat others with respect at all times.

Courtesy and respect are the hallmarks of civility. As it relates to the justice system, respect is executed by exercising patience with people and the process. It is important to respect the rights of parties and non-parties as well as refrain from acting inappropriately, even if someone initiates unprofessional conduct. At all times it is essential to model civility by being courteous and showing respect for the rule of law as well as to all coming into contact with the justice system. It is also important to remember that courtesy and respect should also be practiced in all forms of communication.

2 Remember that time is precious, for everyone.

Time, and the proper use of it, is an important element of civility and the administration of justice. A high-functioning system operates at its best when efforts are applied to complete processes in a timely fashion. Delay reduces the ability to establish relevant facts as memories fade, to say nothing of lost evidence. Anxiety exists for most people involved in the justice system and delay needlessly heightens that anxiety with a direct impact on civility. A reasonable amount of time is required for pleadings, discovery, and other court events, especially if a case is complex. However, the goal should always be to work toward the timely resolution of cases.

3 Preserve and improve the law, the legal system, and associated dispute resolution processes.

An important goal of civility is to preserve and improve the administration of justice. Everyone involved in the system has an obligation to ensure that the benefits and the burdens of the law are applied equally to all persons. This principle of civility is an effort to express the importance of having a collective commitment to the fair administration of justice.

4 Effectively and clearly communicate your role and any expectations you may have.

Effective communication is the foundation of the administration of justice. It ensures that justice is administered efficiently, impartially, and fairly. It also helps to ensure that justice is administered without any implicit bias. The tenets of procedural fairness – voice, neutrality, respect, and trustworthiness – should be applied whenever possible.



The Principles of Civility: A Guide for Judges

Civility encompasses a form of politeness and courtesy in behavior and speech that is essential to the role of courts in a democratic society. Essential elements of justice system civility include integrity, personal dignity, candor, respect, courtesy, and cooperation with others. The following four principles are intended to foster a level of civility and create a standard of conduct exceeding the minimum required under state-issued rules of professional conduct and canons:

1 Prioritize courtesy and treat others with respect at all times.

- Keep a calm demeanor.
- Be engaged in the process by practicing good listening skills.
- Practice and promote procedural fairness (*see #4 below*).
- Introduce yourself and address litigants by name.

2 Remember that time is precious, for everyone.

- Begin and end proceedings according to a reasonably-set schedule and on time.
- Make decisions, rule on motions, and issue opinions timely.
- Disclose and keep all advised when a matter taken under advisement will be addressed.
- Explain or acknowledge delays.

3 Preserve and improve the law, the legal system, and associated dispute resolution processes.

- Practice judicial leadership by taking the idea of civility to the community.
- Join with attorneys to initiate community outreach.

4 Effectively and clearly communicate your role and any expectations you may have.

- Conduct proceedings so that the parties have a *voice* to tell their story, *understand* the process and what is expected of them, perceive that the court system is *neutral*, and treats those involved in each case with *respect*.⁷
- Lay out the expectations for attorneys, court staff, parties, and witnesses:
 - In-court activities and processes.
 - Out-of-court processes, procedures, and timelines.
- Consider perceptions of bias in verbal and non-verbal communication.

⁷ Tom R. Tyler, Ph.D., *Procedural Justice in the Courts* 44 COURT REV. 26 (2009).

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Time, and the proper use of it, is an important element of civility and the administration of justice. A high-functioning system operates at its best when efforts are applied to complete processes in a timely fashion. Delay reduces the ability to establish relevant facts as memories fade, to say nothing of lost evidence. Anxiety exists for most people involved in the justice system and delay needlessly heightens that anxiety with a direct impact on civility. A reasonable amount of time is required for pleadings, discovery, and other court events, especially if a case is complex. However, the goal should always be to work toward the timely resolution of cases.

3 Preserve and improve the law, the legal system, and associated dispute resolution processes.

An important goal of civility is to preserve and improve the administration of justice. Everyone involved in the system has an obligation to ensure that the benefits and the burdens of the law are applied equally to all persons. This principle of civility is an effort to express the importance of having a collective commitment to the fair administration of justice.

4 Effectively and clearly communicate your role and any expectations you may have.

Effective communication is the foundation of the administration of justice. It ensures that justice is administered efficiently, impartially, and fairly. It also helps to ensure that justice is administered without any implicit bias. The tenets of procedural fairness – voice, neutrality, respect, and trustworthiness – should be applied whenever possible.



The Principles of Civility: A Guide for Judges

Civility encompasses a form of politeness and courtesy in behavior and speech that is essential to the role of courts in a democratic society. Essential elements of justice system civility include integrity, personal dignity, candor, respect, courtesy, and cooperation with others. The following four principles are intended to foster a level of civility and create a standard of conduct exceeding the minimum required under state-issued rules of professional conduct and canons:

1 Prioritize courtesy and treat others with respect at all times.

- Keep a calm demeanor.
- Be engaged in the process by practicing good listening skills.
- Practice and promote procedural fairness (*see #4 below*).
- Introduce yourself and address litigants by name.

2 Remember that time is precious, for everyone.

- Begin and end proceedings according to a reasonably-set schedule and on time.
- Make decisions, rule on motions, and issue opinions timely.
- Disclose and keep all advised when a matter taken under advisement will be addressed.
- Explain or acknowledge delays.

3 Preserve and improve the law, the legal system, and associated dispute resolution processes.

- Practice judicial leadership by taking the idea of civility to the community.
- Join with attorneys to initiate community outreach.

4 Effectively and clearly communicate your role and any expectations you may have.

- Conduct proceedings so that the parties have a *voice* to tell their story, *understand* the process and what is expected of them, perceive that the court system is *neutral*, and treats those involved in each case with *respect*.⁸
- Lay out the expectations for attorneys, court staff, parties, and witnesses:
 - In-court activities and processes.
 - Out-of-court processes, procedures, and timelines.
- Consider perceptions of bias in verbal and non-verbal communication.

⁸ Tom R. Tyler, Ph.D., *Procedural Justice in the Courts* 44 COURT REV. 26 (2009).

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

CIVILITY PRINCIPLES

Preamble

An attorney's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as attorneys, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe all participants in a legal proceeding respect, diligence, punctuality and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay, and often deny, justice.

The following standards are designed to encourage us, judges and attorneys, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and attorneys will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout the Eastern District.

These standards shall not be used alone as a basis for litigation, sanctions or penalties. However, nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which attorney negligence or misconduct may be determined.

These standards should be reviewed and followed by all judges and attorneys participating in any proceeding in the Eastern District. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Approved 2/5/96

Attorney's Responsibilities to Other Counsel

- 1) We will practice our profession with a continuing awareness that our role is to advance the legitimate interest of our clients. In our dealings with others, we will not reflect the ill feelings of our clients. We will treat all other counsel, parties and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.

- 2) We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.

- 3) We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

- 4) We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

- 5) We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.

- 6) We will adhere to all express promises and agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

- 7) When we reach an oral understanding on a proposed agreement or stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide other counsel the opportunity to review the writing. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

- 8) We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

- 9) In civil actions, we will stipulate to relevant matters if they are undisputed and if no good-faith advocacy basis exists for not stipulating.

Approved 2/5/96

- 10) We will not use any form of discovery or discovery scheduling as a means of harassment.
- 11) We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings, discovery requests and objections.
- 12) We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
- 13) We will not request an extension of time solely for the purpose of unjustified delay or to obtain tactical advantage.
- 14) We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.
- 15) We will endeavor to accommodate previously-scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good-faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.
- 16) We will notify other counsel and, if appropriate, the Court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the Court to use the previously-reserved time for other matters.
- 17) We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, recognizing that it is the attorney, and not the client, who has the sole discretion to determine the accommodations to be granted opposing counsel in all matters not materially or adversely affecting the client's legitimate rights. We will affirm that in such matters no client has a right to demand that his or her counsel shall be illiberal or that we do anything therein repugnant to our own sense of honor and propriety.
- 18) We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.
- 19) We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

Approved 2/5/96

20) We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

21) We will not obstruct questioning during a deposition or object to deposition questions unless appropriate under the applicable rules.

22) During depositions, we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

23) We will carefully craft document production requests and/or interrogatories so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.

24) We will respond to document requests and interrogatories reasonably and not strain to interpret the requests or interrogatories in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents and information fairly within the scope of the requests or interrogatories. We will not produce documents or answer interrogatories in a manner designed to hide or obscure the existence of particular documents or information.

25) We will base our discovery objections on a good-faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

26) When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the Court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the Court.

27) We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

28) Unless specifically permitted or invited by the Court, or unless otherwise necessary, we will not send copies of correspondence between counsel to the Court.

Attorneys' Responsibilities to the Court

- 1) We will speak and write civilly and respectfully in all communications with the Court.
- 2) We will be punctual and prepared for all Court appearances so that all hearings, conferences and trials may commence on time; if delayed, we will notify the Court and counsel, if possible.
- 3) We will be considerate of the time constraints and pressures on the Court and Court staff inherent in their efforts to administer justice.
- 4) We will not engage in conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in Court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
- 5) We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication.
- 6) We will not send letters to the Court (whether addressed to the Court or copies of letters to opposing counsel) that contain argument or criticize counsel in connection with a pending action, unless invited or permitted by the Court or as appropriate exhibits to Court filings, in which event a copy shall be provided to opposing counsel in such a manner as to insure delivery to opposing counsel on that same day that it is delivered to the Court.
- 7) Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the Court of any likely problems.
- 8) We will act and speak civilly to marshals, clerks, court reporters, secretaries and law clerks with an awareness that they, too, are an integral part of the judicial system.

Approved 2/5/96

Court's Responsibilities to Attorneys

- 1) We will endeavor to be courteous, respectful and civil to attorneys, parties and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.
- 2) We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with attorneys, parties or witnesses.
- 3) We will be punctual in convening hearings, meetings and conferences; if delayed, we will notify counsel, if possible.
- 4) The Court, recognizing the existence of family and business obligations of parties, witnesses and attorneys, will attempt, in scheduling all hearings, meetings and conferences, to be considerate of time schedules of attorneys, parties and witnesses.
- 5) We will make reasonable efforts to decide promptly matters presented to us for decision.
- 6) While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on attorneys.
- 7) We recognize that an attorney has a right and a duty to present a cause fully and properly, and that a litigant has a right to fair and impartial consideration.
- 8) We will not impugn the integrity or professionalism of any attorney on the basis of the clients whom, or the causes which, an attorney represents.
- 9) We will do our best to insure that Court personnel act civilly toward attorneys, parties and witnesses.
- 10) We will not adopt procedures that needlessly increase litigation expense.
- 11) We will bring to an attorney's attention uncivil conduct which we observe.

Approved 2/5/96

Judge's Responsibilities to Each Other

- 1) We will be courteous, respectful and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.
- 2) In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.
- 3) We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

CIVILITY PRINCIPLES

OATH OF OFFICE

I do solemnly swear (or affirm):

I will support the Constitution of the United States and the Constitution of the State of Michigan;

I will maintain the respect due to Courts of Justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the judge or jury by an artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice;

I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions for the privilege to practice law in this State.

Approved 2/5/96

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

STANDARDS FOR CIVILITY IN PROFESSIONAL CONDUCT

PREAMBLE

An attorney's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as attorneys, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.

Uncivil, abrasive, abusive, hostile or obstructive conduct impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Incivility tends to delay, and often deny, justice.

A judicial officer's conduct should be characterized at all times by courtesy and patience toward all participants. Judicial officers owe all participants in a legal proceeding respect, diligence and punctuality. Judicial officers should lead by example.

These standards are designed to encourage attorneys and judicial officers to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

Civility and professionalism are hallmarks of a learned profession dedicated to public service. The lawyers and judicial officers of this district are firmly committed to meet their obligations of civility and professionalism to each other, to litigants, and to the system of justice.

These standards are voluntary and shall not be used as a basis for litigation or sanctions. However, it is expected that all lawyers and judicial officers will make a commitment to adhere to these standards in all aspects of their dealings with one another and with other participants in the legal process.

These standards should be incorporated as an integral component of the teaching of professionalism to law students and practicing lawyers alike. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

ATTORNEYS' RESPONSIBILITIES TO OTHER COUNSEL

1. We will treat all other counsel, parties and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.
2. We will not, even when called upon by a client to do so, abuse, or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be uncivil if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.
5. We will avoid *ex parte* communications with the court or tribunal, including the judge's staff, on pending matters, except when permitted by law.
6. Honesty and fair dealing are integral components of civility. Promises and agreements fairly reached, whether orally or in writing, will be adhered to in good faith. When reiterating oral promises or agreements in writing, counsel shall fairly, completely and in good faith restate all elements of the parties' oral agreement.
7. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.
8. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good-faith advocacy basis exists for not stipulating.
9. We will not use any form of discovery or discovery scheduling as a means of harassment, or for any other improper purpose.
10. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings, discovery requests and objections.
11. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
12. We will not request an extension of time solely for the purpose of unjustified delay.
13. We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.

14. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions of other counsel.

15. We will notify other counsel and, if appropriate, the Court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.

16. We accept primary responsibility, after consultation with the client, for making decisions about procedural agreements. We will explain to our clients that cooperation between counsel in such matters is the professional norm and may be in the clients' interests. We will explain the nature of the matter at issue in any such proposed agreements and explain how such agreements do not compromise the clients' interests.

17. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

18. We will not engage in any conduct during a deposition that is inappropriate under court rule or rule of evidence, including:

- (a) obstructive questioning;
- (b) inappropriate objections;
- (c) irrelevant questioning.

19. Document requests and interrogatories shall be drafted in accordance with court rule, without placing an undue burden or expense on any party.

20. Responses to document requests and interrogatories shall be submitted in accordance with the court rules, fairly meeting the request or question without strained interpretation. We will not produce documents or answer interrogatories in a manner designed to hide or obscure the existence of particular documents or information.

21. We will base discovery objections on the court rules or rules of evidence, without withholding disclosable information.

22. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

23. We will not ascribe a position to other counsel that counsel has not taken, or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

ATTORNEYS' RESPONSIBILITIES TO THE COURT

1. We will speak and write civilly and respectfully in all communications with the Court.
2. We will be punctual and prepared for all Court appearances so that all hearings, conferences and trials may commence on time; if delayed, we will notify the Court and counsel, if possible.
3. We will be considerate of the time constraints and pressures on the Court and Court staff inherent in their efforts to administer justice.
4. We will not engage in conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in Court of the proper conduct expected and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
5. We will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities in any oral or written communication.
6. We will act and speak civilly to marshals, clerks, court reporters, secretaries and law clerks with an awareness that they, too, are an integral part of the judicial system.

COURT'S RESPONSIBILITIES TO ATTORNEYS AND LITIGANTS

1. We will be courteous, respectful, and civil to lawyers, parties, agency personnel, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to ensure that judicial proceedings are conducted with dignity, decorum and courtesy.
2. We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with attorneys, parties or witnesses.
3. We will be punctual in convening hearings, meetings and conferences; if delayed, we will notify counsel, if possible.
4. In scheduling hearings, meetings and conferences, we will be considerate of time schedules of lawyers, parties, and witnesses and of other courts and tribunals. We will inform counsel promptly of any rescheduling, postponement, or cancellation of hearings, meetings, or conferences.
5. We will make reasonable efforts to decide promptly matters presented to us for decision.
6. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on attorneys.
7. We recognize that a lawyer has a right and duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments, to make a complete and accurate record, and to represent a case free from unreasonable or unnecessary judicial interruption. At an appropriate time and in an appropriate manner, we will bring to a lawyer's attention conduct which we observe that is inconsistent with these standards.
8. We will not impugn the integrity or professionalism of any attorney on the basis of the clients whom, or the causes, which, an attorney represents.
9. We will do our best to insure that court personnel act civilly toward attorneys, parties and witnesses.

JUDICIAL OFFICERS' RESPONSIBILITIES TO EACH OTHER

1. We will be courteous, respectful and civil regarding opinions, written or oral, authored by another judicial officer.
2. In all written and oral communications, we will abstain from disparaging personal remarks or criticisms about another judicial officer.
3. We will endeavor to work with other judicial officers in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

10 Civility Standards

1. I understand that an attorney's and judge's duty to be civil is of utmost importance and displaying civility does not equate to weakness on my part.
 - a. Show respect to everyone you meet, even if they don't necessarily deserve it.
 - b. Respect yourself, your fellow counsel, your clients and the court at all times.
 - c. Be Courteous and Respectful
 - d. Address the Court as "your honor"
 - e. Dress appropriately
 - f. Be honest in your representation of facts and circumstances and encourage your client to do the same
 - g. Wait your turn to speak
 - h. Attorney who wins the motion prepares the order for the Court to enter
 - i. Do not argue with opposing counsel, look at the Judge and address the court
 - j. Do not personally attack another attorney
 - k. Always adhere to all express promises and agreements, whether oral or written

2. I will follow proper protocol in and out of the courtroom, as well as assure accuracy of pleadings, statements and representations.
 - a. Begin on time and be on time / respect others time
 - b. Always be punctual and prepared for all meetings, depositions, court appearances, and if unavoidable delay notify everyone as soon as possible
 - c. Do not hand documents to the Judge at a motion hearing that have not been provided to opposing counsel
 - d. Consult with opposing counsel before scheduling a hearing and/or depositions in an attempt to avoid scheduling conflicts
 - e. Cite case-law and quote the Courts properly in all briefs and submissions to the Court

3. I affirm that compliance with reasonable counsel requests will occur when practicable and aggressive representation of litigants will be done without displaying aggression towards others.
 - a. Be reasonable
 - b. Do not ask for Attorney's fees and costs on every motion or court appearance
 - c. Every event does not rise to the level of a "serious impairment", review your case and file as appropriate
 - d. Produce discovery accordingly / Do not use discovery as a negotiation or cost-driving ploy / Depose only the key witnesses
 - e. Agree to reasonable requests and proposals

- f. Do not intentionally serve motions or trial briefs on opposing counsel late or at the last minute / Do not utilize delay tactics
 - g. Identify clearly for other counsel or parties, all changes that you make in documents submitted for review and/or approval
 - h. Be assertive not aggressive.
 - i. Myth of the Junkyard Dog
 - i. The professional, civil lawyer accomplishes far more for clients than the yapping “junk yard dog.
 - ii. Lawyer are supposed to be the “adults in the room.” When we make the tone nasty and hostile, our clients are often foreclosed or delayed in being able to heal their relationship with the opposing party.
4. I understand that being agreeable does not correlate to agreeing to be defeated and that obliterating the opposition is not part of winning.
- a. Argue the law and facts. Never attack another attorney’s character. Keep an open mind.
 - b. Discuss, but don’t get upset. You can disagree without being disagreeable.
 - c. Compromise is not a sign of weakness. It is the only way forward.
 - d. I have never mistaken moderation for weakness, nor civility for surrender. As far as I’m concerned, there are no enemies in politics – just temporary opponents who might vote with you on the next Roll Call. – President Gerald R. Ford
 - e. Be Humble
 - f. Talk to your opponent before you get to the courtroom to narrow issues and even find some common ground to move the matter to resolution
 - g. Do not be too proud to ask for help or to have your questions answered
 - h. Respond and communicate with other counsel
5. Respect will be shown at all times to litigants, participants, lawyers and judges in and out of the courtroom. I will treat others as I would like to be treated (The Golden Rule).
6. I will be a professional first and a businessperson second by attempting to resolve issues in person or telephonically and submitting only professional communications at all times.
- a. Giving vs. Taking
 - i. If you focus on dollars v. service you will always be chasing new clients because your former clients will not help you find new ones.
 - ii. We all need to fill the bank account, but only serving a person or cause well will fill your soul.
 - b. Be a Facilitator

- c. Understand the time value of money vs. the cost and client time involved in litigation – do what is in the best interest of your client / use mediation and/or arbitration whenever possible
- d. Litigation should be your last resort to any case / send a demand letter / actually meet to resolve your issues
- e. Meet face to face or over the telephone whenever feasible.
- f. Don't respond via email to negative communication from opposing counsel. Always pick up the phone.
- g. Act as if every email or correspondence you send will appear on the front page of tomorrow's newspaper.
- h. Always say less than you think about an individual when you are upset with the person.
- i. Hit the "THINK" button before the "SEND" button.
 - i. Tech has increased the speed of interactions, and thinking before acting now takes a conscious choice and effort. Without taking time to think, tech is like gas on a fire.
 - ii. If you are young, you have never known a world that is not "instant." Slowing your reaction time to a provocation will make your life, and the world, a better place to be.

7. As an attorney or judge I assert that I will maintain control of the client or courtroom rather than allowing emotions to control the case.

- a. Attorneys are in the profession of objectively managing client's emotions not allowing client's emotions to manage us.
- b. "I Second That Emotion"....Not!
 - i. The law is an emotion filled profession. Adopting our client's emotions and making them our own will leave us exhausted and our clients poorly served.
 - ii. Develop healthy methods for managing your emotions. There are lots of unhealthy ones out there but they only eventually make the problem worse.
 - iii. Be a problem-solver not a problem-maker.
- c. Discourage gossip. Refuse to talk about another's vices. It is a waste of valuable time and can be extremely destructive.
- d. People do not want lawyers, they want their problems solved.
 - i. Arrive as a solution, not a hired gun.
 - ii. Never let an opportunity pass to say a kind and encouraging word to or about someone.

8. I assert that if constructive criticism is needed, it will be offered in private and never harshly or in public.

- a. Pay no attention to disparaging remarks. Remember the person may be having other problems in their life.
- b. Be kind, for everyone you meet is fighting a hard battle." Plato

- i. Depersonalizing people and seeing them as enemies never leads to anything good. We are all human beings with hopes, dreams and fears, seeking to be treated with dignity. See it in everyone you encounter and you will find the magic in every day.
- ii. Alexander Graham Bell still has a good point! Pick up the phone and call – not type. Connecting with opposing counsel personally can avoid a lot of unpleasantness.

9. I will cultivate a proper demeanor in actions as well as speech by understanding *how* I say something often means more than *what* is said.

a. Relationships/Not Rewards

- i. Be willing to let clients walk away if they want you to play dirty or unethically. No monetary reward is worth losing the respect of your colleagues, judges, and family.
- ii. Your relationships with good clients and colleagues is a quality of life issue. Good clients and good colleagues make your life easier and more enjoyable.

b. When in Rome.....

- i. Know the local culture and customs. As long as they are ethical and do not compromise important procedural rights of your client it makes dealing with your opposing counsel and judge easier.
- ii. Seek a mentor.
- iii. Even if you are a seasoned attorney, seeking the input of a local attorney can save a lot of effort and streamline your client's matter.

c. Look for the Fear.

- i. All negative emotions and actions flow from fear. Whenever you have a strong negative reaction to a person or situation, look for the fear. What are you afraid of happening? Is that fear valid? Is your immediate response to the best long term response?
- ii. Conversely, when someone reacts negatively to you, look for their fear. They are handing you a valuable tool. If you can neutralize and address their fear you will have solved a big problem. If you can't do this, do not take it personally. Their fear is about them not you.

10. As an attorney or judge, I will surround myself with respected mentors, continue to actively learn civility and the law, while teaching the same to others.



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