

Standards for Civility in Professional Conduct

The Idaho State Bar
United States District Court, District of Idaho
and
the Courts of the State of Idaho
Adopted by the Courts and by the Idaho State Bar in 2001

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.

The lawyers and judicial officers of this district and this state are firmly committed to meeting their obligations of civility and professionalism to each other, to litigants, and to the system of justice.

While these standards are voluntary and not to be used as a basis for litigation or sanctions, 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 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 present 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 that 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 ensure 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.