

### III. Lawyer to Lawyer

A lawyer owes courtesy, candor, cooperation, and compliance with all agreements and mutual understandings to opposing counsel, in the conduct of an office practice and in pursuit of the resolution of legal issues. As professionals, ill feelings between clients should not influence our conduct, attitude, or demeanor toward opposing counsel. Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. A lawyer owes the same duty to an opposing party who is pro se.

#### A. Courtesy and Punctuality.

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. 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 others 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. We will treat adverse witnesses and parties with fair consideration.
3. We will be courteous, civil and prompt in oral and written communications and punctual in honoring scheduled appearances, meetings, depositions, appointments, etc. with opposing counsel.
4. We will disagree without being disagreeable. We recognize that effective representation does not require antagonistic or obnoxious behavior.
5. We will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations or acrimony toward opposing counsel, parties, and witnesses.
6. We will not ask a witness or an opposing party a question solely for the purpose of harassing or embarrassing that individual.
7. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

#### B. Drafting.

1. We will not quarrel over matters of form or style, but concentrate on matters of substance.
2. We will try to achieve the common goal in the preparation of agreements.
3. When we purport to identify for other counsel or parties changes we make in documents submitted for their review, we will identify all such changes accurately.
4. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
5. We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

6. 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.

### **C. Scheduling, Extensions, Cancellations.**

1. We will not arbitrarily schedule a meeting, deposition, court appearance, hearing, or other proceeding until a good faith effort has been made to schedule it by agreement. If we are unable to contact the other lawyer, we will send written correspondence suggesting a time or times that will become operative unless an informal objection is directed to us within a set reasonable time.

2. We will endeavor in good faith to honor previously scheduled trial or hearing settings, vacations, seminars, meetings or other functions that produce good faith calendar conflicts on the part of opposing counsel. We will not seek accommodation from another member of the Bar for the rescheduling of any court setting, discovery, hearing, meeting, etc. unless a legitimate need exists.

3. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of our clients will not be adversely affected.

4. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

5. 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.

### **D. Discovery.**

1. We will make reasonable efforts to conduct discovery by agreement.

2. We will refrain from excessive and/or abusive discovery.

3. We will comply with all reasonable discovery requests. We will not resist discovery requests that are not objectionable.

4. We will not seek court intervention to obtain discovery that is clearly improper and not desirable.

5. 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.

6. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

7. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

8. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

9. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge. We will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. We will encourage witnesses to respond to all deposition questions that are reasonably understandable.

10. We will not use any form of discovery or discovery scheduling as a means of harassment.

11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

**E. Sanctions.** We will not seek or threaten sanctions or disqualifications without first conducting a reasonable investigation and unless it is necessary for protection of our client's lawful objectives or fully justified by the circumstances.

**F. Opportunity to Respond.**

1. We will not serve motions, pleadings or briefs in any manner that unfairly limits another party's opportunity to respond. We will not seek ex parte relief without first attempting to notify the opposing party or attorney. We will not file memoranda or affidavits that are not permitted by court rules. We will furnish opposing counsel copies of all submissions to the court either contemporaneously or as soon as practical.

2. We will not cause a default or dismissal to be entered, when we know the identity of an opposing counsel, without first making a good faith attempt to inquire about the counsel's intention to proceed.

**G. Settlement.**

1. We will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

2. 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.

**H. Request During Trial or Hearing.** During trial or hearing we will honor reasonable requests of opposing counsel that do not prejudice the rights of our clients or sacrifice tactical advantage.

**I. Conduct of Others.** We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.