

## ATTORNEY WELL-BEING

### Incivility Related to Court Deadlines Impacts Lawyer Well-Being

**Kristine Kuzemka, director of the State Bar of Nevada's Nevada Lawyer Assistance Program, has been researching lawyer well-being in 2021. Her third report concerns the issue of lawyer incivility related to the inconsistent application and/or enforcement of deadlines by different judges.**

According to the 2014 American Bar Association article "Civility as the Core of Professionalism" by Jayne Reardon, civil behavior is a core element of attorney professionalism. As guardians of the rule of law that defines the American social and political fabric, lawyers should embody civility in all they do. Not only do lawyers serve as representatives of their clients, lawyers also serve as officers of the legal system and public citizens, having special responsibility for the quality of justice. To fulfill these overarching and overlapping roles, lawyers must make civility their professional standard and ideal.

While there are numerous reasons lawyers express incivility – such as strategic delay tactics, discovery abuses, and ad hominem attacks in court that go unchecked – the article identified one predominant trend: incivility arising as a result of inconsistent enforcement of court deadlines between different judges.

This trend shows a form of systemic, organizational incivility due to the lack of predictable and consistent enforcement. As such, it is viewed as a significant barrier to well-being because it creates frustration, ill-will, and stress among practitioners. Lawyers end up resenting judges who foster inconsistency by giving breaks to repeat offenders, Kuzemka wrote.

In 2019, the State Bar of Nevada initiated a program on Well-Being in the Legal Profession that encompassed four different areas:

1. Mental health;
2. Aging in the profession;
3. Substance-use disorders; and
4. Vicarious and secondary trauma.

The program was presented in both Las Vegas and Reno to access a cross-section of practitioners in all of Nevada. The one thing that surfaced in both sessions was a lack of civility attributed to court deadlines.

As a result of this response, the state bar initiated two surveys for practitioners in both Las Vegas and Elko. The surveys identified lack of adherence to the consistent application of court deadlines as the most problematic issue experienced by attorneys. When systems are run without consistent processes, resulting in the disregard of established rules, confusion, unfairness, and other consequences those effected may engage in uncivil

behavior toward their colleagues, which may result in decreased well-being. Incivility results in negative consequences to clients, practitioners, and other stakeholders, according to the Clark County Civil Bench Bar and Elko Bar Association surveys.

The ABA Report on Lawyer Well-Being proposed various recommendations to address problematic issues in an effort to build a more sustainable culture and to enhance well-being. Three of these recommendations include:

1. Identifying stakeholders and the role that each of us can play in reducing the level of toxicity in our profession;
2. Emphasizing that well-being is an indispensable part of a lawyer's duty of competence; and
3. Expanding educational outreach and programming on well-being issues to lawyers, judges, and law students.

For more information on the State Bar of Nevada's attorney well-being resources, visit: <https://nvbar.org/for-lawyers/resources/lawyer-wellbeing/>.

