

PRESIDENT'S MESSAGE

Civility: It's Worth a Reminder

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As lawyers, we are members of a profession formally trained in how to read, write, and speak in a manner to best influence decisions and achieve resolutions of disputes. We are no strangers to conflict, whether it is in a courtroom, at a mediation, or with a client. And of course, our training allows us to maintain our cool in every situation, whether at work or in our personal lives, right? Lol – not quite; we all need some reminding of how to be civil and how to best gauge our communications to honor and respect ourselves and our profession.

Despite our training and the “juris doctorate” behind our names, lawyers are people too. Sometimes emotions run high, and we lose control of our carefully planned words. Everyone makes this mistake. But as professionals, it is also our responsibility to recognize when this happens and take a step back to reassess the situation. In fact, this summer, the Board of Governors

engaged in a communications workshop to better understand how individual perspectives or biases can influence how you “hear” a message – we walked away from the workshop rethinking even our own coping mechanisms in terms of handling uncomfortable or difficult situations.

Our profession is often challenged with uncivil behavior, so 10 years ago, the state bar’s Board of Governors recommended the inclusion of civility in the oath every attorney takes when becoming a bar member in Nevada – this oath was adopted by the Nevada Supreme Court and was a theme during the Board of Governors’ swearing-in ceremonies.

Last year, the Board of Governors took an additional step and adopted the Creed of Professionalism and Civility. Several months later, based on feedback from our members, the board revised it. The full text of the current creed is available on the next page. Likewise, the American Bar Association made its 2023 annual Law Day theme “Civics, Civility and Collaboration.”

I can hear some of you asking, “That’s a nice intention, but how are these tools actually going to help us in everyday, real law practice?” Fair question. Let us look back and evaluate the first year of the creed’s use, from the perspective of the attorneys and judges who have used it.

One rural district court judge I spoke with uses the creed frequently in his courtroom. When he knows he might have a particularly contentious situation brewing, he will distribute printed copies to the attorneys and ask them to re-read it prior to appearing before him in court. He will even intervene when emotions are high and read portions of the creed back to the parties and counsel.

Another bar member referenced the common nature of civility between counsel and the courts in the rural counties. They said, “these are small communities, and your reputation can mean everything when you walk into the courtroom or pick up the phone (or email) to communicate with the other side.” Of course, we have our share of “uncivil” behavior in the rurals, but having to work with the same people on a majority of cases tends to encourage positive working relationships – or the attempt thereof.

In the urban areas, I have also heard from members that, both on and off the bench, the creed is a good reference point and something to refer back to when that “assessment” time is needed. Several of our Transitioning Into Practice (TIP) mentors have also expressed how civility is a common theme when they mentor new attorneys. They stress how including civility in the attorney oath and referencing the creed have played key roles in attorney wellbeing and their legal practice.

If you have additional feedback to share using the creed, I would love to hear it and share it with the Board of Governors. And if you have questions about any other issue germane to our work as a state bar, I invite you to write me with your questions and ideas. Please email me at president@nvbar.org. Thank you.

Creed of Professionalism and Civility,

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PREAMBLE

A lawyer should always show personal courtesy and professional integrity in the fullest sense of those terms.

In fulfilling our duty to represent a client vigorously as lawyers, we will honor our obligations to the administration of justice in a rational, peaceful, and efficient manner. We remain committed to the rule of law as the foundation for a just and peaceful society.

Lawyers should exhibit courtesy, candor, and cooperation when participating in the legal system and dealing with the public. In addition, lawyers should demonstrate civility, professional integrity, personal dignity, and respect because these qualities are essential to the fair administration of justice and conflict resolution.

CREED

1. We will strive to find harmony in our responsibilities as a representative of clients, as officers of the legal system, and as public citizens.
2. We will treat all participants of the legal system in a civil and courteous manner, not only in court, but also in all other written and oral communications, refraining from disparaging personal remarks or acrimony.
3. We will not encourage or knowingly authorize any person under our control to engage in uncivil conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel nor bring the profession into disrepute by unfounded accusations of impropriety.
5. We will adhere to promises and agreements fairly reached, whether orally or in writing, in good faith. When reiterating oral promises or agreements in writing, we will fairly, completely, and in good faith, restate all elements of the parties' oral agreement.
6. We will confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement to adjourn discovery or to delay trial.
7. We will stipulate to undisputed matters unless we have a good-faith basis not to stipulate.
8. We will try in good faith to resolve our objections with opposing counsel.
9. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond, nor will we request an extension of time without just cause.
10. We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.
11. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions of other counsel.
12. We will explain to our clients that cooperation is the professional norm. We will explain how procedural agreements do not compromise the clients' interests.
13. We will draft document requests and interrogatories without placing an undue burden or expense on any party.
14. We will ensure that our clients respond to document requests and interrogatories without strained interpretation. We will not produce documents nor answer interrogatories in a manner designed to hide or obscure the existence of documents or information.
15. We will be punctual and prepared for all Court appearances so that all hearings, conferences, and trials may commence on time.
16. We will not engage in conduct that brings disorder or disruption to the legal proceeding. We will advise our clients and witnesses of the proper conduct expected and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

IN SUMMARY...

...consistent with the lawyer's oath, lawyers are expected to commit to the spirit and letter of these standards, affirming that these guidelines do not denigrate the lawyer's duty of zealous representation. Law schools and continuing legal education courses should incorporate these standards when teaching professionalism to law students and practicing

lawyers alike. Lawyers should make copies available to clients and adjudicators should reinforce these standards in the courtroom to reinforce our obligation to maintain and foster these standards and to make it clear that incivility may hurt the client's case.