

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.

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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 prejudice 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.

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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.

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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 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.