

Eighth Judicial Circuit Bar Association, Inc.



Guidelines of Professional Courtesy

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PREAMBLE

An attorney's duty is always to the client. But in striving to fulfill that duty, an attorney must be ever conscious of the broader duty to the judicial system that serves both attorney and client. To the judiciary, an attorney owes candor, diligence and utmost respect. To the administration of justice, an attorney unquestionably owes the fundamental duties of personal dignity and professional integrity. Coupled with those duties, however, is an attorney's duty of courtesy and cooperation with fellow professionals for the efficient administration of our system of justice and the respect of the public it serves.

The following Guidelines of Professional Courtesy ("Guidelines") describe the conduct preferred and expected by the majority of attorneys practicing in the Eighth Judicial Circuit of Florida. The Guidelines are not meant to be exhaustive, but set a tone or guide for conduct not specifically addressed herein. With regard to matters of application or interpretation of the Guidelines, the following general statements should be considered and applied:

- It is recognized that strict adherence to these Guidelines may not be possible in every situation. In some instances, adherence may not be feasible, in spite of the attorney's best efforts to do so, or may directly and unavoidably prejudice the client's interests or rights.
- When a response or other action is required of an attorney by these Guidelines, it is expected that the attorney will act as promptly and expeditiously as reasonably possible under the circumstances.
- When the opposing party is not represented by an attorney, the phrase "opposing counsel" used throughout the Guidelines shall be read to include *pro se* litigants.
- Great effort was taken in drafting the Guidelines to avoid duplicating or creating a conflict with any existing Florida or federal rules, codes or statutes, including but not limited to the various Florida rules of court and procedure, the Florida Rules of Judicial Administration, the Rules of Professional Conduct adopted by The Florida Bar, and the Administrative Orders of the Eighth Judicial Circuit of Florida. To the extent that any such duplication or direct conflict nevertheless exists, it is recognized that the rule, code, order or statute controls over these Guidelines.

The Guidelines are modeled after, and borrow from, codes of professional courtesy from Florida and around the country, and in particular the Guidelines of Professional Courtesy recently adopted by the Trial Lawyers Section of The Florida Bar. The following Guidelines have received the approval of the Board of Directors and the

members of the Eighth Judicial Circuit Bar Association, Inc. The Guidelines also have been endorsed by the judges of the Eighth judicial Circuit of Florida, who expect professional courtesy and conduct of all attorneys who appear and practice before them.

Finally, attorneys should consider whether these Guidelines would be necessary if all attorneys simply adhered in the practice of law to the basic principle of **advocacy tempered by reciprocal good will and respect**.

A. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

1. In every case, attorneys should consider whether the client's interest could be adequately served and the controversy more expeditiously and economically disposed of by avoiding litigation or by arbitration, mediation or other forms of alternative dispute resolution.
2. Attorneys should raise and explore the issue of settlement or plea in every case as soon as enough is known about the case to make settlement or plea discussions meaningful.

B. SCHEDULING

1. Attorneys should communicate with opposing counsel prior to scheduling depositions, hearings or other proceedings, so as to schedule them at times which are mutually convenient. If an attorney is unable to communicate with opposing counsel prior to scheduling a deposition, hearing or other proceeding, then the attorney should be willing to re-schedule that event if the time selected is inconvenient. Attorneys should cooperate with one another regarding all reasonable re-scheduling requests. An attorney who has attempted to comply with this guideline may be justified in scheduling a deposition, hearing or other proceeding without agreement from opposing counsel if opposing counsel fails or refuses to cooperate in scheduling.
2. To the extent feasible, attorneys should also accommodate witnesses in all matters related to scheduling.
3. Attorneys should notify opposing counsel, the court, and other affected persons, of scheduling conflicts as soon as they become apparent. Attorneys should verify the availability of participants and key witnesses, and promptly notify opposing counsel and the court or other tribunal of any likely problem in that regard.

4. Upon receiving an inquiry concerning a proposed time for a deposition, hearing or other proceeding, attorneys should agree to the proposal if the suggested time is available, or offer a counter suggestion that is as close in time as reasonably possible.
5. When scheduling hearings and other proceedings, including mediation and arbitration, attorneys should request an amount of time that is truly calculated to permit full and fair presentation of the matter to be adjudicated and permit equal response by opposing counsel. Presentations to the court should be completed within the allotted time.
6. Attorneys should promptly notify the court or other tribunal, witnesses, and other affected persons, of any resolution between the parties that renders a scheduled court appearance, deposition or other proceeding unnecessary or otherwise moot. Attorneys should promptly notify opposing counsel when a pending motion will not be contested.
7. In the practice of law, all attorneys will at some time experience emergencies affecting their families or professional commitments. Attorneys should cooperate with one another whenever possible in agreeing to calendar changes. Requests for calendar changes should be made as soon as the attorney is aware of the need for the change and should be accompanied by proposed alternative dates.

C. EXTENSIONS OF TIME

1. Attorneys should agree to reasonable requests for extensions of time which do not prejudice the client's opportunity for a full, fair, and prompt consideration and adjudication of the client's claim or defense.
2. Attorneys should never seek extensions without a legitimate reason or for the purpose of harassment, prolonging litigation or to gain an unfair advantage.
3. Attorneys should not attach unfair or extraneous conditions to granting requests for extensions of time.

D. SERVICE OF PAPERS

1. Attorneys should not attempt to gain unfair advantage by the timing of or delay in service of papers upon opposing counsel so as to unfairly limit opposing counsel's opportunity to respond.

2. Papers relating to next-day proceedings should not be transmitted by facsimile after 5:00 p.m. on weekdays, or on weekends or holidays.
3. Absent exigent circumstances, papers should not be served at court appearances without advance notice to opposing counsel and should not be served so close to a court appearance so as to inhibit the ability of opposing counsel to prepare for that appearance or to respond to the papers.
- 4.

E. WRITTEN SUBMISSIONS TO A COURT

1. Copies of any submissions to the court should be simultaneously provided to opposing counsel by substantially the same method of delivery by which they were provided to the court. For example, if a memorandum of law is hand-delivered to the court, at the same time a copy should be hand-delivered or transmitted by facsimile to opposing counsel. (Note: This guideline applies to submissions to the court, i.e., the judge, and not to filings with the clerk of court.)
2. Attorneys should promptly draft proposed orders that fairly and adequately represent the ruling of the court. Before sending the proposed order to the court, a copy should be promptly transmitted to all opposing counsel followed by communications between all affected attorneys seeking agreement as to form. The order submitted should be accompanied by communication to the court of agreement or disagreement among the attorneys.

F. COMMUNICATION WITH OTHERS

1. Attorneys always should deal with parties, other counsel, witnesses, jurors or prospective jurors, court personnel and the judge with courtesy and civility and avoid undignified or discourteous conduct.
2. Letters between attorneys ordinarily should not be sent to the court.
3. Attorneys should adhere strictly to all agreements.
4. Except where an existing personal relationship between an attorney and the judge assigned gives rise to recusal proceedings under applicable law, the existence of such a personal relationship should not be reflected by the attorney in demeanor or communications with or before the court at any time or place during the pendency of any matter under consideration by the court.

G. DISCOVERY

1. Attorneys should pursue discovery that is reasonably related to the matter at issue. Attorneys should not use discovery for the purpose of harassing, improperly burdening, or embarrassing opposing counsel, the opposing party, or any witness, or to cause delay or unnecessary expense.
2. In scheduling depositions, attorneys should allow enough time to permit the conclusion of the deposition, including examination by all parties, without adjournment.
3. In depositions, attorneys should conduct themselves with dignity, avoid making groundless objections, and refrain from engaging in acts of rudeness or disrespect.
4. Notice of cancellation of a deposition should be given to opposing counsel and all affected persons at the earliest possible time.
5. Attorneys should ensure that responses to discovery requests are timely, organized, complete and consistent with the obvious intent of the request.
6. Attorneys should attempt to resolve, by agreement, objections or disputes relating to discovery.

H. PRE-TRIAL CONFERENCE

1. Attorneys should read carefully the order setting trial and complete the pre-trial conference statement in full and file only such pre-trial conference motions as will assist the court and attorneys in understanding or resolving issues, or will protect the rights of parties.
2. Attorneys should be familiar with the evidence in the case.
3. Attorneys should be sure discovery is completed, or address the need for additional discovery or time with opposing counsel, well in advance of the pre-trial conference. All attorneys should use due diligence in preparing the case for trial and should file a motion for continuance of the pre-trial conference or of the trial only if the attorney has been unable to complete preparations in spite of diligent efforts.
4. Attorneys should evaluate the case and have a settlement remedy or figure in mind at which the case reasonably could settle with authorization from the client to do so.

I. DECORUM

1. Attorneys should be punctual and prepared for any court appearance.
2. Attorneys should stand as court is opened, recessed or adjourned; when the jury enters or retires from the courtroom; and when addressing, or being addressed by, the court.
3. Generally, examination of jurors and witnesses should be conducted from a suitable distance. Attorneys should not crowd or lean over the witness or jury and during interrogation should avoid blocking opposing counsel's view of the witness.
4. Attorneys should address all public remarks, including objections, requests and observations, to the court, not to opposing counsel.
5. Attorneys should avoid disparaging personal remarks or acrimony towards opposing counsel.
6. Attorneys should refer to all adult persons, including witnesses, other counsel, and the parties by their surnames and appropriate title and not by their first or given names.
7. Attorneys should request permission before approaching the bench. Attorneys should not physically lean on the bench.
8. Documents that attorneys wish to have the court examine should be submitted to opposing counsel for examination.
9. In examining a witness, an attorney should not echo the answer given by the witness.
10. Attorneys should admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.
11. During trials and evidentiary hearings, attorneys should agree to disclose the identities, order, and expected duration of testimony, of witnesses anticipated to be called that day and the following day, including depositions to be read.

12. Attorneys should scrupulously abstain from all acts, comments and attitudes calculated to curry favor with any juror, by fawning, flattery, actual or pretended solicitude for the juror's comfort or convenience, or the like.

J. EFFICIENT ADMINISTRATION OF JUSTICE

1. Attorneys should, whenever appropriate, stipulate to all facts and legal authority not reasonably in dispute.
2. Attorneys should voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit or are superfluous.
3. Before setting motions for hearing, attorneys should make a reasonable effort to resolve the issues in dispute. Attorneys should refrain from filing frivolous motions.
4. An attorney should never knowingly misstate, distort, or improperly exaggerate any fact, legal authority, or opinion, nor improperly permit the attorney's silence or inaction to mislead anyone.

APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS AND MEMBERS OF THE EIGHTH JUDICIAL CIRCUIT BAR ASSOCIATION, INC., THIS 13th DAY OF JUNE, 1996.

/s/ Beth B. Mills
Beth B. Mills, President

ENDORSED BY THE JUDGES OF THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA THIS 18th DAY OF JUNE, 1996.

/s/ Robert P. Cates
Robert P. Cates, Chief Judge

Requests for copies of this document may be directed to:

Eighth Judicial Circuit Bar Association, Inc.
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CREED OF PROFESSIONALISM

**(Adopted by the Board of Governors
of the Florida Bar on May 16, 1990)**

I revere the law, the judicial system, and the legal profession and will at all times in my professional and private lives uphold the dignity and esteem of each.

I will further my profession's devotion to public service and to the public good.

I will strictly adhere to the spirit as well as the letter of my profession's code of ethics, to the extent that the law permits and will at all times be guided by a fundamental sense of honor, integrity, and fair play.

I will not knowingly misstate, distort, or improperly exaggerate any fact or opinion and will not improperly permit my silence or inaction to mislead anyone.

I will conduct myself to assure the just, speedy and inexpensive determination of every action and resolution of every controversy.

I will abstain from all rude, disruptive, disrespectful, and abusive behavior and will at all times act with dignity, decency, and courtesy.

I will respect the time and commitments of others.

I will be diligent and punctual in communicating with others and in fulfilling commitments.

I will exercise independent judgment and will not be governed by a client's ill will or deceit.

My word is my bond.