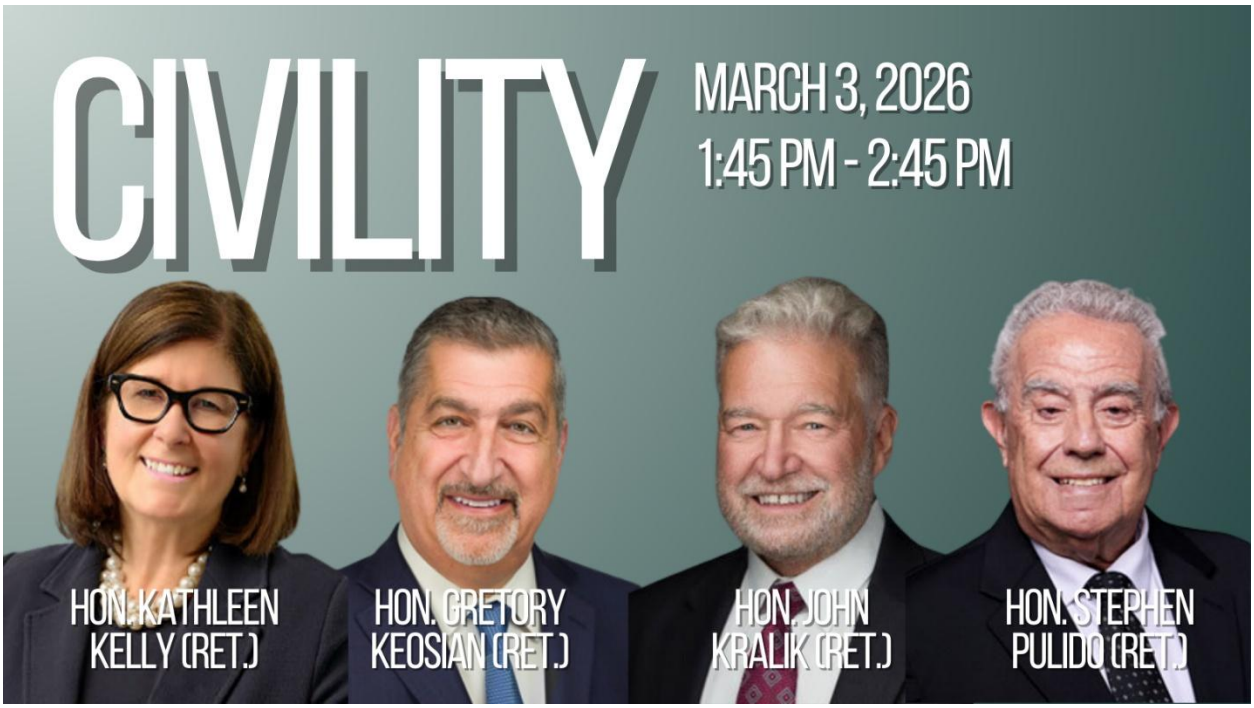

Additional Materials

Thoughts on the Local Rules as Standards of Civility

By Hon. John Kralik (Ret.)

When I was first assigned as a judge to an unlimited civil courtroom, I was excited to again be in the arena where I had spent thirty years as a lawyer. We were encouraged to draft a set of courtroom procedures that would let lawyers know exactly how things should go in pretrial and trial in our particular courtroom. As I sat down to ponder this question, I thought of how I had dealt with different procedures and expectations in almost every different courtroom during my career. Every lawyer entering a courtroom should already be familiar with the requirements of the Code of Civil Procedure, the California Rules of Court and the Local Rules of the Los Angeles Superior Court, but it was also important to read and be familiar with the individual judge's special requirements.

When I thoroughly read the requirements Los Angeles's local rules, my first thought was that I should have read these more carefully when I was a lawyer. My next thought was that it was really a bit much for me to be imposing my own idiosyncrasies upon professionals that were already dealing with so many rules. So, I made it my policy to simply ask the lawyers to carefully read the local rules, to tell them to follow them, and to tell them that I was open to argument as to whether I was following them.

In seeking standards of civility, I would turn, as I did when I first opened the door of my first unlimited department, to the local rules. Your familiarity with and willingness to follow these rules shows civility and courtesy to all. In many cases, the civility and courtesy you will be showing will be to the court itself. It will be much appreciated. In my sixteen years on the Superior Court, I did not meet a judge who felt that civility was trending upward, and most felt that it had deteriorated, especially since remote appearances became predominant.

With regard to Los Angeles' Local Rules:

Read these rules and guidelines. Get a paper copy and keep it on your desk. One of the luxuries of being a judge is that every January the new soft copies come to your desk. So honestly, I don't know how much these things cost. But whatever it is, it's worth it.

Cite these rules and guidelines. Do not assume that the other lawyers in your office or your opposing counsel have read them. Do not assume your judge has read them. Many of your judges have never practiced in a civil department. Those who have practiced civil law sometimes assume they know the rules but are in fact remembering them from years ago.

Follow these rules and guidelines. Do not expect that your opposing attorney will be receptive to hearing about them if you've not been treating him or her civilly. Do not use them as a weapon if you are the better financed or stronger party.

Start with Appendix 3.A: "Guidelines for Civility in Litigation." Of course, they're just guidelines, not rules in themselves. The rules state that they are "recommendations to the bar."

Los Angeles Local Rule 3.26. These Guidelines were first adopted by the Los Angeles County Bar Association. Some of these guidelines are in obvious repetition of things that are in the Rules of Civil Procedure and seem like restatements of the obvious by judges and attorneys tired of obviously uncivil behavior. Others are meant to address the problems that occur when counsel give the narrowest of interpretations to the Rules of Civil Procedure in ways that are meant to exasperate your opponent and the court. While violation of these guidelines is not a violation of a court rule, consider that it is a violation of your civility oath as an attorney and officer of the court.

Although you should read them, here's a digest of those that seem to have bright lines, with a few comments.

(a) **Continuances and Extensions**. As noted, a first extension of time is normally granted as a matter of "courtesy," and should almost always be granted, even where an uneducated counsel has previously refused one. After that, you can consider the circumstances, including the opponent's approach to the litigation. An extension should not be conditioned on the condition of giving up substantive rights, including the right "to move against a complaint."

(b) **Service of Papers**. Irrespective of previous arrangements and the rules of court, papers should not be served in a way that will hamper an opponent's response. Know that a judge probably will intervene here if an opponent has not been able to respond, and any perceived advantage will be lost anyway, and your matter may be subject to delay.

(c) **Written submissions.** Do not rely on facts not properly part of the record. Do not disparage "the intelligence, ethics, morals, integrity or personal behavior" of one's adversaries. . . unless. . . directly and necessarily in issue." It was a rare morning in Superior Court when this guideline was not violated more than once by the oral presentations of counsel, and there were examples in the written submissions as well. The thing you should know about the inside of the mind of most judges is that our listening ears shut down when we start hearing this kind of thing. It is not a substantive basis for decision, and we are trained to disregard it.

(d) **Communications with adversaries.** "Letters should not be written to ascribe to one's adversary a position he or she has not taken or to create 'a record' of events that have not occurred." I've viewed thousands of these letters, and it is the rare letter that avoids violating this guideline. Remind yourself of this while you're working through the feelings that are causing you to write this letter, email or text. Consider not writing it, or just responding by a general denial and citation to this guideline.

(e) **Depositions.** There are very good specific guidelines here, but here's the bottom line: Don't do anything you wouldn't do if you were before a judicial officer.

1. Depositions should only be noticed when necessary, not for expense or harassment.

2. Don't respond to a notice with an earlier notice.

3. Don't postpone merely for delay.

4. Do not inquire into personal affairs that are irrelevant.

5. Don't endlessly repeat argumentative questioning.

6. Use well-founded objections, usually limited to form and privilege.

7. No coaching.

8. No speeches.

9. Do not direct refusal to answer except for privilege or "manifest irrelevance."

(f) **Document Demands.**

1. Demands should be limited to documents actually and reasonably believed to be necessary.

2. Do not strain for interpretations that will allow you to withhold a bad document.

3. Do not disorganize files or hide bad documents.

4. Do not delay production to prevent production before a deposition.

5. Even if a demand is objectionable, respond to the unobjectionable part.

As a judge, I would say that 35 demands are more than is necessary for an ordinary case, and I would require good cause to go beyond that. Try to ask for less. The ordinary limits apply in most cases because most cases are in fact ordinary. Have a good reason if you believe otherwise. Know that your 100 demands can be easily copied, modified and turned back on you by your opposing counsel.

(g) **Interrogatories.**

1. Interrogatories should be used "sparingly." Most cases can be handled with form interrogatories and a few follow ups. If you have a special case, be prepared to show why.

2. Do not read interrogatories in an artificial manner to avoid responding.

3. If part of an interrogatory is objectionable, respond to the unobjectionable part.

Few interrogatories are ever read at trial.

(h) **Motions.** Engage in more than pro forma meet and confer. To a judge, this means have a telephone conversation at the very least. Do not force a motion you will end up not opposing just for delay or increased aggravation.

(i) **Non-party witnesses.**

1. Do not issue subpoenas to non-party witnesses except for a hearing, deposition or trial. (Frankly, I don't know of any other purpose, but this guideline was written because people were using them for other reasons. Uncivil lawyers apparently do not lack imagination.)

2. Deposition subpoenas should be accompanied by notices of deposition. (Are there people who don't do that?)

3. Copies of documents obtained through subpoenas should be promptly offered to the other parties at their expense of copying.

(j) **Ex parte proceedings.** There should be diligent efforts to notify the opposing party or attorney before an ex parte application. Ex parte proceedings should only occur when there is a "bona fide emergency." Of course, a bona fide emergency is in the eye of the beholder but a busy Superior Court judge is liable to not appreciate excessive use of such applications any more than your opponent. When your opponent makes an unnecessary ex parte application in a case where attorneys' fees are awarded, make note of it for later argument that fees should be reduced by the expense of this application.

(k). **Settlement.** "Counsel should not falsely hold out the possibility of a settlement" as an instrument of delay.

(l) **Trials and hearings.** Be punctual and prepared and read the rules about how to do so.

Now read the rules themselves as they apply to your conduct at trial and before. These rules set out standards of civility to the court and opposing counsel.

Rule 2.3. Filing of Actions. Understand the correct place to file your action, and do not file an action in the wrong court just to inconvenience a party or shop for a convenient judicial officer.

Rule 2.5. 170.6 Challenges. Review this rule to make sure you do not waste your challenge unnecessarily and that you make it in a timely manner in the Superior Court departments. The option to challenge a judge under Cal. Civ. Proc. Code δ 170.6 is a powerful remedy, and one that is cherished by the trial bar. Although it is apparently not the custom to challenge the statements of counsel regarding bias, remember that it is under penalty of perjury. Challenges should not be used merely for delay or exasperation of an opponent. On the other hand, do not feel bound by civility to fail to make a challenge that is in the best interest of your client. While a few judges take them personally, especially at the beginning of their judicial careers, most have learned to respect them, largely ignore them, and know better than to discuss them with the succeeding judge.

Rule 2.16. Hours of Court, Appearances of Counsel. Participation in jury trials takes precedence over other matters, with criminal trials having precedence over civil. No judge shall require an engaged counsel to appear during a trial unless there is permission from the trial judge. Keep in mind that "Counsel have an obligation to avoid scheduling conflicts where possible." When you have two or more conflicting appearances, you must inform the judge and by inference, opposing counsel.

Judges who have operated in small practices know that it is often impossible to operate a law office without conflicting court appearances. On the other hand, if there are multiple, ongoing conflicts, it is impossible to get anything done in all but one case, and the resulting delays prejudice one's own clients and those of the adversaries. It is your ethical obligation to staff up, staff down or refer out cases to accommodate the needs of your existing clients and to make all court appearances. Well financed parties and insurance companies should not be allowed to delay their trials by assigning all their trials to only a few lawyers whose schedules are full for years, and that type of practice is not acceptable to the courts trying to move matters forward in a timely way. Judges should not postpone matters beyond the standards for judicial administration. Cal. R. Ct. 2.2 merely to accommodate understaffed firms, especially where the client is well-financed. Point this out if you face this tactic.

While it is hardly acceptable, it has now become customary for law firms to intentionally assign two or more simultaneous video appearances to the same lawyer. This is an abuse of the right to appear by video conference, and discourteous to both the Court and the opponent.

Rule 2.21. Court reporters. Reporters are still not available in civil proceedings. Consider cooperating with your adversary courteously on the retention of court reporters, sharing the cost and paying promptly. Court reporters are human beings but respond well to respectful communication and prompt payment from attorneys for any party. Treat them as you would a permanent member of the Court's staff.

Rule 2.27 and 2.28. (Conduct and Dress.) Your dress and conduct must be the same for personal and remote appearances. Please read this rule in its entirety. I say that because every morning brought appearances by those who did not.

Rule 3.3. Assignment of Cases. Do not dismiss and refile a case simply to obtain a different judge. The related case mechanism is meant to address this sort of behavior but note that it is unacceptable from the word go. It is the obligation of counsel to notify the judges in all related cases promptly. The related case system does not work well at present, and it is a good idea to call the clerk to advise him or her of its filing, or to bring the matter to the further attention of the judge at the first court hearing after related cases are filed.

3.4 **Electronic Filing.** The Court accepts electronic filing up until midnight. If you must file something after business hours, please consider how that affects your opponent's statutory time to reply, and how you will be faced with midnight filings during the case.

3.11. **Contempt.** Should you attempt the remedy of contempt, this rule highlights how difficult, expensive and ultimately ineffectual that remedy can be. It proceeds by order to show cause, and most judges will require notice. "The accused person has the right to appointed counsel, to remain silent, to confront and cross-examine witnesses, and to be proven guilty beyond a reasonable doubt." For most cases of outrageous behavior, a motion for sanctions will suffice.

3.25 (a) Case management conference. No later than 30 days before, counsel must meet and confer "in person or by telephone." This is a valuable opportunity to talk when counsel are obligated to do so. It has become customary not to follow this rule, and for counsel assigned to a case management conference to have little to no knowledge of the file. It is not acceptable or in the best interests of your client.

3.25(d). Settlement conferences. Judges have the power to set mandatory settlement conferences and "all persons whose consent is required to effect a binding settlement must be personally present" unless excused. A written statement must be served and filed five court days before a conference. These rules are often ignored. Judges are busy, but some have the resolve to insist.

3.25 (f). Final Status Conferences. These are typically held 10 days before trial. Five days before that, final trial documents should be submitted. Most trial judges also insist upon compliance with Rule 3.25(g) which requires an in-person meeting of counsel and submission of joint witness and exhibit lists as well as agreed jury instructions. Cooperate with your opposing counsel, or your matter may be delayed and you may lose the opportunity to present evidence not identified in the required meeting or at the conference.

3.37 Trial Procedure. These rules should be carefully followed as they can be enforced through sanctions including dismissal. In what follows, the rules that are most often ignored by inexperienced trial counsel are listed. By scrupulously following these rules, you demonstrate not only your civility to the jury, court and opposing counsel, but you convey an aura of competence that enhances your credibility to the decision makers at trial.

3.52. All **exhibits** must be exchanged and numbered, except for those "in good faith to be used for impeachment."

3.54. Documents produced through a non-party should be ready on the first day of trial and produced to opposing counsel. If not previously marked as exhibits because they were previously unavailable, mark them immediately.

3.57. Motions in Limine. Motions in limine often fail because they are broadly and argumentatively phrased. There must be "[s]pecific identification of the matter alleged to be inadmissible and prejudicial." Don't make boilerplate motions, or pile on the motions to create expense. Don't make motions just to educate the judge. You can do that more efficiently by speaking up at the pre-trial conferences, or filing a trial brief directed to a specific issue of

evidence that is controversial. If you have more than five motions in limine you probably have too many.

3.81. **Counsel are expected to exchange "good faith estimates"** of when witnesses will be completed and what witnesses are scheduled next. The vagueness of this rule means that you may have to ask the judge to lay some ground rules such as 48-hour notice if your communication and relationship with counsel is not good. Don't do this by motion in limine.

3.93. Multiple counsel. When there are multiple counsel, only one is allowed to speak during any trial event, such as an argument on a motion, an opening statement or closing argument, or handling of a particular witness. A judge can make exceptions, including to give less experienced counsel an opportunity to learn. Be aware that your training will require you to choke back statements when observing your junior counsel.

3.94. Do not "traverse the well" without the permission of the judge and understand what each courtroom regards as "the well." This rule is for everyone's safety. Compliance demonstrates consideration and civility to judge and jury. Also, you avoid rebuke or physical restraint from the courtroom staff in charge of the judge's safety.

3.95. Addressing the Judge. The judge is "your honor," not "Judge, ma'am or sir." You'd be surprised how many people don't know this.

3.96. Addressing others. Counsel must not exhibit familiarity with witnesses, parties or counsel nor address them by first names except children. I know you like to humanize your client, but it is not good form. Try asking permission from the court and counsel when it would otherwise make the proceedings difficult or artificial.

3.97. Use of graphic devices during opening statement. The effect of this rule is that any graphic or device must be reviewed with court and counsel before you begin. People hate doing this because it telegraphs their opening statement, but it is necessary to prevent prejudicial information coming before the jury, and interruptions to your opening statement. Using chalkboards or paper also requires permission of court or stipulation of counsel, and you will probably be asked to explain what you intend to do. Don't make the judge stop you because you are unaware of this rule.

3.108. Admonition to witnesses. You should instruct your witnesses to wait for the full question, to be responsive and to wait for objections to be ruled upon.

3.109. Examination from counsel table. Do not wander about the room without permission of the judge.

3.110. Approaching the witness. Ordinarily you don't need to ask permission to approach to show a witness a document, but you do need to ask for any other purpose. Check with your judge as some are very particular about your movements.

3.111. Interrupting Questions. Don't interrupt a question unless the question is "patently objectionable *and* at least arguably prejudicial." Wait for the question to be completed.

3.112. Effect of Asking a New Question. If you ask another question before a question is answered or ruled upon, it is withdrawn.

3.120. Policy Against Indication as to Testimony. You must be dispassionate, and so must your clients. Do not indicate your displeasure (etc.) by "facial expressions, shaking of the head, gesturing, shouts, or other conduct." Some judges will give one warning outside the jury, but don't count on it.

3.121. Stand to Object and Argue. Unless you are objecting only on legal grounds without argument.

3.121. Arguments are Addressed to the Court. Please don't start arguing or meeting and conferring with each other in any hearing without permission of the court. We are not in a deposition or a phone call between counsel.

3.123. Arguments Outside of Jury's Hearing. Anything other than "an evidentiary objection and brief legal grounds" must take place outside the jury's hearing. They do it a lot on television, but speaking objections will displease most judges

3.124. Offers of Proof to Be Out of Jury's Hearing.

3.125. Offers to Stipulate Must be Outside the Jury's Hearing.

3.126. Requests to an Adversary must be outside the Jury's Hearing.

3.127. Request to the Court Reporter. Requests to the reporter to read back or go off the record are made to the Court, not the reporter. Most court reporters ignore requests from counsel during trial.

3.131. Demonstrating or Displaying Representations of Testimony. Make sure you have the permission of the judge before putting anything up on a screen or placing it where the jury can observe or read it. Electronic courtroom technology is not to be used for surprises. Using any type of demonstration requires permission of the judge.

3.148. Large, Dangerous or Bulky Exhibits. Don't place anything in the jury's sight without the permission of the judge. If you are taking up space in a courtroom, obtain the permission of the clerk.

3.149. Oral identification of Exhibits at First Reference. When an exhibit is first used, counsel must "briefly identify it but not describe its contents."

3.150. Exhibits to Have Been Shown Before First Reference. Before a first reference to an exhibit, it must be shown to counsel.

Violations of the Los Angeles local rules can be punished with sanctions. (L.A. County Rules of Court 3.10.) While it's frustrating to have counsel who ignores these rules, or a judge who doesn't enforce them, not every violation is worthy of a motion, or even an objection. Usually, bad or incompetent behavior is not ultimately rewarded by the decision makers. The judge may have may have good reasons for ignoring bad behavior, especially by pro per parties who have not chance of prevailing.

Be aware that there are additional specific rules in the probate and family law departments. But these more general rules should be followed in all matters. Also, the materials for this course include the San Francisco civility standards and other reference points that can provide clear guideposts as to what is acceptable.

BAR ASSOCIATION OF SAN FRANCISCO

CIVILITY TASK FORCE

GUIDELINES OF CIVILITY AND PROFESSIONALISM

Task Force Note: These guidelines are based on the California Attorney Guidelines of Civility and Professionalism, adopted July 20, 2007, and credit for the statewide guidelines should remain with their original authors. Likewise, where the inspiration for a section is from a guideline adopted previously by another bar association of this state, citation to the original is included.

In proposing these updated guidelines for the Bar Association of San Francisco, the Civility Task Force attempts to revisit the statewide guidelines with consideration for the progress we have made as a profession since the statewide rules were last updated. These guidelines remind lawyers of the importance of fostering the highest standards of civility, integrity and professionalism and of exhibiting courtesy to all participants in the practice of law and the judicial process. Although these guidelines are not a basis for discipline, sanctions, or ancillary litigation, they reflect expected standards of conduct for lawyers who practice in San Francisco Superior Court. These guidelines are in addition to mandatory requirements for lawyer conduct such as those set forth in the California Rules of Professional Conduct. Lawyers are expected to be familiar with and must observe all such rules of law. Lawyers are also expected to adhere to both the letter and spirit of Rules of Professional Conduct that prohibit discrimination, harassment, or retaliation in the practice of law.

SECTION 1
RESPONSIBILITIES TO THE JUSTICE SYSTEM

The dignity, decorum and courtesy that have traditionally and aspirationally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2
RESPONSIBILITIES TO THE PUBLIC AND THE PROFESSION

An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3
RESPONSIBILITIES TO THE CLIENT AND CLIENT REPRESENTATION

An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4
COMMUNICATIONS ABOUT THE LEGAL SYSTEM

An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

This guideline should not prevent the member from expressing dissent or disagreement with a particular policy, law, or outcome, as our legal system often evolves and improves over time.

For example, in communications about the legal system and with adversaries:

a. An attorney's conduct should be consistent with high respect and esteem for the civil and criminal justice systems.

b. This guideline does not prohibit an attorney's good faith expression of dissent or criticism made in public or private discussions for the purpose of improving the legal system or profession.

SECTION 5
DUTIES TO OTHER COUNSEL

An attorney's communications with other attorneys, including opposing counsel, should at all times be respectful, civil, and courteous. An attorney should also act in good faith with other counsel whom the attorney has dealings within the course of his or her practice.

For example:

a. An attorney will not employ abusive, demeaning, or humiliating language in written or oral communications with other attorneys.

b. An attorney 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.

c. When attorneys reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the other counsel with the opportunity to review the writing.

d. An attorney will not write letters for the purpose of ascribing to opposing counsel a position he or she has not taken, or to create "a record" of events that have not occurred. Letters intended only to make a record should be used sparingly and only when thought to be necessary under all of the circumstances. Unless specifically permitted or invited by the court, letters between counsel should not be sent to judges.

SECTION 6
PUNCTUALITY

An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

For example:

a. An attorney should arrive sufficiently in advance to resolve preliminary matters.

b. An attorney should timely notify participants when the attorney will be late or is aware that a participant will be late.

SECTION 7
SCHEDULING, CONTINUANCES AND EXTENSIONS OF TIME

An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

For example:

a. An attorney should consider the scheduling interests of the court, other counsel or party, and other participants, should schedule by agreement whenever possible, and should send formal notice after agreement is reached.

b. An attorney should not arbitrarily or unreasonably withhold consent to a request for scheduling accommodations or engage in delay tactics.

c. An attorney should promptly notify the court and other counsel of problems with key participants' availability.

d. An attorney should promptly notify other counsel and, if appropriate, the court, when scheduled meetings, hearings or depositions must be canceled or rescheduled, and provide alternate dates when possible.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

For example:

a. Unless time is of the essence, an attorney should agree to an extension without requiring motions or other formalities, regardless of whether the requesting counsel previously refused to grant an extension.

b. An attorney should agree to an appropriate continuance when new counsel substitutes in.

c. An attorney should advise clients that failing to agree with reasonable requests for time extensions is inappropriate.

d. An attorney should not use extensions or continuances for harassment or to extend litigation.

e. An attorney should place conditions on an agreement to an extension only if they are fair and essential or if the attorney is entitled to impose them, for instance to preserve rights or seek reciprocal scheduling concessions.

f. If an attorney intends that a request for or agreement to an extension shall cut off a party's substantive rights or procedural options, the attorney should disclose that intent at the time of the request or agreement.

SECTION 8
SERVICE OF PAPERS

The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

For example:

a. An attorney should serve papers on the attorney who is responsible for the matter at his or her principal place of work.

b. If possible, papers should be served upon counsel at a time agreed upon in advance.

c. When serving papers, an attorney should allow sufficient time for opposing counsel to prepare for a court appearance or to respond to the papers.

d. An attorney should not serve papers to take advantage of an opponent's absence or to inconvenience the opponent, for instance by serving papers late on Friday afternoon or the day preceding a holiday.

e. When it is likely that service by mail will prejudice an opposing party, an attorney should serve the papers by other permissible means.

f. When possible, electronic service should be completed during normal business hours of 9:00 a.m. to 5:00 p.m. Attorneys should avoid serving opposing counsel late at night, during the weekend, or on holidays.

g. An attorney should ask a party or third party's counsel, where the attorney is aware of such counsel, whether the counsel is authorized to accept service of papers if there is any question about such authorization. An attorney should not serve the party or third party directly before making such an inquiry.

SECTION 9
WRITINGS SUBMITTED TO THE COURT, COUNSEL OR OTHER PARTIES

Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

For example:

a. An attorney should not make ad hominem attacks on opposing counsel.

b. Unless at issue or relevant in a particular proceeding, an attorney should avoid degrading the intelligence, ethics, morals, integrity, or personal behavior of others.

c. An attorney should clearly identify all revisions in a document previously submitted to the court or other counsel.

SECTION 10
DISCOVERY

Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the Civil Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties, or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

For example:

a. As to Depositions:

1. When another party notices a deposition for the near future, absent unusual circumstances, an attorney should not schedule another deposition in the same case for an earlier date without opposing counsel's agreement.

2. An attorney should delay a scheduled deposition only when necessary to address scheduling problems and not in bad faith.

3. An attorney should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer.

4. An attorney should remember that vigorous advocacy can be consistent with professional courtesy, and that arguments or conflicts with other counsel should not be personal.

5. An attorney questioning a deponent should provide other counsel present with a copy of any documents shown to the deponent before or contemporaneously with showing the document to the deponent.

6. An attorney questioning a deponent should not engage in bullying of the deponent or seek to intimidate the deponent.

7. Once a question is asked, an attorney should not interrupt a deposition or make an objection for the purpose of coaching a deponent or suggesting answers.

8. An attorney should not direct a deponent to refuse to answer a question or end the deposition without a legal basis for doing so.

9. An attorney should refrain from self-serving speeches and speaking objections.

b. As to Document Demands:

1. Document requests should be used only to seek those documents that are reasonably needed to prosecute or defend an action.

2. An attorney should not make demands to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

3. If an attorney inadvertently receives a privileged document, the attorney should promptly notify the producing party that the document has been received.

4. In responding to a document demand, an attorney should not intentionally misconstrue a request in such a way as to avoid disclosure or withhold a document on the grounds of privilege.

5. An attorney should not produce disorganized or unintelligible documents, or produce documents in a way that hides or obscures the existence of particular documents.

6. An attorney should not delay in producing a document in order to prevent opposing counsel from inspecting the document prior to or during a scheduled deposition or for some other tactical reason.

c. As to Interrogatories and Requests for Admission:

1. An attorney should narrowly tailor special interrogatories and requests for admission and not use them to harass or impose an undue burden or expense on an opposing party.

2. An attorney should not intentionally misconstrue or respond to interrogatories or requests for admission in a manner that is not truly responsive.

3. When an attorney lacks a good faith belief in the merit of an objection, the attorney should not object to an interrogatory or request for admission. If an interrogatory or request for admission is objectionable in part, an attorney should answer the unobjectionable part.

SECTION 11
MOTION PRACTICE

An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

For example:

a. Before filing demurrers, motions to strike, motions to transfer venue, and motions for judgment on the pleadings, an attorney should engage in more than a pro forma effort to resolve the issue. An attorney should ensure he/she begins the meet and confer process early enough to ensure the meet and confer process can be completed before the deadline to file the motion.

b. In complying with any meet and confer requirement in the California Code of Civil Procedure, an attorney should speak personally with opposing counsel and engage in a good faith effort to resolve or informally limit an issue.

c. An attorney should not engage in conduct that forces an opposing counsel to file a motion and then not oppose the motion.

d. An attorney who has no reasonable objection to a proposed motion should promptly make this position known to opposing counsel, who then may file an unopposed motion or avoid filing a motion.

e. After opposing a motion, if an attorney recognizes that the movant's position is correct, the attorney should promptly advise the movant and the court of this change in position.

f. Because requests for monetary sanctions, even if statutorily authorized, can lead to the destruction of a productive relationship between counsel or parties, monetary sanctions should not be sought unless fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to resolve the issue informally among counsel.

SECTION 12
DEALING WITH NONPARTY WITNESSES

It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

For example:

a. An attorney should be courteous and respectful in communications with nonparty witnesses.

b. Upon request, an attorney should extend professional courtesies and grant reasonable accommodations, unless to do so would materially prejudice the client's lawful objectives.

c. An attorney should take special care to protect a witness from undue harassment or embarrassment and to state questions in a form that is appropriate to the witness's age and development.

d. An attorney should not issue a subpoena to a nonparty witness for inappropriate tactical or strategic purposes, such as to intimidate or harass the nonparty.

e. As soon as an attorney knows that a previously scheduled deposition will or will not go forward as scheduled, the attorney should notify all counsel.

f. An attorney who obtains a document pursuant to a deposition subpoena should, upon request, make copies of the document available to all other counsel at their expense.

SECTION 13
EX PARTE COMMUNICATION WITH THE COURT

In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 14
SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every matter as soon as possible and, when appropriate, during the course of litigation.

For example:

a. An attorney should advise a client at the outset of the relationship of the availability of informal or alternative dispute resolution.

b. An attorney should attempt to evaluate a matter objectively and to de-escalate any controversy or dispute in an effort to resolve or limit the controversy or dispute.

c. An attorney should consider whether alternative dispute resolution would adequately serve a client's interest and dispose of the controversy expeditiously and economically.

d. An attorney should honor a client's desire to settle the dispute quickly and in a cost- effective manner.

e. An attorney should use an alternative dispute resolution process for purposes of settlement and not for delay or other improper purposes, such as discovery.

f. An attorney should participate in good faith, and assist the alternative dispute officer by providing pertinent and accurate facts, law, theories, opinions and arguments in an attempt to resolve a dispute.

g. An attorney should not falsely hold out the possibility of settlement as a means for terminating discovery or delaying trial.

h. An attorney should provide briefing to the settlement officer before any deadlines provided to ensure the settlement officer has time to prepare for the settlement conference.

SECTION 15
CONDUCT IN COURT

To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

For example:

a. An attorney should be punctual and prepared.

b. An attorney's conduct should avoid disorder or disruption and preserve the right to a fair trial.

c. An attorney should maintain respect for and confidence in a judicial office by displaying courtesy, dignity and respect toward the court and courtroom personnel.

d. An attorney should refrain from conduct that inappropriately demeans another person.

e. Before appearing in court, an attorney should advise a client of the kind of behavior expected of the client and endeavor to prevent the client from creating disorder or disruption in the courtroom.

f. An attorney should make objections for legitimate and good faith reasons, and not for the purpose of harassment or delay.

g. An attorney should honor an opposing counsel's requests that do not materially prejudice the rights of the attorney's client or sacrifice tactical advantage.

h. While appearing before the court, an attorney should address all arguments, objections and requests to the court, rather than directly to opposing counsel.

i. While appearing in court, an attorney should demonstrate sensitivity to any party, witness or attorney who has requested, or may need, accommodation as a person with physical or mental impairment, so as to foster full and fair access of all persons to the court.

SECTION 16
DEFAULT

An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

For example, an attorney should not race opposing counsel to the courthouse to knowingly enter a default before a responsive pleading can be filed. This guideline is intended to apply only to taking a default when there is a failure to timely respond to complaints, cross- complaints, and amended pleadings.

SECTION 17
SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS, NEUTRALS AND COURT APPOINTED EXPERTS

An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 18
PRIVACY

An attorney should respect the privacy rights of parties and nonparties.

For example:

a. An attorney should not inquire into, attempt or threaten to use, private facts concerning any party or other individuals for the purpose of gaining an advantage in a case. This guideline does not preclude inquiry into sensitive matters relevant to an issue, as long as the inquiry is pursued as narrowly as possible.

b. If an attorney must inquire into an individual's private affairs, the attorney should cooperate in arranging for protective measures, including stipulating to an appropriate protective order, designed to assure that the information revealed is disclosed only for purposes relevant to the pending litigation.

c. Nothing herein shall be construed as authorizing the withholding of information in violation of applicable law.

SECTION 19
NEGOTIATION OF WRITTEN AGREEMENTS

An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

For example:

a. An attorney should use boilerplate provisions only if they apply to the subject of the agreement.

b. If an attorney modifies a document, the attorney should clearly identify the change and bring it to the attention of other counsel.

c. An attorney should avoid negotiating tactics that are abusive; that are not made in good faith; that threaten inappropriate legal action; that are not true; that set arbitrary deadlines; that are intended solely to gain an unfair advantage or take unfair advantage of a superior bargaining position; or that do not accurately reflect the client's wishes or previous oral agreements.

d. An attorney should not participate in an action or the preparation of a document that is intended to circumvent or violate applicable laws or rules.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

For example:

a. Attorneys should be mindful that their primary goals are to negotiate in a manner that accurately represents their client and the purpose for which they were retained.

b. Attorneys should successfully and timely conclude a transaction in a manner that accurately represents the parties' intentions and has the least likely potential for litigation.

c. With client approval, attorneys should consider giving each party permission to contact the employees of the other party for the purpose of promptly and efficiently obtaining necessary information and documents.

SECTION 20
ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interest of the children in mind.

For example:

a. An attorney should discourage and should not abet vindictive conduct.

b. An attorney should treat all participants with courtesy and respect in order to minimize the emotional intensity of a family dispute.

c. An attorney representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the family law proceeding on the child.

SECTION 21
ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

For example:

a. A prosecutor should not question the propriety of defending a person accused of a crime.

b. Appellate counsel and trial counsel should communicate openly, civilly and without rancor, endeavoring to keep the proceedings on a professional level.

SECTION 22
COURT PROCEEDINGS

Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

SECTION 23
DIVERSITY AND ELIMINATION OF BIAS

Our society is diverse. We must commit ourselves to promote and encourage respect for diverse cultures, opinions and views, and expand opportunities to those who have traditionally been excluded.

(*Source: Ventura Co. Bar Assoc. Guidelines on Professional Conduct and Civility § 14*.)

Our profession includes individuals of various ages, races, national origins, ethnicity, political views, cultural and economic backgrounds, religions, disabilities, gender identities, and sexual orientation. It also includes a wide variety of specialties, affiliations and professional relationships. Professional courtesy and civility requires lawyers to respect diversity and to uniformly honor these rules of civility without discrimination and with equal dignity. (*Id*.)

Lawyers shall always act impartially with respect to all persons including opposing counsel, clients, witnesses, and the public. Lawyers shall not engage in any act of bias based on age, race, national origin, ethnicity, political views, cultural or economic background, religion, disability, gender identity, or sexual orientation while engaging in the practice of law, and should work toward the elimination of bias in all aspects of the justice system.

Examples - Lawyers shall:

a. Treat opposing counsel with respect and courtesy regardless of age, race, national origin, ethnicity, political views, cultural or economic background, religion, disability, gender identity, or sexual orientation.

b. Not attempt to take advantage of or intimidate another lawyer on account of age, race, national origin, ethnicity, political views, cultural or economic background, religion, disability, gender identity, or sexual orientation.

c. Not tolerate bias or prejudice by another attorney or by the court and should take appropriate steps to prevent an occurrence of such behavior in the future.

d. Refrain from making any statement or comment, whether publicly or privately, which serves to denigrate any other lawyer, judicial officer or member of the public on the basis of age, race, national origin, ethnicity, political views, cultural or economic background, religion, disability, gender identity, or sexual orientation.

(*Source: Sacramento Co. Bar Association Standards of Professional Conduct § 3G.*)

SECTION 24
REMOTE PROCEEDINGS

Advances in technology combined with the COVID-19 pandemic accelerated a shift in our profession towards remote depositions, mediations, and court appearances becoming a generally accepted norm. Remote proceedings are a cost-effective and time-saving means of conducting certain matters, yet in-person proceedings may be preferred in many instances.

In order to facilitate the continued integration of remote proceedings into our profession, lawyers should:

a. Familiarize themselves with the commonly used technology for conducting remote proceedings, and upgrade their existing hardware, software, and internet connection to meet the expected quality necessary to hold such proceedings without causing a disruption due to poor video or audio quality.

b. Accommodate reasonable requests to hold remote appearances for the convenience of counsel or the witness. Conversely, where an attorney believes that an in-person appearance is essential, a request for an in-person proceeding should be accommodated absent extenuating circumstances which render proceeding in-person unsafe or unnecessarily expensive (*i.e*. long distance travel).

c. Ensure that they and the persons they represent at the proceeding are appearing from a computer with a sufficiently strong internet connection, and from a location free from excessive background noise or distractions.

d. Not communicate with a remote deposition witness while on the record via technological or other means which are not also made part of the record and disclosed to the other attendees.

e. Treat remote proceedings with the same level of decorum and respect as if the matter was taking place in person.

SECTION 25
MENTORSHIP

The training of young lawyers through hands-on experience is essential both to their development and the future of our legal community. Where possible, experienced attorneys should take the opportunity to:

a. Mentor young attorneys and provide constructive feedback without undue harsh criticism.

b. Allow less-experienced attorneys to attend and present oral arguments at hearings.

c. Allow less-experienced attorneys to take and defend depositions.

d. Allow less-experienced attorneys to make meaningful contributions at trial.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

CHAPTER THREE
CIVIL DIVISION

APPENDIX 3.A

GUIDELINES FOR CIVILITY IN LITIGATION

(a) CONTINUANCES AND EXTENSIONS OF TIME.

(1) First requests for reasonable extensions of time to respond to litigation deadlines, whether relating to pleadings, discovery or motions, should ordinarily be granted as a matter of courtesy unless time is of the essence. A first extension should be allowed even if the counsel requesting it has previously refused to grant an extension.

(2) After a first extension, any additional requests for time should be dealt with by balancing the need for expedition against the deference one should ordinarily give to an opponent's schedule of professional and personal engagements, the reasonableness of the length of extension requested, the opponent's willingness to grant reciprocal extensions, the time actually needed for the task, and whether it is likely a court would grant the extension if asked to do so.

(3) A lawyer should advise clients against the strategy of granting no time extensions for the sake of appearing "tough".

(4) A lawyer should not seek extensions or continuances for the purpose of harassment or prolonging litigation.

(5) A lawyer should not attach to extensions unfair and extraneous conditions. A lawyer is entitled to impose conditions such as preserving rights that an extension might jeopardize or seeking reciprocal scheduling concessions. A lawyer should not, by granting extensions, seek to preclude an opponent's substantive rights, such as his or her right to move against a complaint.

(b) SERVICE OF PAPERS.

(1) The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

(2) Papers should not be served sufficiently close to a court appearance so as to inhibit the ability of opposing counsel to prepare for that appearance or, where permitted by law, to respond to the papers.

(3) Papers should not be served in order to take advantage of an opponent's known absence from the office or at a time or in a manner designed to inconvenience an adversary, such as late on Friday afternoon or the day preceding a secular or religious holiday.

(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.

(c) WRITTEN SUBMISSIONS TO A COURT, INCLUDING BRIEFS, MEMORANDA, AFFIDAVITS AND DECLARATIONS.

(1) Written briefs or memoranda or points and authorities should not rely on facts that are not properly part of the record. A litigant may, however, present historical, economic, or sociological data if such data appear in or are derived from generally available sources.

(2) Neither written submissions nor oral presentations should disparage the intelligence, ethics, morals, integrity or personal behavior of one's adversaries, unless such things are directly and necessarily in issue.

(d) COMMUNICATIONS WITH ADVERSARIES.

(1) Counsel should at all times be civil and courteous in communicating with adversaries, whether in writing or orally.

(2) Letters should not be written to ascribe to one's adversary a position he or she has not taken or to create "a record" of events that have not occurred.

(3) Letters intended only to make a record should be used sparingly and only when thought to be necessary under all the circumstances.

(4) Unless specifically permitted or invited by the Court, letters between counsel should not be sent to judges.

(e) DEPOSITIONS.

(1) Depositions should be taken only where actually needed to ascertain facts or information or to perpetuate testimony. They should never be used as a means of harassment or to generate expense.

(2) In scheduling depositions, reasonable consideration should be given to accommodating schedules or opposing counsel and of the deponent, where it is possible to do so without prejudicing the client's rights.

(3) When a deposition is noticed by another party in the reasonably near future, counsel should ordinarily not notice another deposition for an earlier date without the agreement of opposing counsel.

(4) Counsel should not attempt to delay a deposition for dilatory purposes but only if necessary to meet real scheduling problems.

(5) Counsel should not inquire into a deponent's personal affairs or question a deponent's integrity where such inquiry is irrelevant to the subject matter of the deposition.

(6) Counsel should refrain from repetitive or argumentative questions or those asked solely for purposes of harassment.

(7) Counsel defending a deposition should limit objections to those that are well founded and necessary for the protection of a client's interest. Counsel should bear in mind that most objections are preserved and need be interposed only when the form of a question is defective or privileged information is sought.

(8) While a question is pending, counsel should not, through objections or otherwise, coach the deponent or suggest answers.

(9) Counsel should not direct a deponent to refuse to answer questions unless they seek privileged information or are manifestly irrelevant or calculated to harass.

(10) Counsel for all parties should refrain from self-serving speeches during depositions.

(11) Counsel should not engage in any conduct during a deposition that would not be allowed in the presence of a judicial officer.

(f) DOCUMENT DEMANDS.

(1) Demands for production of documents should be limited to documents actually and reasonably believed to be needed for the prosecution or defense of an action and not made to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

(2) Demands for document production should not be so broad as to encompass documents clearly not relevant to the subject matter of the case.

(3) In responding to document demands, counsel should not strain to interpret the request in an artificially restrictive manner in order to avoid disclosure.

(4) Documents should be withheld on the grounds of privilege only where appropriate.

(5) Counsel should not produce documents in a disorganized or unintelligible fashion, or in a way calculated to hide or obscure the existence of particular documents.

(6) Document production should not be delayed to prevent opposing counsel from inspecting documents prior to scheduled depositions or for any other tactical reason.

(g) INTERROGATORIES.

(1) Interrogatories should be used sparingly and never to harass or impose undue burden or expense on adversaries.

(2) Interrogatories should not be read by the recipient in an artificial manner designed to assure that answers are not truly responsive.

(3) Objections to interrogatories should be based on a good faith belief in their merit and not be made for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, the unobjectionable portion should be answered.

(h) MOTION PRACTICE.

(1) Before filing a motion, counsel should engage in more than a mere pro forma discussion of its purpose in an effort to resolve the issue.

(2) A lawyer should not force his or her adversary to make a motion and then not oppose it.

(i) DEALING WITH NON-PARTY WITNESS.

(1) Counsel should not issue subpoenas to non-party witnesses except in connection with their appearance at a hearing, trial or deposition.

(2) Deposition subpoenas should be accompanied by notices of deposition with copies to all counsel.

(3) Where counsel obtains documents pursuant to a deposition subpoena, copies of the documents should be made available to the adversary at his or her expense even if the deposition is canceled or adjourned.

(j) *EX PARTE* COMMUNICATIONS WITH THE COURT.

(1) A lawyer should avoid *ex parte* communication on the substance of a pending case with a judge (or his or her law clerk) before whom such case is pending.

(2) Even where applicable laws or rules permit an *ex parte* application or communication to the Court, before making such an application or communication, a lawyer should make diligent efforts to notify the opposing party or a lawyer known to represent or likely to represent the opposing party and should make reasonable efforts to accommodate the schedule of such lawyer to permit the opposing party to be represented on the application.

(3) Where the Rules permit an *ex parte* application or communication to the Court in an emergency situation, a lawyer should make such an application or communication (including an application to shorten an otherwise applicable time period) only where there is a bona fide

emergency such that the lawyer's client will be seriously prejudiced by a failure to make the application or communication on regular notice.

(k) SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION.

(1) Except where there are strong and overriding issues of principle, an attorney should raise and explore the issue of settlement in every case as soon as enough is known about the case to make settlement discussions meaningful.

(2) Counsel should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

(3) In every case, counsel should consider and discuss with the client 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.

(4) Counsel are encouraged to discuss the various ADR processes with their clients and explain the confidentiality and non-binding nature of the selected process.

(5) The court ADR program may be used for 1 pro bono ADR process through an ADR hearing. The court ADR program is available for an additional ADR process, if the parties want to retain the Court ADR Neutral on a private basis.

(l) TRIALS AND HEARINGS.

(1) Counsel should be punctual and prepared for any court appearance.

(2) Counsel should always deal with parties, counsel, witnesses, jurors or prospective jurors, court personnel and the judge with courtesy and civility.

Principles of Civility, Integrity and Professionalism

American Board of Trial Advocates

Preamble

These Principles supplement the precepts set forth in ABOTA's Code of Professionalism and are a guide to the proper conduct of litigation. Civility, integrity, and professionalism are the hallmarks of our learned calling, dedicated to the administration of justice for all. Counsel adhering to these principles will further the truth-seeking process so that disputes will be resolved in a just, dignified, courteous, and efficient manner.

These principles are not intended to inhibit vigorous advocacy or detract from an attorney's duty to represent a client's cause with faithful dedication to the best of counsel's ability. Rather, they are intended to discourage conduct that demeans, hampers, or obstructs our system of justice.

These Principles apply to attorneys and judges, who have mutual obligations to one another to enhance and preserve the dignity and integrity of our system of justice. As lawyers must practice these Principles when appearing in court, it is not presumptuous of them to expect judges to observe them in kind. The Principles as to the conduct of judges set forth herein are derived from judiciary codes and standards.

These Principles are not intended to be a basis for imposing sanctions, penalties, or liability, nor can they supersede or detract from the professional, ethical, or disciplinary codes of conduct adopted by regulatory boards.

As a member of the American Board of Trial Advocates, I will adhere to the following Principles:

1. Advance the legitimate interests of my clients, without reflecting any ill will they may have for their adversaries, even if called on to do so, and treat all other counsel, parties, and witnesses in a courteous manner.

2. Never encourage or knowingly authorize a person under my direction or supervision to engage in conduct proscribed by these principles.

3. Never, without good cause, attribute to other counsel bad motives or improprieties.

4. Never seek court sanctions unless they are fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to informally resolve the issue with counsel.

5. Adhere to all express promises and agreements, whether oral or written, and, in good faith, to all commitments implied by the circumstances or local custom.

6. When called on to do so, commit oral understandings to writing accurately and completely, provide other counsel with a copy for review, and never include matters on which there has been no agreement without explicitly advising other counsel.

7. Timely confer with other counsel to explore settlement possibilities and never falsely hold out the potential of settlement for the purpose of foreclosing discovery or delaying trial.

8. Always stipulate to undisputed relevant matters when it is obvious that they can be proved and where there is no good faith basis for not doing so.

9. Never initiate communication with a judge without the knowledge or presence of opposing counsel concerning a matter at issue before the court.

10. Never use any form of discovery scheduling as a means of harassment.

11. Make good faith efforts to resolve disputes concerning pleadings and discovery.

12. Never file or serve motions or pleadings at a time calculated to unfairly limit opposing counsel's opportunity to respond.

13. Never request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

14. Consult other counsel on scheduling matters in a good faith effort to avoid conflicts.

15. When calendar conflicts occur, accommodate counsel by rescheduling dates for hearings, depositions, meetings, and other events.

16. When hearings, depositions, meetings, or other events are to be canceled or postponed, notify as early as possible other counsel, the court, or other persons as appropriate, so as to avoid unnecessary inconvenience, wasted time and expense, and to enable the court to use previously reserved time for other matters.

17. Agree to reasonable requests for extension of time and waiver of procedural formalities when doing so will not adversely affect my client's legitimate rights.

18. Never cause the entry of a default or dismissal without first notifying opposing counsel, unless material prejuedice has been suffered by my client.

19. Never take depositions for the purpose of harassment or to burden an opponent with increased litigation expenses.

20. During a deposition, never engage in conduct which would not be appropriate in the presence of a judge.

21. During a deposition, never obstruct the interrogator or object to questions unless reasonably necessary to preserve an objection or privilege for resolution by the court.

22. During depositions, ask only those questions reasonably necessary for the prosecution or defense of an action.

23. Draft document production requests and interrogatories limited to those reasonably necessary for the prosecution or defense of an action, and never design them to place an undue burden or expense on a party.

24. Make reasonable responses to document requests and interrogatories and not interpret them in an artificially restrictive manner so as to avoid disclosure of relevant and nonprivileged documents.

25. Never produce documents in a manner designed to obscure their source, create confusion, or hide the existence of particular documents.

26. Base discovery objections on a good faith belief in their merit, and not for the purpose of withholding or delaying the disclosure of relevant and nonprivileged information.

27. When called on, draft orders that accurately and completely reflect a court's ruling, submit them to other counsel for review, and attempt to reconcile any differences before presenting them to the court.

28. During argument, never attribute to other counsel a position or claim not taken, or seek to create such an unjustified inference.

29. Unless specifically permitted or invited, never send to the court copies of correspondence between counsel.

When In Court I Will:

1. Always uphold the dignity of the court and never be disrespectful.

2. Never publicly criticize a judge for his or her rulings or a jury for its verdict. Criticism should be reserved for appellate court briefs.

3. Be punctual and prepared for all court appearances, and, if unavoidably delayed, notify the court and counsel as soon as possible.

4. Never engage in conduct that brings disorder or disruption to the courtroom.

5. Advise clients and witnesses of the proper courtroom conduct expected and required.

6. Never misrepresent or misquote facts or authorities.

7. Verify the availability of clients and witnesses, if possible, before dates for hearings or trials are scheduled, or immediately thereafter, and promptly notify the court and counsel if their attendance cannot be assured.

8. Be respectful and courteous to court marshals or bailiffs, clerks, reporters, secretaries, and law clerks.

Conduct Expected of Judges

A lawyer is entitled to expect judges to observe the following Principles:

1. Be courteous and respectful to lawyers, parties, witnesses, and court personnel.

2. Control courtroom decorum and proceedings so as to ensure that all litigation is conducted in a civil and efficient manner.

3. Abstain from hostile, demeaning, or humiliating language in written opinions or oral communications with lawyers, parties, or witnesses.

4. Be punctual in convening all hearings and conferences, and, if unavoidably delayed, notify counsel, if possible.

5. Be considerate of time schedules of lawyers, parties, and witnesses in setting dates for hearings, meetings, and conferences. When possible, avoid scheduling matters for a time that conflicts with counsel's required appearance before another judge.

6. Make all reasonable efforts to promptly decide matters under submission.

7. Give issues in controversy deliberate, impartial, and studied analysis before rendering a decision.

8. Be considerate of the time constraints and pressures imposed on lawyers by the demands of litigation practice, while endeavoring to resolve disputes efficiently.

9. Be mindful that a lawyer has a right and duty to present a case fully, make a complete record, and argue the facts and law vigorously.

10. Never impugn the integrity or professionalism of a lawyer based solely on the clients or causes he represents.

11. Require court personnel to be respectful and courteous toward lawyers, parties, and witnesses.

12. Abstain from adopting procedures that needlessly increase litigation time and expense.

13. Promptly bring to counsel's attention uncivil conduct on the part of clients, witnesses, or counsel.

Ever wonder what happened to the ideals of civility, integrity, and professionalism to which you aspired in law school? They are alive and well in the American Board of Trial Advocates. Admittedly, these principles are difficult to define. Nevertheless, the legal profession as a whole and each individual lawyer and judge must adopt and practice these concepts so that the members of our profession will again be looked upon as the greatest protectors of our life, liberty and property.

Please join ABOTA in making these principles a reality once again.

User Name: John Kralik
Date and Time: Wednesday, February 11, 2026 1:21 PM EST
Job Number: 275469225

Document (1)

1. *Cal. Sacramento Cty. Super. Ct. R., Appx. B*
   Client/Matter: -None-
   Search Terms:
   Search Type: Natural Language
   Narrowed by:

Content Type	Narrowed by
	-None-

APPENDIX B

California Attorney

Guidelines of Civility and Professionalism

The State Bar of California

180 Howard Street

San Francisco, CA 94105-1639

Adopted by the Board of Governors on

July 20, 2007

CALIFORNIA ATTORNEY

GUIDELINES OF CIVILITY AND PROFESSIONALISM

(Adopted July 20, 2007)

INTRODUCTION

As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards

by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1 RESPONSIBILITIES TO THE JUSTICE SYSTEM

The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2 RESPONSIBILITIES TO THE PUBLIC AND THE PROFESSION

An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3 RESPONSIBILITIES TO THE CLIENT AND CLIENT REPRESENTATION

An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4 COMMUNICATIONS

An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

For example, in communications about the legal system and with adversaries:

a. An attorney's conduct should be consistent with high respect and esteem for the civil and criminal justice systems.

b. This guideline does not prohibit an attorney's good faith expression of dissent or criticism made in public or private discussions for the purpose of improving the legal system or profession.

c. An attorney should not disparage the intelligence, integrity, ethics, morals or behavior of the court or other counsel, parties or participants when those characteristics are not at issue.

d. Respecting cultural diversity, an attorney should not disparage another's personal characteristics.

e. An attorney should not make exaggerated, false, or misleading statements to the media while representing a party in a pending matter.

f. An attorney should avoid hostile, demeaning or humiliating words.

g. An attorney should not create a false or misleading record of events or attribute to an opposing counsel a position not taken.

h. An attorney should agree to reasonable requests in the interests of efficiency and economy, including agreeing to a waiver of procedural formalities where appropriate.

i. Unless specifically permitted or invited by the court or authorized by law, an attorney should not correspond directly with the court regarding a case.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5 PUNCTUALITY

An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

For example:

a. An attorney should arrive sufficiently in advance to resolve preliminary matters.

b. An attorney should timely notify participants when the attorney will be late or is aware that a participant will be late.

SECTION 6 SCHEDULING, CONTINUANCES AND EXTENSIONS OF TIME

An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

For example:

a. An attorney should consider the scheduling interests of the court, other counsel or party, and other participants, should schedule by agreement whenever possible, and should send formal notice after agreement is reached.

b. An attorney should not arbitrarily or unreasonably withhold consent to a request for scheduling accommodations or engage in delay tactics.

c. An attorney should promptly notify the court and other counsel of problems with key participants' availability.

d. An attorney should promptly notify other counsel and, if appropriate, the court, when scheduled meetings, hearings or depositions must be cancelled or rescheduled, and provide alternate dates when possible.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

For example:

a. Unless time is of the essence, an attorney should agree to an extension without requiring motions or other formalities, regardless of whether the requesting counsel previously refused to grant an extension.

b. An attorney should agree to an appropriate continuance when new counsel substitutes in.

c. An attorney should advise clients that failing to agree with reasonable requests for time extensions is inappropriate.

d. An attorney should not use extensions or continuances for harassment or to extend litigation.

e. An attorney should place conditions on an agreement to an extension only if they are fair and essential or if the attorney is entitled to impose them, for instance to preserve rights or seek reciprocal scheduling concessions.

f. If an attorney intends that a request for or agreement to an extension shall cut off a party's substantive rights or procedural options, the attorney should disclose that intent at the time of the request or agreement.

SECTION 7 SERVICE OF PAPERS

The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

For example:

a. An attorney should serve papers on the attorney who is responsible for the matter at his or her principal place of work.

b. If possible, papers should be served upon counsel at a time agreed upon in advance.

c. When serving papers, an attorney should allow sufficient time for opposing counsel to prepare for a court appearance or to respond to the papers.

d. An attorney should not serve papers to take advantage of an opponent's absence or to inconvenience the opponent, for instance by serving papers late on Friday afternoon or the day preceding a holiday.

e. When it is likely that service by mail will prejudice an opposing party, an attorney should serve the papers by other permissible means.

SECTION 8 WRITINGS SUBMITTED TO THE COURT, COUNSEL OR OTHER PARTIES

Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

For example:

a. An attorney should not make ad hominem attacks on opposing counsel.

b. Unless at issue or relevant in a particular proceeding, an attorney should avoid degrading the intelligence, ethics, morals, integrity, or personal behavior of others.

c. An attorney should clearly identify all revisions in a document previously submitted to the court or other counsel.

SECTION 9 DISCOVERY

Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the Civil Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties, or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

For example:

a. As to Depositions:

1. When another party notices a deposition for the near future, absent unusual circumstances, an attorney should not schedule another deposition in the same case for an earlier date without opposing counsel's agreement.

2. An attorney should delay a scheduled deposition only when necessary to address scheduling problems and not in bad faith.

3. An attorney should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer.

4. An attorney should remember that vigorous advocacy can be consistent with professional courtesy, and that arguments or conflicts with other counsel should not be personal.

5. An attorney questioning a deponent should provide other counsel present with a copy of any documents shown to the deponent before or contemporaneously with showing the document to the deponent.

6. Once a question is asked, an attorney should not interrupt a deposition or make an objection for the purpose of coaching a deponent or suggesting answers.

7. An attorney should not direct a deponent to refuse to answer a question or end the deposition without a legal basis for doing so.

8. An attorney should refrain from self-serving speeches and speaking objections.

b. As to Document Demands:

1. Document requests should be used only to seek those documents that are reasonably needed to prosecute or defend an action.

2. An attorney should not make demands to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

3. If an attorney inadvertently receives a privileged document, the attorney should promptly notify the producing party that the document has been received.

4. In responding to a document demand, an attorney should not intentionally misconstrue a request in such a way as to avoid disclosure or withhold a document on the grounds of privilege.

5. An attorney should not produce disorganized or unintelligible documents, or produce documents in a way that hides or obscures the existence of particular documents.

6. An attorney should not delay in producing a document in order to prevent opposing counsel from inspecting the document prior to or during a scheduled deposition or for some other tactical reason.

c. As to Interrogatories:

1. An attorney should narrowly tailor special interrogatories and not use them to harass or impose an undue burden or expense on an opposing party.

2. An attorney should not intentionally misconstrue or respond to interrogatories in a manner that is not truly responsive.

3. When an attorney lacks a good faith belief in the merit of an objection, the attorney should not object to an interrogatory. If an interrogatory is objectionable in part, an attorney should answer the unobjectionable part.

SECTION 10 MOTION PRACTICE

An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

For example:

a. Before filing demurrers, motions to strike, motions to transfer venue, and motions for judgment on the pleadings, an attorney should engage in more than a pro forma effort to resolve the issue.

b. In complying with any meet and confer requirement in the California Code of Civil Procedure, an attorney should speak personally with opposing counsel and engage in a good faith effort to resolve or informally limit an issue.

c. An attorney should not engage in conduct that forces an opposing counsel to file a motion and then not oppose the motion.

d. An attorney who has no reasonable objection to a proposed motion should promptly make this position known to opposing counsel, who then may file an unopposed motion or avoid filing a motion.

e. After opposing a motion, if an attorney recognizes that the movant's position is correct, the attorney should promptly advise the movant and the court of this change in position.

f. Because requests for monetary sanctions, even if statutorily authorized, can lead to the destruction of a productive relationship between counsel or parties, monetary sanctions should not be sought unless fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to resolve the issue informally among counsel.

SECTION 11 DEALING WITH NONPARTY WITNESSES

It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

For example:

a. An attorney should be courteous and respectful in communications with nonparty witnesses.

b. Upon request, an attorney should extend professional courtesies and grant reasonable accommodations, unless to do so would materially prejudice the client's lawful objectives.

c. An attorney should take special care to protect a witness from undue harassment or embarrassment and to state questions in a form that is appropriate to the witness's age and development.

d. An attorney should not issue a subpoena to a nonparty witness for inappropriate tactical or strategic purposes, such as to intimidate or harass the nonparty.

e. As soon as an attorney knows that a previously scheduled deposition will or will not, in fact, go forward as scheduled, the attorney should notify all counsel.

f. An attorney who obtains a document pursuant to a deposition subpoena should, upon request, make copies of the document available to all other counsel at their expense.

SECTION 12 EX PARTE COMMUNICATION WITH THE COURT

In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every matter as soon as possible and, when appropriate, during the course of litigation.

For example:

An attorney should advise a client at the outset of the relationship of the availability of informal or alternative dispute resolution.

a. An attorney should attempt to evaluate a matter objectively and to de-escalate any controversy or dispute in an effort to resolve or limit the controversy or dispute.

b. An attorney should consider whether alternative dispute resolution would adequately serve a client's interest and dispose of the controversy expeditiously and economically.

c. An attorney should honor a client's desire to settle the dispute quickly and in a cost-effective manner.

d. An attorney should use an alternative dispute resolution process for purposes of settlement and not for delay or other improper purposes, such as discovery.

e. An attorney should participate in good faith, and assist the alternative dispute officer by providing pertinent and accurate facts, law, theories, opinions and arguments in an attempt to resolve a dispute.

f. An attorney should not falsely hold out the possibility of settlement as a means for terminating discovery or delaying trial.

SECTION 14 CONDUCT IN COURT

To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

For example:

a. An attorney should be punctual and prepared.

b. An attorney's conduct should avoid disorder or disruption and preserve the right to a fair trial.

c. An attorney should maintain respect for and confidence in a judicial office by displaying courtesy, dignity and respect toward the court and courtroom personnel.

d. An attorney should refrain from conduct that inappropriately demeans another person.

e. Before appearing in court, an attorney should advise a client of the kind of behavior expected of the client and endeavor to prevent the client from creating disorder or disruption in the courtroom.

f. An attorney should make objections for legitimate and good faith reasons, and not for the purpose of harassment or delay.

g. An attorney should honor an opposing counsel's requests that do not materially prejudice the rights of the attorney's client or sacrifice tactical advantage.

h. While appearing before the court, an attorney should address all arguments, objections and requests to the court, rather than directly to opposing counsel.

i. While appearing in court, an attorney should demonstrate sensitivity to any party, witness or attorney who has requested, or may need, accommodation as a person with physical or mental impairment, so as to foster full and fair access of all persons to the court.

SECTION 15 DEFAULT

An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

For example an attorney should not race opposing counsel to the courthouse to knowingly enter a default before a responsive pleading can be filed. This guideline is intended to apply only to taking a default when there is a failure to timely respond to complaints, cross-complaints, and amended pleadings.

SECTION 16 SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS, NEUTRALS AND COURT APPOINTED EXPERTS

An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court- appointed expert and allowing a reasonable opportunity to object.

SECTION 17 PRIVACY

An attorney should respect the privacy rights of parties and nonparties. For Example:

a. An attorney should not inquire into, attempt or threaten to use, private facts concerning any party or other individuals for the purpose of gaining an advantage in a case. This guideline does not preclude inquiry into sensitive matters relevant to an issue, as long as the inquiry is pursued as narrowly as possible.

b. If an attorney must inquire into an individual's private affairs, the attorney should cooperate in arranging for protective measures, including stipulating to an appropriate protective order, designed to assure that the information revealed is disclosed only for purposes relevant to the pending litigation.

c. Nothing herein shall be construed as authorizing the withholding of information in violation of applicable law.

SECTION 18 NEGOTIATION OF WRITTEN AGREEMENTS

An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

For example:

a. An attorney should use boilerplate provisions only if they apply to the subject of the agreement.

b. If an attorney modifies a document, the attorney should clearly identify the change and bring it to the attention of other counsel.

c. An attorney should avoid negotiating tactics that are abusive; that are not made in good faith; that threaten inappropriate legal action; that are not true; that set arbitrary deadlines; that are intended solely to gain an unfair advantage or take unfair advantage of a superior bargaining position; or that do not accurately reflect the client's wishes or previous oral agreements.

d. An attorney should not participate in an action or the preparation of a document that is intended to circumvent or violate applicable laws or rules.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

For example:

a. Attorneys should be mindful that their primary goals are to negotiate in a manner that accurately represents their client and the purpose for which they were retained.

b. Attorneys should successfully and timely conclude a transaction in a manner that accurately represents the parties' intentions and has the least likely potential for litigation.

c. With client approval, attorneys should consider giving each party permission to contact the employees of the other party for the purpose of promptly and efficiently obtaining necessary information and documents.

SECTION 19 ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interest of the children in mind.

For example:

a. An attorney should discourage and should not abet vindictive conduct.

b. An attorney should treat all participants with courtesy and respect in order to minimize the emotional intensity of a family dispute.

c. An attorney representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the family law proceeding on the child.

SECTION 20 ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

For example:

a. A prosecutor should not question the propriety of defending a person accused of a crime.

b. Appellate counsel and trial counsel should communicate openly, civilly and without rancor, endeavoring to keep the proceedings on a professional level.

SECTION 21 COURT PROCEEDINGS

Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

ATTORNEY'S PLEDGE

I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

(Signature)

(Date)

(Print Name)

(Abbreviated Without Examples)

The State Bar of California

180 Howard Street

San Francisco, CA 94105-1639

Adopted by the Board of Governors on

July 20, 2007

California Attorney Guidelines of Civility and Professionalism

(Abbreviated, adopted July 20, 2007)

INTRODUCTION. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end.

The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1. The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2. An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3. An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior. An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4. An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5. An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

SECTION 6. An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

SECTION 7. The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

SECTION 8. Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

SECTION 9. Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the California Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

SECTION 10. An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

SECTION 11. It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

SECTION 12. In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13. An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every case as soon possible and, when appropriate, during the course of litigation.

SECTION 14. To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

SECTION 15. An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

SECTION 16. An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17. An attorney should respect the privacy rights of parties and non-parties.

SECTION 18. An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

SECTION 19. In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interests of the children in mind.

SECTION 20. In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

SECTION 21. Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

ATTORNEY'S PLEDGE. I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

CIVILITY TOOLBOX

The State Bar California
180 Howard Street
San Francisco, CA 94105

July 17, 2009

THE STATE BAR
OF CALIFORNIA

Sheldon H. Sloan
Past President

180 Howard Street, San Francisco, California 94105 TEL: (415) 538-2000

July 17, 2009

> "As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution."
>
> [*California Attorney Guidelines of Civility and Professionalism*]

Dear Bar Leader:

During my tenure as President of the Board of Governors of the State Bar of California in 2007, the Board took a giant stride forward to address issues of civility in the practice of law in California by adopting the *California Attorney Guidelines of Civility and Professionalism*. The *Guidelines* provide best practices of civility in the practice of law and are offered to promote both the effectiveness and the enjoyment of the practice of law and economical client representation. As we all know, uncivil or unprofessional conduct not only disserves the individuals involved, it demeans the profession as a whole and our system of justice. A growth in uncivil conduct in the legal profession caused me to initiate the effort for Board adoption of civility and professionalism guidelines.

I hope you will join me in encouraging California attorneys to engage in best practices of civility by making the *Guidelines* their personal standards and goals. Attorneys in your organization can do this by taking the pledge that appears at the end of the *Guidelines*. And I hope your bar association will join the State Bar by adopting the *Guidelines* and implementing them for your membership. If your organization already has a code of professionalism, the *California Attorney Guidelines of Civility and Professionalism* should be complementary to what you have.

The Attorney Civility Task Force, which drafted the *Guidelines* for the Board of Governors, has created a Civility Toolbox to assist bar associations and California attorneys in the ongoing effort to promote civility and professionalism in the practice of law. Resources include the *Guidelines*, the attorney pledge, a sample resolution for bar associations and local court order. Since we are finding that the *Guidelines* have been a popular MCLE subject, we have also included a sample PowerPoint presentation for an MCLE program. The Civility Toolbox is located on the State Bar's Web site at www.calbar.ca.gov, under:

- Reports (Published reports in 2007);
- Member Benefits>Member Services Center;
- Ethics (Ethics Information); and
- Attorney Resources>Law Practice Management

In closing, I encourage you to step forward and support this effort to promote civility in the legal profession, and I hope the Civility Toolbox will be useful for this purpose.

Sincerely,

President of the Board of Governors
October 2006 - September 2007

Attorney Civility Task Force

Hon. Marguerite Downing (CHAIR)
Monterey Park, CA

Mary Alexander San Francisco, CA	Donald F. Miles Los Angeles, CA
Terry Bridges Riverside, CA	Francis S. Ryu Los Angeles, CA
Michael W. Case Ventura, CA	Sherry M. Saffer Los Angeles, CA
Richard L. Crabtree Chico, CA	Cynthia Sands Los Angeles, CA
Dean Dennis Los Angeles, CA	Thomas G. Stolpman Long Beach, CA
Hon. Richard L. Fruin, Jr. Los Angeles, CA	Hon. Brian C. Walsh San Jose, CA
Hon. Everett A. Hewlett, Jr. San Francisco, CA	Lei-Chala I. Wilson San Diego, CA
Diane L. Karpman Los Angeles, CA	Alan S. Yochelson Los Angeles, CA
Hon. Loren E. McMaster Sacramento, CA	
Mary Yen (Staff) Office of General Counsel State Bar of California San Francisco, CA	Teri Greenman (Staff) Office of the Executive Director State Bar of California San Francisco, CA

Guidelines Timeline

- August 2006
- Attorney Civility Initiative

JULY 28, 2006 | LAW PRACTICE

Let's Open Wide the Pipeline to Diversity of Legal Profession

Forum Column

By Sheldon Sloan

"Civility and courtesy ... are expected and not to be equated with weakness."

Confession: I stole that from the Santa Clara County Bar's Code of Professionalism. However, like many of you, I see it as just plain old common sense - and also as an excellent starting point for a year in which I hope we can bring some measure of civility and courtesy back to our practices, both in our courtrooms as well as in our interactions with each other.

When I ran three years ago for a seat on the State Bar Board of Governors, I hoped to improve the image and welfare of lawyers and help the public see all the good things that lawyers do. While serving on the board, I came to see more clearly that, as lawyers, we hold our image in our own hands - that if we practice our profession in a more civil manner, then the public will be more open to assessing what we do rather than how badly or inappropriately we behave while we're doing it.

Some may call me old-fashioned, but I say to them: You can practice the law and do a good job for your client without being rude and aggressive and causing a lot of trouble for everybody. That's why I hope to make my upcoming term as State Bar president a year in which we bring back professionalism, and along with it some public respect.

This should not be difficult. Most of us just need to hearken back to what our moms and dads and schoolteachers tried to instill in us when we were kids and apply it to our chosen profession: A good lawyer doesn't need to schedule depositions when an opponent is out of town on vacation.

A good lawyer doesn't need to serve documents in a way that unfairly limits the other party's opportunity to respond.

Big firm lawyers don't need to try to crush opposing sole practitioners by papering them to death.

And no lawyer should ever make false, misleading or exaggerated statements while grandstanding for the cameras or any other means of reaching the public.

As I said, all just plain common sense. And all, I note, included in different sections of Santa Clara's excellent Code of Professionalism.

During my years as a lawyer, on the bench and on the State Bar board, there is one excellent life lesson I can say I have learned well: Don't try to reinvent the wheel - and certainly don't spend State Bar dues doing it - when you have such good friends in Santa Clara County, and elsewhere, who already have done most of the work.

This code hits all the important points: responsibilities to the public and to the client; scheduling; continuances and extensions of time; service of papers; punctuality; writings submitted to the court; communications with adversaries; discovery; motion practice; dealing with nonparty witnesses; ex parte communications with the court; settlement and ADR; trials and hearings; default; social relationships; privacy; and communication about the legal system and with participants. I commend you to read the full document: www.scbba.com. I've also been sent another excellent one, this one done by the legislative section of the State Bar, and can be found at www.calbar.ca.gov/litigation.

No doubt other excellent, all-inclusive codes also exist. I intend that we take Santa Clara's, the State Bar litigation section's and any others, form a task force and tweak the existing documents into a statewide code to be approved by the new board of governors. We can do this in the first few months of the new board year that starts at our annual meeting in early October if the board of governors approves my idea.

Then our real work begins. It is our job as stewards of the State Bar to figure out how to get the lawyers of California to sign on to a pledge to our new statewide code of professionalism and institute these ideals into action. This will be the real test. If we fail to get the word out, or fail to motivate our membership to sign on, our work will go for naught and our avenue to public understanding and respect will narrow even more.

It would be a great shame if our effort to gain more public respect falters just as the State Bar's other excellent ongoing project, Pipeline to Diversity, is beginning to come to fruition.

Sheldon Sloan is president-elect of the State Bar of California. A former municipal court judge, he is of-counsel for Lewis, Brisbois, Bisgaard & Smith in Los Angeles.

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- February 2007
  - Informal Feedback and Public Hearings on Proposed California Attorney Civility Standards
- May 2007
  - Proposal for California Attorney Guidelines of Civility and Professionalism: Request authorization for 30-day public comment period
- July 2007
  - Proposal for "California Attorney Guidelines of Civility and Professionalism" – Return From 30-day Public Comment and Recommendation For Adoption

- July 20, 2007
  - State Bar Approves Civility Guidelines

CIVILITY GUIDELINES OVERVIEW

March 20, 2009

SUMMARY

At the request of Shelly Sloan, then President-Elect of the Board of Governors of the State Bar, the Board appointed the Attorney Civility Task Force in August 2006 to study and recommend aspirational civility guidelines for adoption by the Board. After extensively vetting draft guidelines throughout the state, in May 2007 the task force reported to the Board Committee on Member Oversight (MOC) with a request for public comment on a proposed new set of voluntary guidelines called the "California Attorney Guidelines of Civility and Professionalism". MOC authorized publication of the proposal for a 30-day public comment period.

After reviewing the public comments, the task force further revised the Guidelines. In July 2007, the Board adopted the Guidelines as best practices of civility in the practice of law in California.

Since the Board's adoption of the Guidelines in 2007, ongoing interest throughout the state has resulted in adoption and implementation of the Guidelines at local levels.

BACKGROUND

In 1995, the Commission on the Future of the Legal Profession and the State Bar of California ("Futures Commission") issued its report, "The Future of the California Bar". Among other things, this report made recommendations to promote professionalism[1] . Recommendation 58 stated that the California legal profession should consider adoption of an aspirational, statewide code of professionalism containing a broad list of aspirational goals and precatory duties, which would define the desired goals and aims of the legal profession and the desired qualities of proper professional practice. The report noted there is some concern that an aspirational code would create confusion regarding its binding effect or precedential value and result in "grey letter" rules of conduct. However, the Commission believed that a code of professionalism would send an important message to the membership with a long-range salutary effect. The Futures Commission viewed attorney civility as a central tenet of professionalism and that the absence of civility undermines the proper administration of justice. The commission believed that civility is especially important given our adversarial system of justice.[2]

In 1997, the State Bar and the American Bar Association co-sponsored a "Conference on Professionalism for the 21st Century." Unfortunately, veto of the State Bar's dues bill in the Fall of 1997 caused an interruption in the Bar's work on professionalism.

THE ATTORNEY CIVILITY TASK FORCE

In mid-2006, Sheldon Sloan was elected the next President of the Board of Governors. President-Elect Sloan voiced concern about a perceived decline in civility in the practice of law.

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[1] The Futures Commission viewed professionalism as encompassing ethical practice, competence, civility, service to the public, and self-regulation. (Futures Commission final report, pp. 101-102.)

[2] Futures Commission final report, pp. 106, 108.

At his urging, the Board appointed an Attorney Civility Task Force[3] and charged it with considering whether it is more appropriate to recommend one set of voluntary, aspirational civility goals or to recommend an alternative, such as a sample selection of existing civility goals.

The task force quickly reached consensus to recommend one set of civility guidelines that could be applicable anywhere in the state on a voluntary basis. The task force believed it appropriate to recommend two versions as a package-- the entire text of guidelines with detailed examples and a shortened 2-page version without the examples. The task force synthesized provisions from other codes and added text for additional subjects in order to make the scope of the draft guidelines broad enough for statewide application, regardless of location or area of practice.

The task force strongly believed the guidelines should reflect a wide range of views. In February and March of 2007, the draft guidelines were circulated for informal vetting and feedback, which included two public hearings, vetting at bar association MCLE programs and law school classes, and feedback from approximately thirty individuals and bar organizations. The task force incorporated suggestions from the feedback into every section of the guidelines.

"CALIFORNIA ATTORNEY GUIDELINES OF CIVILITY AND PROFESSIONALISM"

In May 2007, MOC authorized a 30-day public comment period for the proposed "California Attorney Guidelines of Civility and Professionalism". The Guidelines were published in the California Bar Journal, online, by e-blast to voluntary bar associations in California, and were sent to 200 individuals and organizations that had requested the earlier draft in February and March.

Introduction

The Introduction to the Guidelines sets their context and states the intention that the Guidelines foster a level of civility and professionalism as the standard of civility in the practice of law in California. The Introduction states that the Guidelines are not mandatory rules of professional conduct, nor rules of practice or standards of care, and that the Guidelines are not to be used as the independent basis for disciplinary charges or claims of professional negligence. This kind of statement is considered important for the Guidelines. Because these are Guidelines of a mandatory integrated state bar, it is important to distinguish between the mandatory Rules of Professional Conduct, which must be approved by the California Supreme Court for disciplinary purposes, and voluntary civility guidelines adopted by the Board of Governors without additional approval by the Supreme Court for disciplinary purposes.[4]

Twenty-one Sections of the Guidelines

[3] Task force members were: Marguerite Downing (chair); Mary Alexander; Terry Bridges; Michael W. Case; Richard L. Crabtree; Dean Dennis; Hon. Richard L. Fruin., Jr.; Forentino R. Garza; Hon. Everett A. Hewlett, Jr.; Diane L. Karpman; Hon. Loren E. McMaster; Donald F. Miles (individually, not as a State Bar Court judge); Richard Rubin; Francis S. Ryu; Sherry M. Saffer; Cynthia Sands; Thomas G. Stolpman; Hon. Brian C. Walsh; Lei-Chala I. Wilson; and Alan S. Yochelson.

[4] For this reason, "guidelines" was selected over "code", "standards", "rules", or other words having a mandatory connotation.

Twenty-one sections address civility issues in client relations and responsibilities to the profession, public and administration of justice, in addition to civility issues and responsibilities in attorney-attorney relationships.

* Section 1 [Responsibilities to the Justice System]
* Section 2 [Responsibilities to the Public and the Profession]
* Section 3 [Responsibilities to the Client and Client Representation]
* Section 4 [Communications]
* Section 5 [Punctuality]
* Section 6 [Scheduling, Continuances and Extensions of Time]
* Section 7 [Service of Papers]
* Section 8 [Writings submitted to the Court, Counsel or Other Parties]
* Section 9 [Discovery]
* Section 10 [Motion Practice]
* Section 11 [Dealing with Nonparty Witnesses]
* Section 12 [Ex Parte Communication with the Court]
* Section 13 [Settlement and Alternative Dispute Resolution]
* Section 14 [Conduct in Court]
* Section 15 [Default]
* Section 16 [Social Relationships with Judicial Officers, Neutrals and Court Appointed Experts]
* Section 17 [Privacy]
* Section 18 [Negotiation of Written Agreements].
* Section 19 [Additional provision for Family Law Practitioners]
* Section 20 [Additional provision for Criminal Law Practitioners].
* Section 21 [Court Proceedings]

Many of the sections are for civil litigation practice. In addition, since the Guidelines are intended for all California attorneys, some sections cover other subjects or areas of law. To avoid unwieldiness, there was a limit on the number of other areas of law that could be covered. To the extent that guidelines could apply to other areas of practice, the spirit of the Guidelines would permit extending the guidelines as appropriate.

Attorney Pledge
An optional pledge appears at the end of the Guidelines for attorneys who wish to take the pledge.

Adoption by the Board of Governors
In July 2007, after the task force made further revisions to incorporate suggestions made in public comment, the Board of Governors adopted the “California Attorney Guidelines of Civility and Professionalism” as a model set of guidelines for members, voluntary bar associations and courts to use and implement in a way that is effective for the local legal community.

IMPLEMENTATION OF THE GUIDELINES

Since their adoption by the Board, there has been on-going interest in the educational value of the Guidelines as a model of best practices of civility in the practice of law in California. That interest has been expressed in a variety of activities, including the following:

- March 18, 2008, the Board of Directors of the Riverside County Bar Association approved and adopted the Guidelines.

- March 26, 2008, the Board of Directors of the Leo A. Deegan Inn of Court adopted a resolution approving and adopting the Guidelines.

- April 24, 2008, the San Diego County Bar Association introduced an updated Attorney Code of Conduct. The Attorney Code of Conduct was a cornerstone of the bar association's 2008 Campaign on Civility, Integrity and Professionalism.

- September 2008, a program on the Guidelines was given at the State Bar's annual meeting in Monterey, California. A similar program had been given at the annual meeting in 2007.

- June 11, 2008, the Joseph B. Campbell Inn of Court adopted the Guidelines.

- July 1, 2008, the Sacramento Superior Court recognized the existence of the Guidelines, effective this date. (Local rule 9.22)

- January 2009, the Schwartz/Levi American Inn of Court presented a program in civility in the practice of law.

- March 18, 2009, a program on the judge's role in ensuring civility and professionalism civility opened the 2009 Civil Law Institute sponsored by the California Center for Judicial Education and Research.

California Attorney Guidelines of Civility and Professionalism

FAQs

(July 2009)

1. **What are the California Attorney Guidelines of Civility and Professionalism?**

The Guidelines are voluntary goals of best practices of civility in the practice of law in California.

2. **Why are California Attorney Guidelines of Civility and Professionalism necessary?**

Uncivil or unprofessional conduct not only disserves the individuals involved, it demeans the profession as a whole and our system of justice. The Guidelines promote both the effectiveness and the enjoyment of the practice of law and economical client representation by providing best practices of civility in the practice of law.

3. **How were the Guidelines developed?**

In 2007, the Board of Governors appointed a task force of attorneys and judges from every State Bar district. The task force recommended the California Attorney Guidelines of Civility and Professionalism to the Board after studying civility codes of other organizations, adapting provisions from those codes and creating new provisions for practice in California, and incorporating feedback from members, judicial officers, the public, organizations and others in two periods of public comment and two public hearings.

4. **Why are there two sets of Guidelines?**

The two versions are complementary. The version with examples gives detail to illustrate problem areas and best practices for the subject of the Section. The two-page version is a concise summary that can be conveniently carried by the attorney when out of the office.

5. **Do the Guidelines create standards of conduct or standards of care?**

No. The Introduction says they do not create standards of conduct or standards of care, and they do not supplant any rules or laws that govern attorney conduct. The Guidelines are not an independent basis for imposition of discipline or a finding of malpractice.

6. **How are the Guidelines different from the Rules of Professional Conduct or laws on the practice of law in California?**

Unlike the California Rules of Professional Conduct, the Supreme Court of California has not approved the Guidelines or mandated that California attorneys follow the Guidelines. Similarly, the Guidelines do not have the force of legislative enactments.

7. Are the Guidelines mandatory?

The Guidelines are cast in terms of “should”, not “must”. The State Bar follows the usage conventions of the California Supreme Court, which is that “should” expresses a preference, a nonbinding recommendation or non-mandatory conduct.

8. If they are not mandatory, why should an attorney abide by the Guidelines?

Civility in the practice of law promotes effectiveness and enjoyment of the practice of law. They also promote economical client representation. Conversely, uncivil conduct not only disserves clients, it demeans the profession and the American system of justice.

9. Are these Guidelines for statewide, local, law firm or individual use?

The Guidelines may be adopted for use by any or all of these. Courts, too, may adopt or endorse the Guidelines as best practices to be followed.

10. If the guidelines are adopted by our local bar association or law firms, what should be done to implement them?

Entities implement the Guidelines in a variety of ways to keep them viable, alive, and relevant. The Guidelines can be implemented by a number actions, including the following: through MCLE programs; by publicizing in bar association directories those attorneys who have taken the pledge; through local courts endorsement of the Guidelines; publicly posting the Guidelines and signed pledge; writing news articles on the subject of civility and professionalism; and through a mentor system for best practices of civility in the profession.

11. My organization already has a code of professionalism. How do the Guidelines relate to my organization’s code of professionalism?

The Guidelines are intended to be complementary with codes of professionalism adopted by bar associations in California.

12. Do the Guidelines denigrate an attorney’s duty of zealous representation?

No. Attorneys are officers of the court with responsibilities to the administration of justice, the courts, the public, and other counsel, in addition to attorneys’ duties to their clients. Civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation are all essential to the fair administration of justice and conflict resolution.

13. Why do some Guidelines seem redundant to local rules of court or some rules of professional conduct?

The Guidelines address problems in conduct that have been observed as arising from a local rule of court or other prescribed rule. The examples given in the Guidelines illustrate what do to, or not do, to address a particular situation.

14. There is no statement that the Guidelines are enforceable through sanctions. Is this intentional?

Yes. Sanctions can be expected to lead to a less collegial relationship among counsel, and tend to undermine the civility effort. Sanctions also tend to increase the costs and expenses of the case.

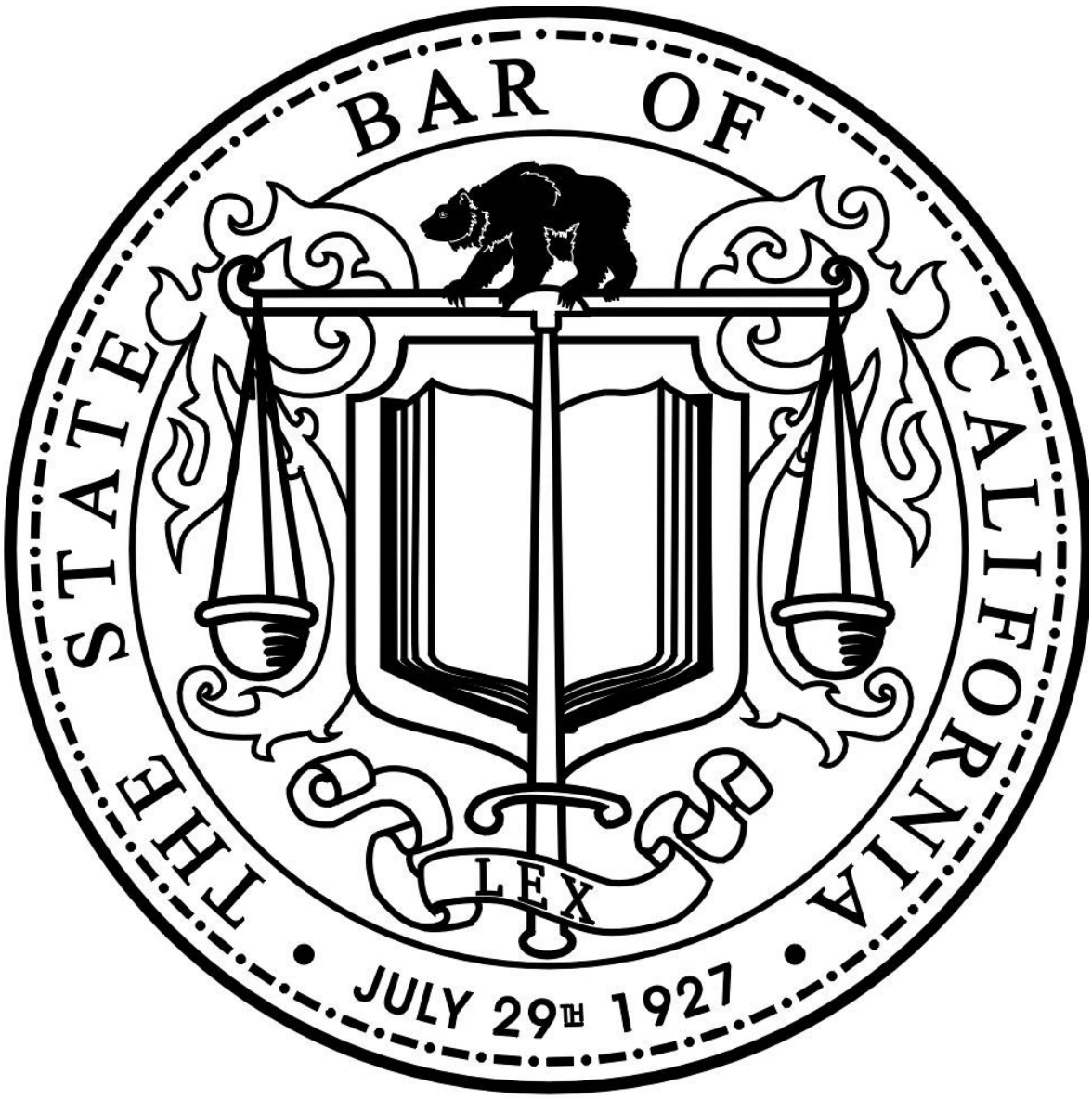
15. Section 16 seems to diverge from existing law. What is the reason for this?

When an attorney has any close, personal relationships with judicial officers, neutrals and court appointed experts, the law places a burden of disclosure on the judicial officer. The Guidelines go beyond that burden, so that as a matter of courtesy and to avoid a waste of court resources, an attorney should notify an opposing counsel of party if the attorney has a close, personal relationship with one of these categories of people.

16. There is nothing in the Guidelines for my area of law. Do they apply to me?

Yes, they could. The Guidelines are potentially applicable to all California attorneys. To avoid becoming unwieldy, the Guidelines do not cover all areas of law. However, to the extent that the guidelines could apply to areas of practice that are not mentioned, the spirit of the Guidelines would permit extending them as appropriate.

California Attorney
Guidelines of Civility and Professionalism



The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Adopted by the Board of Governors on
July 20, 2007

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CALIFORNIA ATTORNEY
GUIDELINES OF CIVILITY AND PROFESSIONALISM

(Adopted July 20, 2007)

INTRODUCTION

As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1
RESPONSIBILITIES TO THE JUSTICE SYSTEM

The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2
RESPONSIBILITIES TO THE PUBLIC AND THE PROFESSION

An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3
RESPONSIBILITIES TO THE CLIENT AND CLIENT REPRESENTATION

An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4
COMMUNICATIONS

An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

For example, in communications about the legal system and with adversaries:

a. An attorney's conduct should be consistent with high respect and esteem for the civil and criminal justice systems.

b. This guideline does not prohibit an attorney's good faith expression of dissent or criticism made in public or private discussions for the purpose of improving the legal system or profession.

c. An attorney should not disparage the intelligence, integrity, ethics, morals or behavior of the court or other counsel, parties or participants when those characteristics are not at issue.

d. Respecting cultural diversity, an attorney should not disparage another's personal characteristics.

e. An attorney should not make exaggerated, false, or misleading statements to the media while representing a party in a pending matter.

f. An attorney should avoid hostile, demeaning or humiliating words.

g. An attorney should not create a false or misleading record of events or attribute to an opposing counsel a position not taken.

h. An attorney should agree to reasonable requests in the interests of efficiency and economy, including agreeing to a waiver of procedural formalities where appropriate.

i. Unless specifically permitted or invited by the court or authorized by law, an attorney should not correspond directly with the court regarding a case.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5
PUNCTUALITY

An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

For example:

a. An attorney should arrive sufficiently in advance to resolve preliminary matters.

b. An attorney should timely notify participants when the attorney will be late or is aware that a participant will be late.

SECTION 6
SCHEDULING, CONTINUANCES AND EXTENSIONS OF TIME

An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

For example:

a. An attorney should consider the scheduling interests of the court, other counsel or party, and other participants, should schedule by agreement whenever possible, and should send formal notice after agreement is reached.

b. An attorney should not arbitrarily or unreasonably withhold consent to a request for scheduling accommodations or engage in delay tactics.

c. An attorney should promptly notify the court and other counsel of problems with key participants' availability.

d. An attorney should promptly notify other counsel and, if appropriate, the court, when scheduled meetings, hearings or depositions must be cancelled or rescheduled, and provide alternate dates when possible.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

For example:

a. Unless time is of the essence, an attorney should agree to an extension without requiring motions or other formalities, regardless of whether the requesting counsel previously refused to grant an extension.

b. An attorney should agree to an appropriate continuance when new counsel substitutes in.

c. An attorney should advise clients that failing to agree with reasonable requests for time extensions is inappropriate.

d. An attorney should not use extensions or continuances for harassment or to extend litigation.

e. An attorney should place conditions on an agreement to an extension only if they are fair and essential or if the attorney is entitled to impose them, for instance to preserve rights or seek reciprocal scheduling concessions.

f. If an attorney intends that a request for or agreement to an extension shall cut off a party's substantive rights or procedural options, the attorney should disclose that intent at the time of the request or agreement.

SECTION 7
SERVICE OF PAPERS

The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

For example:

a. An attorney should serve papers on the attorney who is responsible for the matter at his or her principal place of work.

b. If possible, papers should be served upon counsel at a time agreed upon in advance.

c. When serving papers, an attorney should allow sufficient time for opposing counsel to prepare for a court appearance or to respond to the papers.

d. An attorney should not serve papers to take advantage of an opponent's absence or to inconvenience the opponent, for instance by serving papers late on Friday afternoon or the day preceding a holiday.

e. When it is likely that service by mail will prejudice an opposing party, an attorney should serve the papers by other permissible means.

SECTION 8
WRITINGS SUBMITTED TO THE COURT, COUNSEL OR OTHER PARTIES

Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

For example:

a. An attorney should not make ad hominem attacks on opposing counsel.

b. Unless at issue or relevant in a particular proceeding, an attorney should avoid degrading the intelligence, ethics, morals, integrity, or personal behavior of others.

c. An attorney should clearly identify all revisions in a document previously submitted to the court or other counsel.

SECTION 9
DISCOVERY

Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the Civil Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties, or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

For example:

a. As to Depositions:

1. When another party notices a deposition for the near future, absent unusual circumstances, an attorney should not schedule another deposition in the same case for an earlier date without opposing counsel's agreement.

2. An attorney should delay a scheduled deposition only when necessary to address scheduling problems and not in bad faith.

3. An attorney should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer.

4. An attorney should remember that vigorous advocacy can be consistent with professional courtesy, and that arguments or conflicts with other counsel should not be personal.

5. An attorney questioning a deponent should provide other counsel present with a copy of any documents shown to the deponent before or contemporaneously with showing the document to the deponent.

6. Once a question is asked, an attorney should not interrupt a deposition or make an objection for the purpose of coaching a deponent or suggesting answers.

7. An attorney should not direct a deponent to refuse to answer a question or end the deposition without a legal basis for doing so.

8. An attorney should refrain from self-serving speeches and speaking objections.

b. As to Document Demands:

1. Document requests should be used only to seek those documents that are reasonably needed to prosecute or defend an action.

2. An attorney should not make demands to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

3. If an attorney inadvertently receives a privileged document, the attorney should promptly notify the producing party that the document has been received.

4. In responding to a document demand, an attorney should not intentionally misconstrue a request in such a way as to avoid disclosure or withhold a document on the grounds of privilege.

5. An attorney should not produce disorganized or unintelligible documents, or produce documents in a way that hides or obscures the existence of particular documents.

6. An attorney should not delay in producing a document in order to prevent opposing counsel from inspecting the document prior to or during a scheduled deposition or for some other tactical reason.

c. As to Interrogatories:

1. An attorney should narrowly tailor special interrogatories and not use them to harass or impose an undue burden or expense on an opposing party.

2. An attorney should not intentionally misconstrue or respond to interrogatories in a manner that is not truly responsive.

3. When an attorney lacks a good faith belief in the merit of an objection, the attorney should not object to an interrogatory. If an interrogatory is objectionable in part, an attorney should answer the unobjectionable part.

SECTION 10
MOTION PRACTICE

An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

For example:

a. Before filing demurrers, motions to strike, motions to transfer venue, and motions for judgment on the pleadings, an attorney should engage in more than a pro forma effort to resolve the issue.

b. In complying with any meet and confer requirement in the California Code of Civil Procedure, an attorney should speak personally with opposing counsel and engage in a good faith effort to resolve or informally limit an issue.

c. An attorney should not engage in conduct that forces an opposing counsel to file a motion and then not oppose the motion.

d. An attorney who has no reasonable objection to a proposed motion should promptly make this position known to opposing counsel, who then may file an unopposed motion or avoid filing a motion.

e. After opposing a motion, if an attorney recognizes that the movant's position is correct, the attorney should promptly advise the movant and the court of this change in position.

f. Because requests for monetary sanctions, even if statutorily authorized, can lead to the destruction of a productive relationship between counsel or parties, monetary sanctions should not be sought unless fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to resolve the issue informally among counsel.

SECTION 11
DEALING WITH NONPARTY WITNESSES

It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

For example:

a. An attorney should be courteous and respectful in communications with nonparty witnesses.

b. Upon request, an attorney should extend professional courtesies and grant reasonable accommodations, unless to do so would materially prejudice the client's lawful objectives.

c. An attorney should take special care to protect a witness from undue harassment or embarrassment and to state questions in a form that is appropriate to the witness's age and development.

d. An attorney should not issue a subpoena to a nonparty witness for inappropriate tactical or strategic purposes, such as to intimidate or harass the nonparty.

e. As soon as an attorney knows that a previously scheduled deposition will or will not, in fact, go forward as scheduled, the attorney should notify all counsel.

f. An attorney who obtains a document pursuant to a deposition subpoena should, upon request, make copies of the document available to all other counsel at their expense.

SECTION 12
EX PARTE COMMUNICATION WITH THE COURT

In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13
SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every matter as soon as possible and, when appropriate, during the course of litigation.

For example:

a. An attorney should advise a client at the outset of the relationship of the availability of informal or alternative dispute resolution.

b. An attorney should attempt to evaluate a matter objectively and to de-escalate any controversy or dispute in an effort to resolve or limit the controversy or dispute.

c. An attorney should consider whether alternative dispute resolution would adequately serve a client's interest and dispose of the controversy expeditiously and economically.

d. An attorney should honor a client's desire to settle the dispute quickly and in a cost-effective manner.

e. An attorney should use an alternative dispute resolution process for purposes of settlement and not for delay or other improper purposes, such as discovery.

f. An attorney should participate in good faith, and assist the alternative dispute officer by providing pertinent and accurate facts, law, theories, opinions and arguments in an attempt to resolve a dispute.

g. An attorney should not falsely hold out the possibility of settlement as a means for terminating discovery or delaying trial.

SECTION 14
CONDUCT IN COURT

To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

For example:

a. An attorney should be punctual and prepared.

b. An attorney's conduct should avoid disorder or disruption and preserve the right to a fair trial.

c. An attorney should maintain respect for and confidence in a judicial office by displaying courtesy, dignity and respect toward the court and courtroom personnel.

d. An attorney should refrain from conduct that inappropriately demeans another person.

e. Before appearing in court, an attorney should advise a client of the kind of behavior expected of the client and endeavor to prevent the client from creating disorder or disruption in the courtroom.

f. An attorney should make objections for legitimate and good faith reasons, and not for the purpose of harassment or delay.

g. An attorney should honor an opposing counsel's requests that do not materially prejudice the rights of the attorney's client or sacrifice tactical advantage.

h. While appearing before the court, an attorney should address all arguments, objections and requests to the court, rather than directly to opposing counsel.

i. While appearing in court, an attorney should demonstrate sensitivity to any party, witness or attorney who has requested, or may need, accommodation as a person with physical or mental impairment, so as to foster full and fair access of all persons to the court.

SECTION 15
DEFAULT

An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

For example an attorney should not race opposing counsel to the courthouse to knowingly enter a default before a responsive pleading can be filed. This guideline is intended to apply only to taking a default when there is a failure to timely respond to complaints, cross-complaints, and amended pleadings.

SECTION 16
SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS, NEUTRALS AND COURT APPOINTED EXPERTS

An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17
PRIVACY

An attorney should respect the privacy rights of parties and nonparties.

For example:

a. An attorney should not inquire into, attempt or threaten to use, private facts concerning any party or other individuals for the purpose of gaining an advantage in a case. This guideline does not preclude inquiry into sensitive matters relevant to an issue, as long as the inquiry is pursued as narrowly as possible.

b. If an attorney must inquire into an individual's private affairs, the attorney should cooperate in arranging for protective measures, including stipulating to an appropriate protective order, designed to assure that the information revealed is disclosed only for purposes relevant to the pending litigation.

c. Nothing herein shall be construed as authorizing the withholding of information in violation of applicable law.

SECTION 18
NEGOTIATION OF WRITTEN AGREEMENTS

An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

For example:

a. An attorney should use boilerplate provisions only if they apply to the subject of the agreement.

b. If an attorney modifies a document, the attorney should clearly identify the change and bring it to the attention of other counsel.

c. An attorney should avoid negotiating tactics that are abusive; that are not made in good faith; that threaten inappropriate legal action; that are not true; that set arbitrary deadlines; that are intended solely to gain an unfair advantage or take unfair advantage of a superior bargaining position; or that do not accurately reflect the client's wishes or previous oral agreements.

d. An attorney should not participate in an action or the preparation of a document that is intended to circumvent or violate applicable laws or rules.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

For example:

a. Attorneys should be mindful that their primary goals are to negotiate in a manner that accurately represents their client and the purpose for which they were retained.

b. Attorneys should successfully and timely conclude a transaction in a manner that accurately represents the parties' intentions and has the least likely potential for litigation.

c. With client approval, attorneys should consider giving each party permission to contact the employees of the other party for the purpose of promptly and efficiently obtaining necessary information and documents.

SECTION 19
ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interest of the children in mind.

For example:

a. An attorney should discourage and should not abet vindictive conduct.

b. An attorney should treat all participants with courtesy and respect in order to minimize the emotional intensity of a family dispute.

c. An attorney representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the family law proceeding on the child.

SECTION 20
ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

For example:

a. A prosecutor should not question the propriety of defending a person accused of a crime.

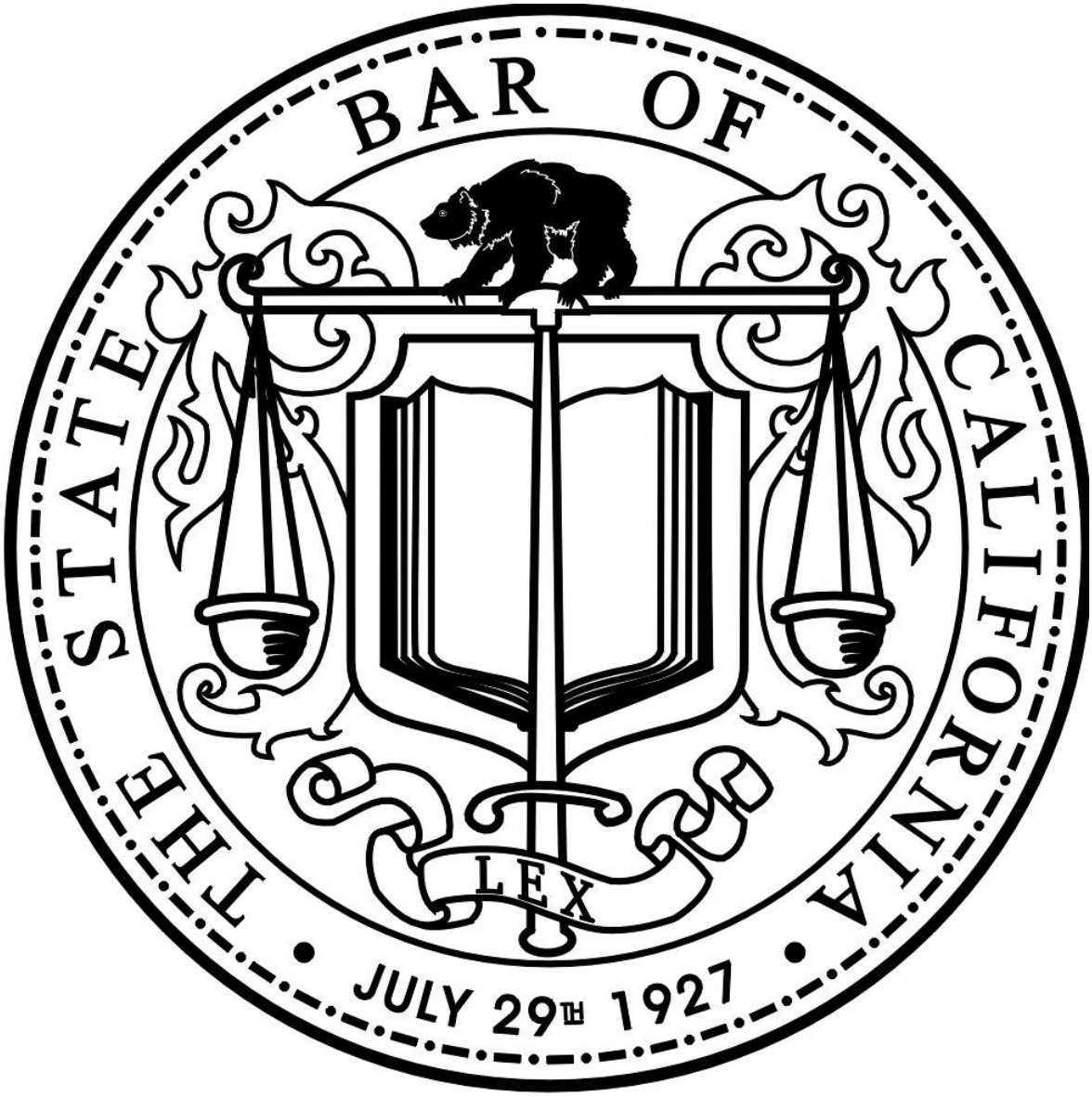
b. Appellate counsel and trial counsel should communicate openly, civilly and without rancor, endeavoring to keep the proceedings on a professional level.

SECTION 21
COURT PROCEEDINGS

Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

California Attorney
Guidelines of Civility and Professionalism

(Abbreviated Without Examples)



The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Adopted by the Board of Governors on
July 20, 2007

California Attorney Guidelines of Civility and Professionalism

(Abbreviated, adopted July 20, 2007)

INTRODUCTION. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1. The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2. An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3. An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4. An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5. An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

SECTION 6. An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

SECTION 7. The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

SECTION 8. Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

SECTION 9. Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the California Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

SECTION 10. An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

SECTION 11. It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

SECTION 12. In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13. An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every case as soon possible and, when appropriate, during the course of litigation.

SECTION 14. To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

SECTION 15. An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

SECTION 16. An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17. An attorney should respect the privacy rights of parties and non-parties.

SECTION 18. An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

SECTION 19. In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interests of the children in mind.

SECTION 20. In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

SECTION 21. Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

ATTORNEY'S PLEDGE. I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

ATTORNEY'S PLEDGE

I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

_____ _____

(Signature) (Date)

_____

(Print Name)

RESOLUTION OF [_____]
APPROVING AND ADOPTING CALIFORNIA ATTORNEY GUIDELINES OF CIVILITY AND PROFESSIONALISM

RECITALS

A. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

B. Civility and professionalism have been affected by a number of factors, as a result of which there is a need for attorneys to recommit themselves to the principles of civility and professionalism.

C. On July 20, 2007, the Board of Governors of the State Bar of California adopted California Attorney Guidelines of Civility and Professionalism.

D. The Board of Directors of [_____] are of the unanimous opinion that the Guidelines will be of significant assistance in encouraging members of [_____] to continue to enhance their reputation and commitment to civility and professionalism.

RESOLUTION

The Board of Directors of [_____] hereby approves and endorses the California Attorney Guidelines of Civility and Professionalism and recommends that all members of [_____] commit to and agree to be guided by such Guidelines.

Dated: _____

_____

[_____]

By: _____

California Attorney Guidelines of Civility and Professionalism

Sample Court Order

1. The Court expects counsel to be familiar with and follow the California Guidelines of Civility and Professionalism. A copy may be obtain on the web at this URL: http://calbar.ca.gov/calbar/pdfs/reports/Atty-Civility-Guide.pdf

   Uncivil or unprofessional behavior will not be tolerated.

2. The Court expects parties to resolve all disputes regarding scheduling or time extensions without the necessity of Court involvement.

AGENDA ITEM

JULY 136
Proposal for new "California Attorney Guidelines of Civility and Professionalism – Return from Public Comment

Date: July 20, 2007

TO: Members, Board Committee on Member Oversight
Members, Board of Governors

FROM: Attorney Civility Task Force

SUBJECT: Proposal for "California Attorney Guidelines of Civility and Professionalism" – Return From 30-Day Public Comment And Recommendation For Adoption

Executive Summary

The Attorney Civility Task Force was appointed this Board year to study and recommend to the Board one or more model sets of aspirational civility guidelines.

At the May 2007 meeting, the task force reported to the Board Committee on Member Oversight (MOC) with a recommendation for a new voluntary set of guidelines called the "California Attorney Guidelines of Civility and Professionalism". MOC authorized publication of the proposal for a 30-day public comment period.

This agenda item returns the proposal from public comment. In response to public comments, the task force further revised the Guidelines and now recommends their adoption, as set forth in Attachments 1 and 2.

Questions or comment may be directed to Mary Yen at mary.yen@calbar.ca.gov or (415) 538-2369.

This agenda item reflects the Attorney Civility Task Force's recommendation for guidelines of civility and professionalism, following public comment. No additional public comment period is required because modifications were only made in response to comments and do not raise new topics. The recommended Guidelines are at Attachments 1 and 2.

BACKGROUND

In 1995, the Commission on the Future of the Legal Profession and the State Bar of California ("Futures Commission") issued "The Future of the California Bar". Among other things, this report made recommendations intended to promote professionalism[1].

[1] The Futures Commission viewed professionalism as encompassing ethical practice, competence, civility, service to the public, and self-regulation. (Futures Comm'n final report, pp. 101-102.)

Recommendation 58 stated that the California legal profession should consider adoption of an aspirational, statewide code of professionalism containing a broad list of aspirational goals and precatory duties, which would define the desired goals and aims of the legal profession and the desired qualities of proper professional practice. The report noted there is some concern that an aspirational code would create confusion regarding its binding effect or precedential value and result in "grey letter" rules of conduct. However, the Commission believed that a code of professionalism would send an important message to the membership with a long-range salutary effect. The Futures Commission viewed attorney civility as a central tenet of professionalism and that the absence of civility undermines the proper administration of justice. The commission believed that civility is especially important given our adversarial system of justice.[2]

In 1997, the State Bar and the American Bar Association (ABA) co-sponsored a "Conference on Professionalism for the 21st Century." Chief Justice Ronald George of the California Supreme Court gave opening remarks. He emphasized that professionalism is a key component of public confidence in the justice system and encouraged further study of professionalism issues.[3] Unfortunately, later in 1997 the State Bar's dues bill was vetoed, which interrupted the Bar's work on this subject.

Since the Futures Commission's report was issued in 1995, various local, state and national bar organizations have adopted or updated civility guidelines. Currently, at least ten of the larger voluntary bar associations in California, and many of the mandatory integrated Bars of other states, have adopted civility guidelines[4].

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[2] Futures Commission final report, pp. 106, 108.

[3] A report from the "Conference on Professionalism for the 21st Century" includes the Chief Justice's opening remarks in which he said:

> "The ability of the justice system to perform its role in our society rests in large part on the consent and confidence of those it serves. Whether the lack of faith that we see is grounded in actual flaws or in misguided perceptions, we must take seriously the public's views and work on many fronts to improve our relationship with those we serve. . . . . ¶Whether based on the cost of litigation, undue emphasis on the business end of practice, or unrestrained advocacy, many members of the public perceive lawyers as part of the problem, not part of the solution. And within the profession itself, many lawyers decry what they see as a decline in civility and collegiality, an increase in sharp practices, and the resulting low public opinion and loss of respect."

[4] California bar associations that have civility and professionalism guidelines include: Alameda County Bar Association; Beverly Hills Bar Association; Contra Costa County Bar Association; Los Angeles County Bar Association; Marin County Bar Association; Orange County Bar Association; Sacramento County Bar Association; San Diego County Bar Association; Santa Clara County Bar Association; and Ventura County Bar Association.

Among the mandatory Bars that have adopted civility guidelines are: the Alabama State Bar; the State Bar of Arizona; The Florida Bar; the Hawaii State Bar; the Louisiana State Bar; the Mississippi State Bar; the Missouri Bar; the State Bar of Montana; the Nebraska State Bar; the Nevada State Bar; the State Bar of New Mexico; the Oregon State Bar; the Rhode Island Bar; the Virginia Bar; the Washington State Bar; and the West Virginia State Bar.

THE ATTORNEY CIVILITY TASK FORCE

The Attorney Civility Task Force[5] was charged with considering whether it is more appropriate to recommend one set of voluntary, aspirational civility goals or to recommend an alternative, such as a sample selection of existing civility goals. Either version could be used by individual members or by local bars, especially those have not adopted civility guidelines. The thought was that the Board would adopt guidelines, then assume responsibility for publicizing them and encouraging attorneys to take a civility pledge.

The task force met six times. It quickly reached consensus to recommend one set of civility guidelines that could be applicable statewide on a voluntary basis. The task force believed it appropriate to recommend two variations of essentially the same set of guidelines. One version contains the entire text of guidelines with detailed examples. The task force believed that a 2-page version, without the examples, is useful too. Therefore, this recommendation is for two versions as a package. The task force synthesized provisions from other codes into it an existing code of professionalism and drafted text for remaining subjects.[6]

The task force wanted its proposal to reflect a broad range of views. The schedule was adjusted to incorporate a period of informal vetting and feedback in February and March. Approximately 30 individuals and bar entities submitted written feedback. Six attorneys also spoke at two public hearings. The draft standards were vetted at bar association MCLE programs and law school classes where task force members participated. In response to the feedback, the task force incorporated suggestions into virtually every Section of the draft.

PROPOSED "GUIDELINES OF CIVILITY AND PROFESSIONALISM"

In light of the informal feedback period, MOC authorized a 30-day comment period at its May 2007 meeting. The proposed Guidelines were published in the *California Bar Journal,* online, and were sent by e-blast to all voluntary bar associations in California and to 200 individuals and organizations that had requested the earlier draft in February and March.

Recent activity in adopting or updating civility guidelines include: in 2006 the ABA's Family Law Section and the State Bar's Litigation Section each adopted civility codes; in 2005 the Pennsylvania Bar updated its civility code; in 2004 the Hawaii State Bar and Supreme Court amended their professionalism and civility guidelines; and in 2003 the Alameda County Bar Association amended its Statement of Professionalism and Civility.

[5] The task force consists of: Marguerite Downing (chair); Mary Alexander; Terry Bridges; Michael W. Case; Richard L. Crabtee; Dean Dennis; Hon. Richard L. Fruin., Jr.; Forentino R. Garza; Hon. Everett A. Hewlett, Jr.; Diane L. Karpman; Hon. Loren E. McMaster; Donald F. Miles (individually, not as a State Bar Court judge); Richard Rubin; Francis S. Ryu; Sherry M. Saffer; Cynthia Sands; Thomas G. Stolpman; Hon. Brian C. Walsh; Lei-Chala I. Wilson; and Alan S. Yochelson.

[6] The task force is indebted to the Santa Clara Bar Association whose Code of Professionalism was relied upon as the starting point. The task force drew from approximately 20 civility and professionalism codes, including the American Academy of Matrimonial Lawyers, the American Board of Trial Advocates, and others.

The Introduction sets the context and states the intention that the Guidelines foster a level of civility and professionalism as the standard of civility in the practice of law in California. The Introduction states that the Guidelines are not mandatory rules of professional conduct, nor rules of practice or standards of care, and that the Guidelines are not to be used as the independent basis for disciplinary charges or claims of professional negligence. This kind of statement is typically found in introductions to codes of professionalism and is considered important for these Guidelines. Because these will be Guidelines of a mandatory integrated state bar, it is important to distinguish between the mandatory rules of professional conduct that must be approved by the California Supreme Court for disciplinary purposes, and voluntary civility guidelines adopted by the Board of Governors without additional approval by the Supreme Court for disciplinary purposes.[7]

The Introduction is followed by 21 sections, as listed below. These address civility issues in client relations and responsibilities to the profession, public and administration of justice, in addition to attorney-attorney relationships. An optional Attorney Pledge appears at the end.

* Section 1 [Responsibilities to the Justice System]
* Section 2 [Responsibilities to the Public and the Profession]
* Section 3 [Responsibilities to the Client and Client Representation]
* Section 4 [Communications]
* Section 5 [Punctuality]
* Section 6 [Scheduling, Continuances and Extensions of Time]
* Section 7 [Service of Papers]
* Section 8 [Writings submitted to the Court, Counsel or Other Parties]
* Section 9 [Discovery]
* Section 10 [Motion Practice]
* Section 11 [Dealing with Nonparty Witnesses]
* Section 12 [Ex Parte Communication with the Court]
* Section 13 [Settlement and Alternative Dispute Resolution]
* Section 14 [Conduct in Court]
* Section 15 [Default]
* Section 16 [Social Relationships with Judicial Officers, Neutrals and Court Appointed Experts]
* Section 17 [Privacy]
* Section 18 [Negotiation of Written Agreements].
* Section 19 [Additional provision for Family Law Practitioners]
* Section 20 [Additional provision for Criminal Law Practitioners].
* Section 21 [Court Proceedings]

Many of the guidelines are for civil litigation practice. Since the Guidelines are intended for all California attorneys, other areas of law are included too. Still other areas of law could be covered, but the task force did not want the Guidelines to become unwieldy. To the extent that guidelines could apply to other areas of practice, the spirit of the Guidelines would permit extending the guidelines as appropriate.

[7] For this reason, and in response to feedback, the word “guidelines” was selected in order to avoid using “code”, “standards” or “rules”, which have a mandatory connotation.

PUBLIC COMMENT RECEIVED

The proposal received 31 written comments, as indicated briefly below. A longer summary of the comments is at Attachment 5. Actual comments will be available at your meeting.

Christine J. Kim, Deputy County Counsel, County of Tehama. The Guidelines are long overdue, comprehensive and clear. Offers a suggestion for Section 19.

Thomas J. Lincoln, Attorney, The Guidelines look good.

David Casselman, Attorney. Nice work. Offers a couple of suggestions.

Jonathan Weiss, Attorney. Observed two attorneys in court who demonstrated the sort of professionalism proposed in the Guidelines.

Linda A. Iannelli, Attorney. The Guidelines are fine. Would like a guideline for civility at voluntary bar association events.

Jim Flanagan, Attorney. The Guidelines are common sense. They can be implemented through law schools, continuing education and publication in general newspapers.

J. Daniel Holsenback and Christopher Healey, Attorneys. The Guidelines are well written and reflect careful consideration of the issues. Offers a suggestion for Section 9 and suggests language to encourage law firms to include professional and civil conduct in their training for new lawyers.

Corrine Bielejeski, law clerk to Hon. Edward Jellen, U.S. Bankruptcy Court. The Guidelines cover a variety of subjects and cover them well. Offers editorial suggestions.

Jonathan G. Stein, Attorney. The Guidelines need an enforcement mechanism.

Clarke Stone, President, Santa Clara County Bar Association (SCCBA). SCCBA supports the Guidelines. They should be promoted as a model set of Guidelines for voluntary bar associations to use and implement in a way that is effective for the local legal community and bench. Promoting the Guidelines as a model will reduce confusion that the Guidelines are mandatory and eliminate any impression that they are disciplinary rules, or will be used for disciplinary purposes, or are being promoted for use by the bench as a basis for sanctions. SCCBA offers suggestions for the Introduction and specific Sections. SCCBA also offers an alternative viewpoint that the Guidelines are overly general and broad, that they duplicate Rules of Professional Conduct, and that they will result in a potential disciplinary standard without procedural due process in implementation.

Jason Bezis, Attorney. The short version is concise and will facilitate practitioners' internalization of the goals. The Guidelines will not reign in uncivil attorneys. The Bar should discipline attorneys for uncivil conduct as well as adopt Guidelines.

Philip Andreen, Attorney. Suggests three specific guidelines for adoption.

William Hansult, Attorney. The Guidelines need teeth, like sanctions. Asks that a specific situation be covered.

Leonard J. Umina, Nonattorney. The Guidelines should be enforceable with penalties for violation.

John Amberg, Chair of COPRAC. The Guidelines are still too long, too detailed and too general. Some topics are covered by the Rules of Professional Conduct, the State Bar Act, and civility codes of voluntary bar associations and courts. The Guidelines appear to create duties that are inconsistent and confusing, and may lead to unintended consequences. Substantial bodies of rules and statutes already occupy this field. To the extent the Guidelines duplicate existing rules, they will be confusing. The Guidelines set standards that may be inconsistent with fiduciary duties to clients and the law. The Attorney Pledge is unnecessary. Assuming Guidelines will be adopted, COPRAC offers specific comments for the Introduction and specified Sections.

Gerald McNally, Attorney. Opposes the Guidelines in any form but Aspirational. These rules could be interpreted as a limit on an attorney's duty of zealous representation.

Patrick Byrne, Attorney. The long version is too long and detailed. Most of the guidelines are common sense to those who learned them from senior partners over the years. Suggests a few adages to add.

Scott Kays, President, California Judges Association. Commends the task force. If CJA's board has comments, they will be forwarded. (Note - none received)

Karen Fletcher, J.D. Revise California's Rules of Discovery to mirror the Federal Rules of Civil Procedure. Discovery in federal court require attorneys to be more civil.

Ronald S. Mintz, Attorney. Sends an example of uncivil conduct.

Martin Grayson, Attorney. Sends an article he wrote on civility.

Evan Jenness, Attorney. Opposes both versions. Even as advisory rules, these will increase the complexity of analyzing issues of professionalism and ethics, and promote confusion. Other rules, ethics opinions, court rules and judicial decisions already delineate the standard of conduct for lawyers. Many of the proposed standards of conduct are redundant, vague and amenable to conflicting interpretations. The guidelines will be further fodder for attorney misconduct claims. The standards could be inconsistent with attorneys' duties under certain circumstances. He questions the propriety of encouraging judges to become familiar with the Guidelines and promote them.

Joseph Chairez, President, Orange County Bar Association. Local civility guidelines are more appropriate. Teaching civility should be left to law schools, local bar associations, and MCLE programs. With the State Bar's imprimatur, the Guidelines are likely to be cited in an adversary context, and may be subverted into standards of conduct from which a standard of care arises. The Guidelines duplicate existing rules or statutes and may be inconsistent with them. Many of the guideline areas are best left to local standards

and to an extant body of law. The guidelines are vague. If guidelines are necessary to reign in uncivil behavior, forward the Guidelines to the Rules Revision Commission for consideration. That will lead to conformity and less confusion. Comments on specific Sections are offered.

Louisa Lau, Chair, Los Angeles County Bar Association's Professional Responsibility and Ethics Committee (LACBA's PRE Committee). The committee unanimously recommends against adoption. They are concerned the Guidelines will be used in discipline and civil litigation to establish a standard of care. "Should" and "should not" suggests obligations, not mere recommendations. The Guidelines impose on all attorneys standards that may be irrelevant to them. Local bar associations can better formulate civility standards. Professional conduct standards should be left to an existing extensive body of law. Civility is best taught in law schools, voluntary bar organizations, or MCLE. Forward the guidelines to the Rules Revision Commission to consider whether any of the proposals should be incorporated into ethics rules. If the State Bar elects to proceed, offers several comments, including that the long version is too long, detailed and repetitive; the Guidelines should be revised to be consistent with standards of conduct; many guidelines are vague and amenable to conflicting interpretations. Also offers suggestions for specific guidelines.

Patricia Daehnke, Chair, LACBA's Litigation Section. The Executive Committee unanimously recommends against adoption. They agree with the comments of LACBA's PRE Committee. The guidelines do little to advance civility and would create confusion as lawyers bounce from one standard to another. The Attorney Pledge resembles a loyalty oath and should be eliminated.

Robin Yeager, Chair, LACBA's Individual Rights Section. The Guidelines are not necessary. The Introduction states the Guidelines are not to be used for discipline or professional negligence, however, they may be used as a standard when a statute is being prosecuted. The Guidelines clash with lawyer's First Amendment rights to speak.

Janet Levine, President, Los Angeles chapter of the Federal Bar Association. Opposes adoption. The chapter is not convinced the Guidelines would further the cause of justice. The chapter adopts the comments of LACBA's PRE Committee, and joins the Orange County Bar Association and LACBA's Litigation Section in opposing adoption.

Stephanie Patterson, Investigator, Dep't of Consumer Affairs, Los Angeles County. Disagrees with the proposal.

Tim Jensen, Attorney. The proposal is ridiculous. You will never effectively change the behavior of attorneys.

G. Kirk Ellis, Attorney. This is a bad joke and will add to the cost of legal representation.

Tim Kelleher, Attorney. This will not change human behavior. It will create another layer of regulation for the unwary.

TASK FORCE'S RESPONSE TO COMMENTS

The task force considered all written comments. Major responsive revisions are listed below. No additional public comment period is required because the modifications were only made in response to comments and do not raise new topics. Revisions are shown in legislative style at Attachments 3 and 4.

1. Introduction: * replace "standards" with "best practices" of civility[8]

   * replace "minimal" with "minimum" Rules of Professional Conduct

   * replace the last sentence of the Introduction

   * insert the Introduction into the 2-page version of the Guidelines to clarify their context

2. Section 4: * delete unnecessary language in example (g)

   * simplify the language in example (i)

3. Section 9[9]: * add the words "parties, or witnesses" to the guideline.

   * delete former example (5) as redundant

4. Section 12: * clarify that the guideline applies in social settings as well as in court

5. Section 15: * reformat the example

6. Section 18: * consistent with the examples, apply the section to litigation as well as transactional practice and reorganize the examples accordingly

7. Section 19: * consistent with the title, change the guideline text to apply to family law practice generally rather than to specific areas of family law practice

   * reduce redundancy and delete former example (b)

8. Section 20: * consistent with the guidelines being best practices and not duties, replace "special duties" with "unique responsibilities"

   * delete former examples (a) and (b), which duplicate other guidelines

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[8] Some public comments equate the guidelines with duties, rules or standards. This modification further distinguishes the guidelines as best practices, not standards.

[9] Section 9 has been criticized as being too detailed and as overlapping with existing requirements for the practice of law. Each example has been reviewed multiple times to assure that an issue of civility justifies it.

The task force offers these comments on three suggestions that were not accepted:

First, the task force retains the word "should" in order to conform to the State Bar's use of "should" in other contexts, such as in the project to rewrite State Bar rules into a simpler, unified set of rules. The State Bar follows the Judicial Council's use of "should". The Introductory Statement to the California Rules of Court states that the Judicial Council's rules and standards use "should" to indicate a nonbinding recommendation, that "should" indicates nonmandatory conduct.

Second, several reviewers thought that Section 16 diverges from existing law, which places a burden of disclosure on the judicial officer. The task is aware of existing law and recommends the guideline in order to provide opposing counsel with an early opportunity to bring a motion to disqualify. This is a matter of courtesy, avoids wasting court resources, and does not diverge from existing law.

Third, the task force recommends against enforcement through sanctions. The task force holds the view that sanctions would lead to a less collegial relationship among counsel and would tend to undermine civility efforts. In addition, if members thought they would be subject to sanctions for taking the pledge, they would likely be hesitant to take it.[10]

Finally, there is on-going interest in the educational value of the Guidelines as a model of best practices of civility in the practice of law in California. The task force continues to receive requests for speakers at bar association and law school educational programs, some of which will take place into the next Board year.[11]

FISCAL IMPACT

None known.

BOARD BOOK IMPACT

There is no impact on the Board Book.

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[10] Interest in sanctions for uncivil conduct traces back to *U.S. v. Wunsch* (9th Cir.1996), 84 F.3d 1110, which held that a provision in Bus. and Prof. Code §6068 (f) was unconstitutionally vague. That provision used to state, in relevant part, that it is the duty of an attorney to abstain from an "offensive personality". After W*unsch*, it became difficult to find a basis in discipline for conduct that had been deemed offensive under section 6068(f). The State Bar's Commission on the Revision of the Rules of Professional Conduct is proposing to address uncivil conduct through a new rule 8.4, which would state: "It is professional misconduct for a lawyer to: …(d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice."

[11] Santa Barbara Women Lawyers, Orange County Bar Association, the Federal Bar Association, and Western State School of Law, have asked for speakers at MCLE programs to be given between August and November.

RECOMMENDED RESOLUTIONS

Should the Board Committee on Member Oversight concur with the recommendation of the Attorney Civility Task Force, it would be appropriate to adopt the following resolution:

> **RESOLVED** that, following consideration of public comment, the Board Committee on Member Oversight recommends that the Board of Governors adopt the proposed California Attorney Guidelines of Civility and Professionalism, in the form attached at Attachments 1 and 2.

Should the Board of Governors concur with the recommendation of the Board Committee on Member Oversight, it would be appropriate to adopt the following resolution:

> **RESOLVED** that, following consideration of public comment and upon recommendation of the Board Committee on Member Oversight, the Board of Governors hereby adopts the California Attorney Guidelines of Civility and Professionalism, in the form attached at Attachments 1 and 2.

Attachments:
1) California Attorney Guidelines of Civility and Professionalism (14-page version, clean)
2) California Attorney Guidelines of Civility and Professionalism (2-page version, clean)
3) California Attorney Guidelines of Civility and Professionalism (14-page version, with legislative style edits)
4) California Attorney Guidelines of Civility and Professionalism (2-page version, with legislative style edits)
5) Chart of public comment received