

STANDARDS OF PROFESSIONAL COURTESY FOR THE SIXTH JUDICIAL CIRCUIT

Although not every lawyer will agree with every standard, these standards reflect an effort to continue decency and courtesy in our professional lives without intruding unreasonably on each lawyer's choice of style or tactic. Some of the guidelines may not apply in criminal proceedings, or where a specific judge has a different rule.

A. GENERAL

1. We will treat parties, counsel, witnesses, jurors and prospective jurors, court personnel and judges with courtesy, in writing and orally. We will avoid undignified or discourteous conduct. We will avoid disparaging personal remarks or acrimony toward opposing counsel.
2. We will not show marked attention or unusual informality to any judge, except if outside of court and supported by a personal relationship. We will avoid anything calculated to gain, or having the appearance of gaining, special consideration or favor from a judge.
3. We will adhere strictly to all express promises to and agreements with opposing counsel, whether oral or in writing. We will adhere in good faith to all agreements implied by the circumstance or by local custom.
4. We will not knowingly misstate, misrepresent, distort, or exaggerate any fact, opinion, or legal authority to anyone. We will not mislead by inaction or silence. Further, if it occurs unintentionally and is later discovered, we will disclose or otherwise correct it.
5. We will not demean opposing counsel in the course of litigation unless relevant to the issues of the case.

B. SCHEDULING, CONTINUANCES, AND EXTENSIONS OF TIME

1. We will communicate with opposing counsel to schedule depositions, hearings, and other proceedings, at times mutually convenient for all interested persons.
2. We will provide opposing counsel and other affected persons reasonable notice of all proceedings except upon agreement of counsel when expedited scheduling is necessary. We will immediately notify opposing counsel of any hearing time reserved.
3. We will request enough time for hearings and adjudicative proceedings to permit full and fair presentation of the matter and to permit response by opposing counsel. When scheduling depositions, we will schedule enough time to permit the conclusion of the deposition, including examination by all parties, without adjournment.
4. We will call potential scheduling problems to the attention of those affected, including the court, as soon as they become apparent. We will avoid last minute cancellations.
5. We will make request for changes only when necessary. We will not request rescheduling, cancellations, extension or postponements solely for the purpose of delay or obtaining unfair advantage.
6. We will cooperate with opposing counsel when conflicts and calendar changes are necessary and requested.

7. We will grant reasonable requests for scheduling, rescheduling, cancellations, extensions, and postponements that do not prejudice our client's opportunity for full, fair and prompt consideration and adjudication of the client's claim or defense.

8. First requests for reasonable extensions of time to respond to litigation deadlines relating to pleadings, discovery, or motions, should be granted as a matter of courtesy unless time is of the essence or other circumstances require otherwise.

9. We will resolve subsequent requests by balancing the need for expedition against the deference we should give to opposing counsel's schedule of professional and personal engagements, the reasonableness of the length of extension requested, opposing counsel's willingness to grant reciprocal extensions, the time needed for the task, and whether it is likely a court would grant the extension.

10. We will not attach unfair or extraneous conditions to extensions. We will impose conditions required to preserve rights that an extension might jeopardize. We may seek reciprocal scheduling concessions. When granting an extension, we will not try to preclude an opponent's substantive rights.

C. SERVICE OF PAPERS

1. The timing and manner of service should not be used to the disadvantage of the party receiving the papers. This includes the use of facsimile transmissions and any additional expedited means of communication approved by the court.

2. We will not serve papers to take advantage of opposing counsel's known absence from the office or at a time or in a manner designed to inconvenience an opponent, such as late on Friday afternoon or the day preceding a secular or religious holiday.

3. We will not serve papers, including briefs and memoranda, so close to a court appearance that the ability of opposing counsel to prepare for that appearance or, where permitted, to respond, is inhibited.

4. Service should be made personally or by facsimile transmission when it is likely that service by mail, even when allowed, will prejudice the opposing party.

D. WRITTEN SUBMISSIONS TO A COURT

1. In written briefs or memoranda, we will not rely on facts that are not properly part of the record. We may, however, present historical, economic or sociological data if the data appears in or is derived from generally available sources.

E. COMMUNICATIONS WITH ADVERSARIES

1. We will not write letters to ascribe to our opponent a position he or she has not taken or to create "a record" of events that have not occurred.

2. We will use letters intended only to make a record sparingly and only when necessary under all the circumstances.

3. We will not send letters between counsel to judges unless specifically permitted or invited by the court.

F. DISCOVERY

1. We will use discovery only when necessary to ascertain information, to perpetuate testimony, or to obtain documents or things necessary for the prosecution or defense of an action. We will never use discovery as a means of harassment or to impose an inordinate burden or expense.
2. We will file motions for protective orders as soon as possible and notice them for hearing as soon as practicable. Absent an agreement or court order a deposition may not be properly canceled due to a pending motion.
3. Prior to filing a motion to compel or for protective order, we will confer with opposing counsel in a good faith effort to resolve the issues raised. We will file with the motion a statement certifying that we have complied and been unable to resolve the dispute.
4. Motions to compel shall quote in full each interrogatory, question on deposition, request for admission or request for production to which the motion is addressed and the objection and grounds stated by opposing counsel.

DEPOSITIONS

5. In scheduling depositions, we will make reasonable attempts to accommodate the schedule of the deponent, but not at the expense of our client's rights.
6. We will not inquire into a deponent's personal affairs or question a deponent's integrity unless the inquiry is relevant to the subject matter of the deposition.
7. We will refrain from repetitive and argumentative questions and those asked solely for purposes of harassment.
8. We will limit objections to those that are well founded and necessary to protect a client's interest. Most objections are preserved and must be interposed only when the form of a question is defective or privileged information is sought.
9. While a question is pending, we will not, through objections or otherwise, coach the deponent or suggest answers.
10. We will not direct a deponent to refuse to answer questions unless they seek privileged information, are manifestly irrelevant, are calculated to harass, or are not calculated to lead to admissible evidence.
11. We will not make self-serving speeches during depositions.
12. We will not engage in any conduct during a deposition that would not be allowed in the presence of a judicial officer.

DOCUMENT DEMANDS

13. In responding to document demands, we will not strain to interpret the request in an artificially restrictive manner in order to avoid disclosure.
14. We will withhold documents on the grounds of privilege only where appropriate.
15. We will not produce documents in a disorganized or unintelligible fashion, or in a way calculated to hide or obscure the existence of particular documents.
16. We will not delay document production to prevent opposing counsel from inspecting documents prior to depositions or for any other tactical reason.

INTERROGATORIES

17. We will avoid "gamesmanship" in answering interrogatories.

18. Objections must be based on good faith belief in their merit. We will not make objections in order to withhold relevant information. If an interrogatory is objectionable only in part, we will answer the unobjectionable portion.

G. MOTION PRACTICE

1. We will make every reasonable effort to resolve the issue before setting a motion for hearing.

2. We will not force opposing counsel to make motions we do not intend to oppose unless circumstances require or the client requires.

3. After a hearing, we will make a good faith effort to quickly agree or disagree upon a proposed order and submit the result to the court. Unless otherwise instructed by the court, or agreed to by counsel, all proposed orders shall be provided to other counsel for approval or comment prior to submission to the court. We will not submit controverted orders to the court with a copy to opposing counsel for "objections within ___ days". Courts prefer to know that the order is either agreed upon or opposed.

4. We will not use post-hearing submissions of proposed orders as a guise to reargue the merits of the matter.

H. EX PARTE COMMUNICATIONS WITH THE COURT AND OTHERS

1. We will avoid ex parte communications on the substance of a pending case with a judge before whom the case is pending.

2. If an ex parte application or communication is permitted, we will make diligent efforts to notify the opposing party or a lawyer known or likely to represent the opposing party before making the application or communication. We will make reasonable efforts to accommodate the schedule of the lawyer so that the opposing party will be represented. We will make the application or communication only if there is a bona fide emergency whereby the client will be seriously prejudiced by a failure to make the application or communication on regular notice.

3. We will notify opposing counsel of all oral or written communications with the court or other tribunal, except those involving only scheduling. We will provide simultaneously to opposing counsel copies of all submissions to the court by substantially the same method of delivery by which they are provided to the court.

I. SETTLEMENT AND ALTERNATE DISPUTE RESOLUTION

1. Unless there are strong and overriding issues of principle, we will raise and explore the issue of settlement as soon as enough is known to make settlement discussions meaningful.

2. We will not falsely hold out the possibility of settlement to adjourn discovery or delay trial.

3. We will consider whether the client's interest could be adequately served and the controversy more expeditiously and economically disposed of by arbitration, mediation or other forms of alternative dispute resolution.

J. TRIAL CONDUCT AND COURTROOM DECORUM

1. When a matter is noted for trial on a court calendar, it may be removed only with the permission of the judge.

2. We will conduct examination of jurors and witnesses from a suitable distance. We will not crowd or lean over the witness or jury. We will avoid blocking opposing counsel's view of the witness during interrogation.
3. We will address all public remarks to the court, not to opposing counsel. We will address objections, requests and observations to the court.
4. We will request permission before approaching the bench. We will submit all documents to opposing counsel for examination prior to submission to the court.
5. We will have the clerk pre-mark potential exhibits.
6. We will 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.
7. During trials and evidentiary hearings, we will notify the court and opposing counsel of the number of witnesses and duration of testimony anticipated to be called that day and the following day (include depositions to be read). We will cooperate in sharing with opposing counsel all visual-aid equipment.
8. We will not mark on or alter exhibits, charges, graphs, and diagrams without opposing counsel's permission or leave of court.
9. We will accede to reasonable requests for waivers of potential formalities if the client's interests are not adversely affected.
10. In civil cases, we will stipulate all facts and principles of law which are not in dispute.

K. TRANSACTIONAL PRACTICE

1. We will draft letters of intent, memorializations of oral agreements, and written contracts reflecting agreements in concept, so that they fairly reflect the agreement of the parties.
2. We will point out to opposing counsel that changes have been made from one draft to another. If requested, we will identify those changes.

PROFESSIONALISM IMPLEMENTATION PROCEDURES

A. TERMINOLOGY

1. Initiator: The complaining party
2. Contact Attorney: The person who accepts referrals from various organizations, practitioners or the Initiator
3. Intermediary: The member of the PIP who the Contact Attorney calls to handle the complaint
4. Concerned Party: The attorney or judge whose behavior is the subject of the complaint

B. PROFESSIONALISM IMPLEMENTATION PANEL

The goal of the Professionalism Implementation Panel (PIP) is to handle complaints about professionalism problems in an informal and confidential manner, functioning almost as a mediation process without the formality of actually

bringing the parties into contact with each other. These procedures are not meant to address violations of the Rules of Professional Conduct or the Code of Judicial Conduct.

The PIP will handle complaints of alleged violations of the Standards of Professional Courtesy or other professionalism problems in a confidential and informal manner on two levels, which will be through a Contact Attorney and an Intermediary. The PIP will initially consist of all members of the Professionalism Committee, who will also function as Intermediaries. Initially, four members of the PIP shall function as Contact Attorneys, one for South Pinellas County, one for North Pinellas County, one for East Pasco County and one for West Pasco County. The number of Contact Attorneys and the membership of the PIP may be changed from time to time as deemed necessary by the Chief Judge. Recommendations for appointment to the PIP may be received from local bar associations, other professional organizations, judges, and practitioners. The Chair of the PIP shall be appointed by the Chief Judge.

C. PROCEDURES

1. The Initiator is referred from various organizations, practitioners, or makes contact on his or her own with one of the Contact Attorneys.
2. The Contact Attorney, without making any judgments concerning the complaint, shall contact an Intermediary and describe the complaint. When contacting an Intermediary the Contact Attorney shall take into account the geographic location, area of practice and the position (Judge or Attorney) of the Concerned Party.
3. The Intermediary has the discretion to:
 - i. Contact the Concerned Party and discuss the complaint and secure a resolution.
 - ii. Consult with any other Intermediary on how to handle the complaint.
 - iii. Decide there is no violation of the Standards of Professional Courtesy, or there is no other professionalism problem.
 - iv. Go outside the PIP to request that a Senior Judge, a sitting Judge, or a respected attorney contact the Concerned Party to secure a resolution.
4. Once the matter has been informally resolved or a determination made that there is no violation, the Intermediary shall contact the Initiator to explain the resolution.
5. Confidentiality shall be required throughout the process. Except as provided herein, there shall be no discussions of the matter beyond the Initiator, Contact Attorney, Intermediary, the Concerned Party, or any person used pursuant to paragraph 3.iv above.

D. PIP MEETINGS AND REPORTS

The PIP shall meet from time to time to discuss the types of situations that have arisen and their resolutions, to discuss possible modifications in procedure or structure of the process.