



Orange County Bar Association Standards for Professionalism and Civility Among Attorneys

PREAMBLE

The legal profession is a noble pursuit that once commanded the respect of all citizens. Recently, the profession's reputation has suffered in the eyes of many. To reverse this trend, and regain the confidence of a weary public, we hereby re-commit ourselves to the goals and ideals we set out to foster when we first determined to become lawyers. We will represent our clients in a manner that not only diligently protects and furthers their interests, but does so in a manner consistent with our dedication to professionalism and civility, thereby enhancing the reputation of the profession and, indeed, the legal system under which we live.

Consistent with this renewed commitment, we adopt the following standards. These standards are not intended to replace or limit our obligations under the Rules of Professional Conduct or any other legal regime. Nor are they to be used as criteria for imposing liability, sanctions, or disciplinary measures of any kind. Nonetheless, it is our hope that they are voluntarily embraced by all members of the Bar.

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- I. Counsel should communicate with the client in a way that will engender confidence in and respect for the legal profession by:**
- A. Regularly keeping the client informed of the ongoing status of a case, including prompt reporting of all important developments, whether positive or negative;
 - B. Promptly returning telephone calls, letters, emails, and other communications from the client;
 - C. Never fostering or encouraging unwarranted expectations or concerns of the client; and
 - D. Striving to achieve a desirable objective for the client as expeditiously and economically as possible.
- II. Counsel should interact with adversaries in a professional and civil manner by:**
- A. Acting professionally towards other counsel at all times;
 - B. Acting courteously toward opposing counsel's secretaries, clerks, and other office staff, and never taking out frustration with opposing counsel on such individuals;
 - C. Honoring commitments, whether oral or in writing;
 - D. Not evading an adversary's attempts to communicate (whether by telephone, letter, email, or other means), and responding to such attempts at the earliest reasonable opportunity;

- E. Extending courtesies to opposing counsel, including reasonable requests for extensions of time, whenever possible without prejudicing the client's interests;
- F. Never ascribing a position to opposing counsel for the purpose of creating a false record;
- G. Serving papers on opposing counsel personally or by facsimile, even if allowed by mail, when opposing counsel requests it or when service by mail would prejudice the opposing party; and
- H. Seeking fair resolution of ex parte procedures by not intentionally setting hearings in a way that would prejudice the other side's ability to attend, by providing the adversary more than the bare minimum notice of ex parte hearings, and by serving ex parte papers by facsimile sufficiently in advance of the hearing.

III. Counsel should facilitate the civil and professional exchange of information through written discovery by:

- A. Responding to non-objectionable discovery in a forthright and timely manner;
- B. Never serving discovery for the purpose of harassing or generating expense for an adversary;
- C. Making all efforts to tailor discovery to information or materials actually needed for trial preparation; and
- D. Taking all reasonable and good faith steps to resolve discovery disputes without the need for a discovery motion.

IV. Counsel should act appropriately in depositions by:

- A. Not engaging in obstructionist, abusive, or rude tactics;
- B. Limiting objections to those that are well founded and necessary to preserve for trial;
- C. Making reasonable efforts to accommodate the schedules of both opposing counsel and the witness when scheduling depositions;
- D. Respecting the priority of a deposition noticed for a date reasonably near in time, unless an earlier deposition is necessary to meet legitimate scheduling concerns; and
- E. Not attempting to delay a deposition unless it is necessary to meet real schedule conflicts, and in such case notifying opposing counsel as soon as possible after learning of the conflict.

V. Counsel should deal with third parties in a manner consistent with the obligation to act civilly and professionally by:

- A. Treating all third parties with whom one comes in contact in a professional capacity with dignity and respect, including third party witnesses, court reporters, and others; and
- B. Minimizing the time a witness must wait in the courtroom prior to testifying, including an offer to enter into an on-call agreement with each subpoenaed witness.

VI. Counsel should act appropriately when making written or oral submissions to the Court by:

- A. Never misleading the Court;
- B. Treating the judge and the courtroom staff with courtesy and respect;
- C. Refraining from making disparaging personal remarks about the opposing counsel or party in written submissions or oral argument, unless such person's character is directly and necessarily at issue;
- D. Avoiding ex parte communications with a judge regarding the substance of a case pending before that judge; and

- E. Refraining from casting blame on one's secretary, paralegal, junior lawyer, or other person for any perceived shortcomings or errors in submissions or argument.
- VII. Counsel should bring professionalism and civility to the courtroom by:**
 - A. Being punctual and prepared for all court appearances;
 - B. Dressing in a manner that is appropriate and respectful when appearing in court; and
 - C. Never disrupting another proceeding while waiting to be heard.
- VIII. Counsel should limit unnecessary motion practice by:**
 - A. Except in narrow circumstances, discussing with opposing counsel and attempting in good faith to resolve issues in dispute before filing a motion for resolution of such issues; and
 - B. Notifying the Court and opposing counsel as soon as possible if the hearing on a motion is no longer necessary.
- IX. Counsel should encourage efficient and appropriate resolution of disputes by:**
 - A. Exploring and discussing possible settlement and other alternative dispute resolution mechanisms with the client, and being open to such discussions with the adversary; and
 - B. Never holding out a false prospect of settlement for the sole purpose of obtaining a delay in discovery or a court proceeding.
- X. Counsel should always foster a positive public perception of the legal community by:**
 - A. Conducting oneself with dignity at all times, including at depositions and in court;
 - B. Never knowingly making untrue statements of fact or law;
 - C. Not making derogatory statements about a judge or the judicial process;
 - D. Encouraging and engaging in pro bono work; and
 - E. Neither participating in nor tolerating racial, ethnic, religious, gender, or sexual orientation bias.

Adopted by the Orange County Bar Association Board of Directors September 2004.