

NOTICE

The United States Bankruptcy Court for the Eastern District of Michigan is considering adopting the Civility Principles recently adopted by the United States District Court for the Eastern District of Michigan. Copies of the Civilities Principles are available without charge from the Bankruptcy Clerk, 1004 Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, Michigan, 48226. Copies are also available at the Clerk's Office in Flint and Bay City. Any comments regarding the adoption of the Civility Principles by the Bankruptcy Court should be submitted to the Bankruptcy Clerk at the above-stated address by May 31, 1996.

Honorable Steven W. Rhodes
Chief U.S. Bankruptcy Judge

Date: March 28, 1996

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

CIVILITY PRINCIPLES

Preamble

An attorney's conduct should be characterized at all time by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as attorneys, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe all participants in a legal proceeding respect, diligence, punctuality and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay, and often deny, justice.

The following standards are designed to encourage us, judges and attorneys, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and attorneys will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout the Eastern District.

These standards shall not be used alone as a basis for litigation, sanctions or penalties. However, nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which attorney negligence or misconduct may be determined.

These standards should be reviewed and followed by all judges and attorneys participating in any proceeding in the Eastern District. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Attorney's Responsibilities to Other Counsel

- 1) We will practice our profession with a continuing awareness that our role is to advance the legitimate interest of our clients. In our dealings with others, we will not reflect the ill feelings of our clients. We will treat all other counsel, parties and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.
- 2) We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.
- 3) We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
- 4) We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

- 5) We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.
- 6) We will adhere to all express promises and 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.
- 7) When we reach an oral understanding on a proposed agreement or 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 other counsel the opportunity to review the writing. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.
- 8) We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.
- 9) In civil actions, we will stipulate to relevant matters if they are undisputed and if no good-faith advocacy basis exists for not stipulating.
- 10) We will not use any form of discovery or discovery scheduling as a means of harassment.
- 11) We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings, discovery requests and objections.

- 12) We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
- 13) We will not request an extension of time solely for the purpose of unjustified delay or to obtain tactical advantage.
- 14) We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.
- 15) We will endeavor to accommodate previously-scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good-faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.
- 16) We will notify other counsel and, if appropriate, the Court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the Court to use the previously-reserved time for other matters.
- 17) We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, recognizing that it is the attorney, and not the client, who has the sole discretion to determine the accommodations to be granted opposing counsel in all matters not materially or adversely affecting the client's legitimate rights. We will affirm that in such matters no client has a right to demand that his or her counsel shall be illiberal or that we do anything therein repugnant to our own sense of honor and propriety.

- 18) We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.
- 19) We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.
- 20) We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.
- 21) We will not obstruct questioning during a deposition or object to deposition questions unless appropriate under the applicable rules.
- 22) During depositions, we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.
- 23) We will carefully craft document production requests and/or interrogatories so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
- 24) We will respond to document requests and interrogatories reasonably and not strain to interpret the requests or interrogatories in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents and information fairly within the scope of the requests or interrogatories. We will not produce documents or answer interrogatories in a manner designed to hide or obscure the existence of particular documents or information.

- 25) We will base our discovery objections on a good-faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.
- 26) When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the Court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile and differences before the draft order is presented to the Court.
- 27) We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.
- 28) Unless specifically permitted or invited by the Court, or unless otherwise necessary, we will not send copies of correspondence between counsel to the Court.

Attorneys' Responsibilities to the Court

- 1) We will speak and write civilly and respectfully in all communications with the Court.
- 2) We will be punctual and prepared for all Court appearances so that all hearings, conferences and trials may commence on time; if delayed, we will notify the Court and counsel, if possible.
- 3) We will be considerate of the time constraints and pressures on the Court and Court staff inherent in their efforts to administer justice.
- 4) We will not engage in conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in Court of the proper conduct

- expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder and disruption.
- 5) We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication.
 - 6) We will not send letters to the Court (whether addressed to the Court or copies of letters to opposing counsel) that contain argument or criticize counsel in connection with a pending action, unless invited or permitted by the Court or as appropriate exhibits to Court filings, in which event a copy shall be provided to opposing counsel in such a manner as to insure delivery to opposing counsel on that same day that it is delivered to the Court.
 - 7) Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the ability of necessary participants and witnesses so we can promptly notify the Court of any likely problems.
 - 8) We will act and speak civilly to marshals, clerks, court reporters, secretaries and law clerks with an awareness that they, too, are an integral part of the judicial system.

Court's Responsibilities to Attorneys

- 1) We will endeavor to be courteous, respectful and civil to attorneys, parties and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.

- 2) We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with attorneys, parties and witnesses.
- 3) We will be punctual in convening hearings, meetings and conferences; if delayed we will notify counsel, if possible.
- 4) The Court, recognizing the existence of family and business obligations of parties, witnesses and attorneys, will attempt, in scheduling all hearings, meetings and conferences, to be considerate of time schedules of attorneys, parties and witnesses.
- 5) We will make reasonable efforts to decide promptly matters presented to us for decision.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

APPENDIX TO CIVILITY PRINCIPLES

OATH OF OFFICE

I do solemnly swear (or affirm):

I will support the Constitution of the United States and the Constitution of the State of Michigan;

I will maintain the respect due to Courts of Justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the judge or jury by an artifice or false statement of fact or law;

I will maintain confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause and which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice;

I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions for the privilege to practice law in this State.