

Preamble

Attorneys are most often retained to represent their clients in disputes. The practice of law is largely an adversarial process. Attorneys are ethically bound to zealously represent and advocate their clients' interest. Nonetheless, there exist certain standards of professional courtesy that are observed. The following standards of professional courtesy describe the conduct expected of attorneys practicing in the courts of the 15th Judicial Circuit in and for Palm Beach County. These standards are not meant to be exhaustive, but set a tone or guide for conduct not specifically covered by these standards. The overriding principles promoted by these standards are communication between counsel and cooperation with the courts and third parties involved in the judicial system.

These standards have been codified with the hope that their dissemination will educate new attorneys and others who may be unfamiliar with the customary local practices. They have received the approval of the Board of Directors of the Palm Beach County Bar Association. They have also been endorsed by the judges of the 15th Judicial Circuit, who expect professional conduct by all attorneys who appear and practice before them. These standards were published originally in 1990, at the same time the Board of Governors of The Florida Bar adopted the *Ideals and Goals of Professionalism*. The standards should be read together with the *Ideals and Goals of Professionalism*.

I. Scheduling

1. Attorneys should endeavor to provide opposing counsel, parties and other affected persons, sufficient notice of depositions, hearings and other proceedings, except upon agreement of counsel, in an emergency, or in other circumstances compelling more expedited scheduling. As a general rule, actual notice should be given that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions and five (5) business days for hearings.

2. Attorneys should communicate with opposing counsel prior to scheduling depositions, hearings and other proceedings, so as to schedule them at times that are mutually convenient for all interested persons. Further, sufficient time should be reserved to permit a complete presentation by counsel for all parties. Upon receiving an inquiry concerning a proposed time for a hearing, deposition, meeting or other proceeding, a lawyer should promptly agree to the proposal or offer a counter suggestion that is as close in time as is reasonably possible, and attorneys should cooperate with each other when conflicts and calendar changes are necessary and requested.

3. Attorneys should notify opposing counsel, the court, and others affected, of scheduling conflicts as soon as they become apparent. Further, attorneys should cooperate with one another regarding all reasonable rescheduling requests that do not prejudice their clients or unduly delay a proceeding.

4. Attorneys should promptly notify the court or other tribunal of any resolution between parties that renders a scheduled court appearance unnecessary or otherwise moot.

5. Attorneys should grant reasonable requests by opposing counsel for extensions of time within which to respond to pleadings, discovery and other matters when such an extension will not prejudice their client or unduly delay a proceeding.

6. Attorneys should cooperate with opposing counsel during trials and evidentiary hearings by disclosing the identities of all witnesses reasonably expected to be called and the length of time needed to present their entire case, except when a client's material rights would be adversely affected. They should also cooperate with the calling of witnesses out of turn when the circumstances justify it.

II. Discovery

1. Attorneys should pursue discovery requests that are reasonably related to the matter at issue. Attorneys should not use discovery for the purpose of harassing, embarrassing or causing the adversary to incur unnecessary expenses.

2. Attorneys should not propound or object to discovery for the purpose of causing undue delay or obtaining unfair advantage.

3. Attorneys should ensure that responses to reasonable discovery requests are timely, organized, complete and consistent with the obvious intent of the request. Attorneys should not produce documents in a way calculated to hide or obscure the existence of documents.

III. Conduct Toward Other Attorneys, The Court and Participants

1. Attorneys should refrain from criticizing or denigrating the court, opposing counsel, parties or witnesses, before their clients, the public or the media, as it brings dishonor to our profession.

2. Attorneys should be, and should impress upon their clients and witnesses the need to be, courteous and respectful and not rude or disruptive with the court, opposing counsel, parties and witnesses.

3. Attorneys should make an effort to explain to witnesses the purpose of their required attendance at depositions, hearings or trials. Absent compelling circumstances, attorneys should give adequate notice to third-party witnesses before the scheduling of their depositions, advance notice of a subpoena for a deposition, hearing or trial. They should further attempt to accommodate the schedules of witnesses when resetting their appearance and promptly notify them of any cancellations.

4. Attorneys should respect and abide by the spirit and letter of all rulings of the court.

5. Attorneys should act and speak civilly to courtroom deputies/bailiffs, clerks, court reporters, judicial assistants and law clerks with an awareness that they, too, are an integral part of the judicial system. Attorneys should be selective in inquiries posed to judicial assistants to avoid wasting their time. Attorneys should endeavor to be knowledgeable about the court administrative orders, local rules and each judge's published or posted practices and procedures.

IV. Candor to the Court/Other Counsel

1. Attorneys should not knowingly misstate, misrepresent, or distort any fact or legal authority to the court or to opposing counsel and shall not mislead by inaction or silence. Further, if this occurs unintentionally and is later discovered, it should immediately be disclosed or otherwise corrected.

2. Attorneys should notify opposing counsel of all oral or written communications with the court or other tribunal, except those involving only scheduling matters. Copies of any submissions to the court (such as correspondence, memoranda or law, caselaw, etc.), should simultaneously be provided to opposing counsel by substantially the same method of delivery by which they were provided to the court. For example, if a memorandum of law is hand-delivered to the court, at the same time a copy should be hand-delivered or faxed to the opposing counsel. Legal arguments should be submitted to the court in a memorandum of law and not in the form of a letter.

3. Attorneys should draft proposed orders promptly and the orders should fairly and adequately represent the ruling of the court. Attorneys should promptly provide, either orally or in writing, proposed orders to opposing counsel for approval. Opposing counsel should then promptly communicate any objections and at that time, the drafting attorney should immediately submit a copy of the proposed order to the court and advise the court as to whether or not it has been approved by opposing counsel.

4. Attorneys should draft agreements and other documents promptly and so as to fairly reflect the true intent of the parties. Where revisions are made to an agreement or other document, attorneys should point out or otherwise highlight any such additions, deletions or modifications for all opposing counsel.

V. Efficient Administration

1. Attorneys should refrain from actions intended primarily to harass or embarrass and should refrain from actions which cause unnecessary expense or delay.

2. Attorneys should, whenever possible, prior to filing or upon receiving a motion, contact opposing counsel to determine if the matter can be resolved in whole or in part. This may alleviate the need for filing the motion or allow submission of an agreed order in lieu of a hearing.

3. Attorneys should, whenever appropriate, discuss discovery planning. Attorneys should also endeavor to stipulate to all facts and legal authority not reasonably in dispute.

4. Attorneys should encourage principled negotiations and efficient resolution of disputes on their merits.

Approved by the Board of Directors of the Palm Beach County Bar Association, September 2007.
/s/ Meenu T. Sasser, President

Endorsed by the Judges of the Fifteenth Judicial Circuit, October 2007.
/s/ Kathleen J. Kroll, Chief Judge