

## WHEATON'S LAW: THE ETHICS OF KINDNESS IN YOUR LEGAL PRACTICE

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- What is Wheaton's Law?
- Personal Benefits of Kindness
- Professional Ethics & Kindness

Disclaimer: The opinions in this presentation are solely my own and not those of the Office of the Attorney General or the Idaho Department of Water Resources

# WHEATON'S LAW

Don't be a mean  
or aggravating  
person.



# CIVILITY

**a:** civilized conduct

**b:** a polite act or expression

<https://www.merriam-webster.com/dictionary/civility>

Politely circumspect behavior in personal interaction; propriety and courtesy in conduct; the absence of rudeness.

Black's Law Dictionary (11th ed. 2019), civility



**STANDARDS FOR CIVILITY IN**



**PROFESSIONAL CONDUCT**

# PREAMBLE



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.

# ATTORNEYS' RESPONSIBILITIES TO OTHER COUNSEL



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.

# KIND

**a:** of a sympathetic or helpful nature

**b:** of a forbearing nature

**c:** arising from or characterized by sympathy or forbearance

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# Benefits!



# HUMANS ARE DESIGNED TO BE KIND

- Kin Altruism
  - Family Members – Genetic Relatives
- Mutualism
  - Collaboration with Common Interest
- Reciprocal Altruism
  - Returned Favor
- Competitive Altruism
  - Impress Others



# KINDNESS = HAPPINESS

“[A]s social animals, humans possess a range of psychological mechanisms that motivate them to help others, and that they derive satisfaction from doing so.”

Journal of Experimental Social Psychology 76 (2018) 320-329

“Kind people experience more happiness and have happier memories.”

J Happiness Stud. 2006 September ; 7(3): 361–375

Acts of kindness can lead to “greater satisfaction with life, increased optimism and connectedness with others, and lower anxiety.”

J Happiness Stud (2015) 16:17–36

# LAWYERS HAVE A WELL-BEING PROBLEM

## Alcohol

36%

21-36% qualify as problem drinkers. Higher for men; under 30; private practice and solo practitioners.

## Depression

28%

28% report mild or higher depression symptoms. Highest for men and solo practitioners.

## Stress

23%

23% report mild or higher stress symptoms. Highest for women and solo practitioners.

## Anxiety

19%

19% report mild or higher anxiety symptoms. Highest for women and solo practitioners.

## Suicide

Top Ten

Ranked #8 in a study of suicide by occupation. Rate is 1.33 times the national norm.

<https://lawyerwellbeing.net/>

<https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>

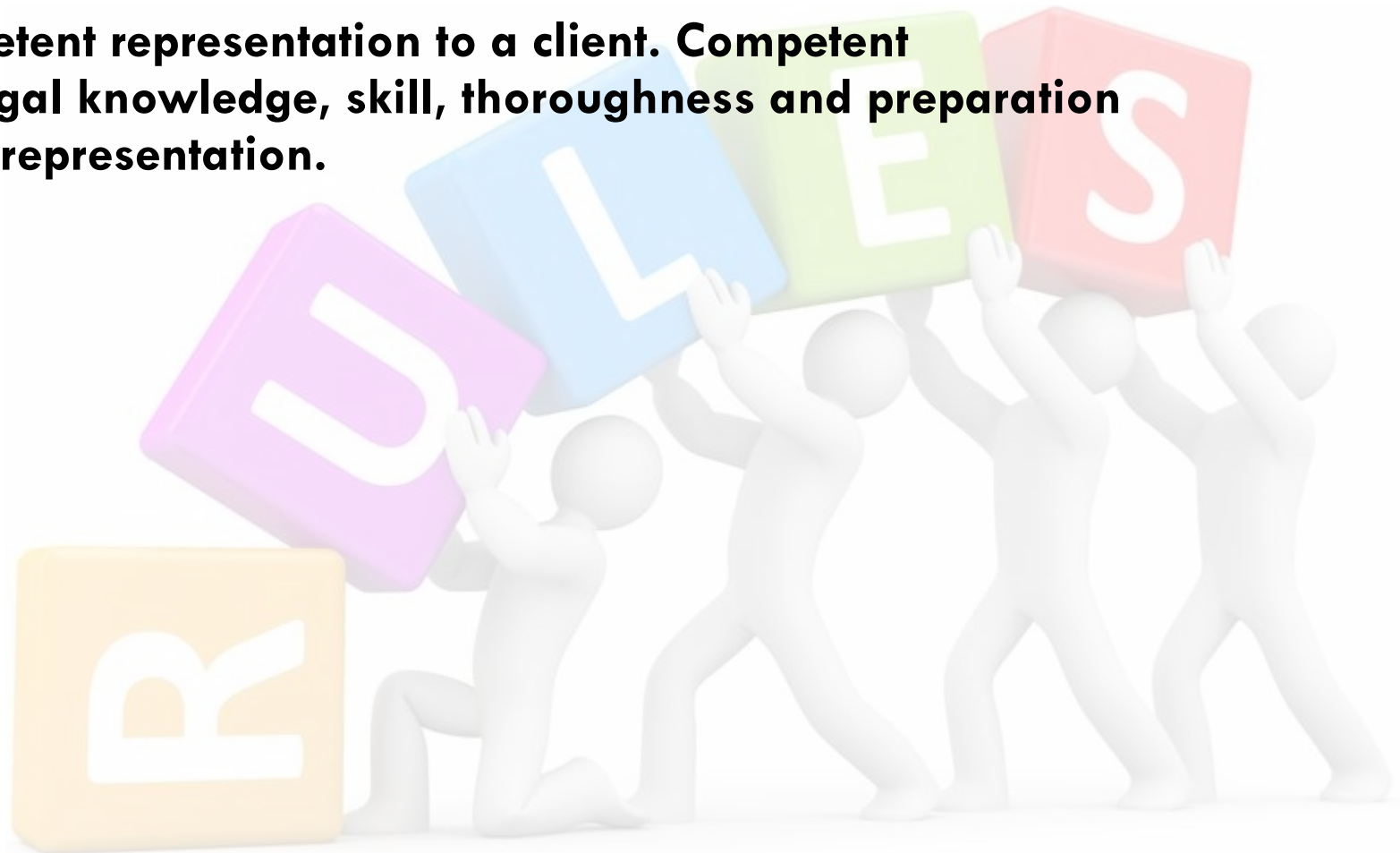


# **WELL-BEING AFFECTS ETHICS & PROFESSIONALISM**



# RULE 1.1: COMPETENCE

**A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.**



# RULE 1.3 DILIGENCE

**A lawyer shall act with reasonable diligence and promptness in representing a client.**

## *Commentary*

[3] . . . A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. . . .





# RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

...

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;

**There isn't anyone who doesn't appreciate  
kindness and compassion**



**- the Dalai Lama**







