

PRESIDENT'S MESSAGE

Introducing the New Creed of Professionalism and Civility

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“Civility – the capacity to act in a manner that engenders respect for the law and the profession.”¹

Civility does not mean the absence of disagreement or criticism, or even liking someone. In our profession, disagreement is part of daily functioning. However, civility provides that our disagreements are done in a respectful 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. More importantly, incivility makes for a miserable profession.

Throughout my tenure on the Board of Governors (BOG), I have heard both judges and attorneys complain about the lack of civility they have experienced and observed. There also appeared to be a knowledge gap between what the Office of Bar Counsel could and could not do regarding uncivil conduct.

Ethical problems arise from the conflict between a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interests. The Rules of Professional Conduct resolve such conflicts. The rules, however, cannot address every conflict that may arise. So, I convened a task force² to fill that gap and explore what we could do to support civility in our profession.

In January 2023, the BOG adopted the Creed of Professionalism and Civility. This document is not the end of the taskforce's work but simply the first step in supporting the importance of civility. The creed sets out 20 tenets, as follows. While the current creed is voluntary, attorneys are strongly encouraged to follow them as they practice law.

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.
3. We will never permit zealous advocacy to carry us beyond sobriety and decorum to disparaging personal remarks or acrimony.
4. We will demonstrate civility, professional integrity, personal dignity, respect, courtesy, and cooperation because they are essential to the fair administration of justice and conflict resolution.
5. We will not encourage or knowingly authorize any person under our control to engage in uncivil conduct.
6. 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.
7. We will avoid ex parte communications with the court or tribunal, including the judge's staff, on pending matters, except when permitted by law.
8. Honesty and fair dealing are integral components of civility. 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.
9. 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.
10. We will stipulate to undisputed matters unless we have a good-faith basis not to stipulate.
11. We will try in good faith to resolve our objections with opposing counsel.
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 without just cause.
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 of other counsel.
16. We will explain to our clients that cooperation is the professional norm. We will explain how procedural agreements do not compromise the clients' interests.

17. We will draft document requests and interrogatories without placing an undue burden or expense on any party.
18. We will ensure that our clients respond to document requests and interrogatories without strained interpretation. We will not produce documents or answer interrogatories in a manner designed to hide or obscure the existence of documents or information.
19. We will be punctual and prepared for all Court appearances so that all hearings, conferences, and trials may commence on time.
20. 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 addition to the creed, the state bar has teamed up with the National Judicial College and will be presenting a CLE program on civility in both Las Vegas and at the National Judicial College in Reno in June 2023.

Civility should be a key component of our profession. So, before you act, ask yourself does your conduct engender respect for the law and the profession?

ENDNOTES:

1. Civility as the Core of Professionalism (americanbar.org) - https://www.americanbar.org/groups/business_law/publications/blt/2014/09/02_reardon/#:~:text=Capacity%20to%20act%20in%20a%20manner%20that%20engenders,jurisdictions%2C%20for%20retaining%20the%20privilege%20of%20practicing%20law.
2. Thank you to the following BOG members for their service on this taskforce: Marisa Rodriguez (chair), Richard Dreitzer, Pat Leverty, Seth Adams, and Jeff Albregts.

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