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THE SEARCH FOR RENEWED CIVILITY IN LITIGATION

MARVIN E. ASPEN*

These are troubled times for lawyers. Not only is the practice of law suffering from the current economic malaise, but lawyer bashing has become our new national pastime. Ethnic and blonde jokes have been replaced by equally tasteless lawyer jokes. Politicians, the media, and Hollywood have joined in the feeding frenzy. Witness the following: A vice president devotes a significant portion of his campaign rhetoric to attacking the legal profession; Movie audiences cheer at the anti-lawyer rhetoric in current films such as *The Firm* and *Jurassic Park*; media polls show the prestige of the legal profession is at an all-time public low;¹ and even our Russian counterparts want nothing to do with American lawyers.²

Most of this public derision and media abuse is, of course, unjustified. But is some of it self-inflicted? Just how much has the legal profession contributed to the public's misperception of lawyers as heartless, self-interested parasites, flourishing only by virtue of others' misery and misfortune?

Let us, for example, look at the following exchange during a deposition taken in Madison, Wisconsin, this year by two veteran Chicago trial lawyers. Attorney V had just asked Attorney A for a copy of a document he was using to question the witness:

“Mr. V: Please don't throw it at me.

Mr. A: Take it.

Mr. V: Don't throw it at me.

Mr. A: Don't be a child, Mr. V. You look like a slob the way you're dressed, but you don't have to act like a slob.

...

* United States District Judge for the Northern District of Illinois, Eastern Division.

1. Randall Samborn, *Anti-Lawyer Attitude Up*, NAT'L L.J., Aug. 9, 1993, at 1.

2. Richard B. Schmitt, *Complaining that U.S. Lawyers are Exploiters, Russians Seek to Curtail Scope of Practice*, CHI. DAILY L. BULL., Jan. 17, 1994, at 1.

Mr. V: Stop yelling at me. Let's get on with it.

Mr. A: Have you not? You deny I have given you a copy of every document?

Mr. V: You just refused to give it to me.

Mr. A: Do you deny it?

Mr. V: Eventually you threw it at me.

Mr. A: Oh, Mr. V, you're about as childish as you can get. You look like a slob, you act like a slob.

Mr. V: Keep it up.

Mr. A: Your mind belongs in the gutter."³

Although obviously an extreme incident of lawyer incivility, this interaction of attorneys during a multi-billion dollar case nonetheless exemplifies the erosion of professionalism in attorney relationships. And, of course, dissemination in the national print media of this horrific example of lawyer incivility only affords additional fodder to the current fad of public lawyer bashing.

Almost four years ago, Seventh Circuit Chief Judge William Bauer called me into his chambers and solemnly advised me that the word was about that there were civility problems in the courtroom. I immediately racked my brain to try to remember any recent events in my courtroom where my judicial conduct perhaps was not up to par. You can imagine my relief when Judge Bauer interrupted my troubled thoughts to add that he was appointing a committee of nine judges and lawyers to examine problems of civility in litigation in the Seventh Circuit, and that he was asking me to chair the Civility Committee.

Judge Bauer requested that the Committee first determine whether, in fact, civility problems exist in litigation practice in the Seventh Circuit. He also directed that, should the Committee find a widely held perception that civility problems exist, it was to recommend possible remedies. Judge Bauer gave the Committee a free hand to accomplish its goals. The Committee's first task was to define civility. It was defined broadly as "professional conduct in litigation

3. William Grady et al., *On The Law: And Your Clients Wear Combat Boots*, CHI. TRIB., Oct. 12, 1993, § 3, at 3.

proceedings of judicial personnel and attorneys.”⁴ The Committee did not limit the term to good manners or social grace. It examined judicial as well as lawyer incivility.

During the first year and one-half, the Committee met frequently. It reviewed pertinent legal literature and the law in other jurisdictions. It then conducted an informal survey of judges and lawyers in the Seventh Circuit. While many state courts and local and national bar organizations have looked into this complex question, this Committee was the first to make a federal circuit-wide inquiry and perhaps also the first to venture into the problem of judicial incivility.

The Committee asked for and received extremely candid answers. Some comments by respondents, as to be expected, reflected the nature of the adversary system. For example, lawyers criticize judges for lax case management, saying this contributes to discovery abuse. At the same time, other judges are chided by lawyers for managing cases too tightly. Thus, the survey reflects the conflicting views lawyers express about the proper role of judicial case management.

Other criticism reflected the natural tension inherent in the different roles that judges and lawyers assume in the litigation process. For example, judges criticize lawyers for not diligently moving cases along, and lawyers counter that courts make case management demands that fail to account for lawyers' other professional obligations.

What the Committee learned from evaluating the survey results from more than 1500 respondents is that a widespread dissatisfaction exists among judges and lawyers with the gradual changing of the practice of law from an occupation characterized by congenial professional relationships to one of abrasive confrontations.

It is too simplistic to say that loss of civility in the practice of law is merely a microcosm of a changed society that is not as “kind and gentle” as in earlier days. Causes for the legal profession's civility problems are numerous and complex. No one cause is the dominant culprit. But combined, several fairly recent developments in the practice of law pose serious potential threats to the orderly function of our legal profession and the judicial system.

One of these developments is the burgeoning of discovery in the past twenty

4. *Interim Report of the Committee on Civility of the Seventh Federal Judicial Circuit*, 143 F.R.D. 371, 378 n.1 (1991) [hereinafter *Interim Report*].

years and the new cottage industry of sanctions. Abuse in both requesting and complying with discovery and Rule 11 sanctions are often singled out by lawyers as incivility flash points.⁵

Here is what some of the responding lawyers have said about this problem.

One lawyer wrote: "Lawyers tend to drag out discovery and allow clients to respond slowly and incompletely necessitating motions to compel with or without sanctions."⁶

Another reported:

Some attorneys are unwilling to cooperate in scheduling of depositions at mutually convenient times, refuse to return telephone calls, [and] will not respond to letters. When depositions are noticed, they seek postponements the day before the deposition because of a "conflict." They either procrastinate or are so overworked that they should decline new cases.⁷

A third lawyer stated:

Certain large law firms have adopted a policy of seeking Rule 11 sanctions as a routine strategy. One law firm has used Rule 11 in virtually every case in which my firm and this firm have been involved. In one particular case, this firm and I represented co-defendants. The firm filed a Rule 11 motion against the plaintiffs' counsel based solely on whether the complaint stated a cause of action.⁸

It is clear that our legal culture has undergone other fundamental changes in recent years. Although there has been a resurgence of interest in traditional ethics, the loss of civility in our litigation process has for the most part been ignored by our law firms, bar associations, and law schools. The culture of the older lawyer mentoring the younger on the etiquette of the profession has almost disappeared.

Many lawyers believe it is now as much a business as a calling or a

5. Hopefully, recent revisions to the Federal Rules of Civil Procedure 11 and 26 will help in reducing some of these adversary tensions. Compare FED. R. CIV. P. 11 & 26 before and after January 1, 1993.

6. *Interim Report*, *supra* note 4, at 386.

7. *Id.* at 388.

8. *Id.* at 389.

profession. Bottom-line mentality aimed at winning at all costs often exacerbates tensions in lawyer relationships.

Let's hear again from the lawyers. One reported:

The law profession is now a competitive business with enormous pressures on lawyers to meet large payrolls and carry a large overhead. I have found a "kill or be killed" attitude between lawyers who will probably never see an opposing counsel in another case. Clients also seem to want lawyers who take the "Rambo" approach and lawyers give in to this pressure.⁹

Another wrote:

The legal profession as such is almost extinct—the business is booming. Too many lawyers are intent on money rather than service. The ever watchful, reporting computers push firm members to compete on hours and fees to the detriment of service and responsibility. Some of this pressure also leads to contriving hours and charges. The whole, stressful urgency of it makes it harder to be congenial and understanding.¹⁰

A third lawyer lamented:

Because of economic pressures, clients demand results, usually measurable in dollars. Those who survive to become senior lawyers most often do so because of these results, and because they generate fees. Many of them forget to emphasize civility to their employees, because civility doesn't generate fees or increase profits.¹¹

Lawyers report that everything about the practice of law is now bigger, but not necessarily better. Law firms are bigger. More courts exist. Filings have increased while the percentage of cases tried has decreased. Some ninety-six percent of the civil cases in federal courts are settled, leading to a growing new crop of "litigators" who are not courtroom trial lawyers in the traditional sense.

Here is what some lawyers wrote:

- "Expansion of litigation, number of judges, increase in rules and competition of attorneys have accelerated the problems."

9. *Interim Report. supra* note 4, at 392.

10. *Id.*

11. *Id.* at 398.

- “When there were fewer cases and fewer judges, there was more civility.”
- “The times have changed. The emphasis of both the court and counsel is now on ‘numbers’ and not on justice.”¹²

In the Seventh Circuit’s urban courtrooms, trial lawyers no longer appear frequently against the same opponent or before the same judge, thereby reducing opportunities for building mutual respect and learning the ethics of a time-honored profession from seasoned hands. Today’s metropolitan lawyer may deal with a particular opponent lawyer, law firm, or judge only once in his or her career. Thus, the incentive to retain cordial relationships often dies because the relationship will not likely become an ongoing one.

Young lawyers are drafted as foot soldiers in the litigation wars. Some emerge from law school properly idealistic about the litigation process then suffer culture shock when they go into some of the courtrooms of the 1990s. Other young lawyers may begin practicing law under the influence of television in particular and motion pictures to a certain degree. Practice almost follows fiction. Young lawyers and students exposed to the machinations of “L.A. Law” or current Hollywood films sensationalizing trial practice may very well expect that they should act in some of the dramatic, abrasive ways portrayed. Certainly, some of today’s new clients, whose education of our court systems is via the entertainment media, expect them to do so.

Another recent development is the way our profession is educating new litigators. The culture of the older lawyer mentoring the younger on the etiquette of the profession has almost disappeared. Unlike lawyers in other countries, there is little effort among older lawyers to pass down a tradition of civility to young lawyers. One lawyer remarked: “There is over all [sic] less of a training relationship today between the older and younger members of the bar. The idea of mentor systems and apprenticeships simply don’t [sic] translate into today’s legal environment.”¹³

Many questions fundamental to our profession raised by our use of higher-tech methodology remain unanswered. We spend a great deal of time, effort, and money to train trial lawyers to persuade jurors more effectively. But the fine-tuning of our adversary system with high-tech methodology has also had a negative effect on professionalism. We not only use experienced trial lawyers as instructors in trial technique, but we now regularly enlist the help of actors

12. *Interim Report*, *supra* note 4, at 395.

13. *Id.* at 399.

and social scientists as well. We make no pretenses of truthfulness in an attempt to persuade and manipulate. For example, the use of actors to read depositions is now trendy. Deposed witnesses such as "Willy the Wimp" or "Sneaky Sam," as portrayed by the deposition reader, appear in court with Ronald Reagan-like believability.

Some trial lawyers attempt to slough off their professional, and even ethical, responsibilities by openly declaring that the duty to represent a client zealously is paramount when it conflicts with any obligation to the administration of justice. This notion that the duty to represent trumps obligations of professionalism is, of course, indefensible as a matter of law. The United States Court of Appeals for the Eleventh Circuit aptly stated earlier this year:

All attorneys, as "officers of the court," owe duties of complete candor and primary loyalty to the court before which they practice. An attorney's duty to a client can never outweigh his or her responsibility to see that our system of justice functions smoothly. This concept is as old as common law jurisprudence itself.¹⁴

Judges also bear considerable responsibility. Judges must not tolerate lawyer incivility. By failing to actively address lawyer unprofessionalism in the litigation process, the judge sends the wrong signal to the bar, and puts the ethical advocate in a posture where he or she may, unfortunately, conclude that the only recourse left to an opponent's "Rambo" tactics is to "fight fire with fire." Judges must, by example and by comments in written opinions, set the proper tone of civility in the courtroom. One has only to peruse the pages of current volumes of reported cases to come upon vitriolic and demeaning condemnations by the score of a court, judicial colleagues' opinions, or attorneys. Like it or not, judges are role models in our profession. Judges cannot ask lawyers to accept a standard of professional conduct to which they do not abide. United States Supreme Court Justice Ruth Bader Ginsburg, in a lecture this past spring at New York University School of Law, commenting on the Seventh Circuit Civility Report, said: "To that good advice, one can say 'amen.'"¹⁵

The Committee's Interim Report,¹⁶ published in April of 1991, proposed several ways the organized bar, the courts, our law schools, lawyers, and law firms should tackle the civility problem. It included in its recommendations a proposed set of written *Standards for Professional Conduct (Standards)* for both

14. *Malautea v. Suzuki Motor Co.*, 987 F.2d 1536, 1546 (11th Cir. 1993).

15. Justice Ruth Bader Ginsburg, *Speaking in a Judicial Voice, Madison Lecture at New York University School of Law* (March 9, 1993).

16. *Interim Report*, *supra* note 4.

judges and lawyers. The Committee stated expressly in the preamble to the *Standards* that violation of these standards would not be sanctionable. The *Standards* could not be used in an attorney disciplinary proceeding, contempt of court, or as a basis for civil litigation. The *Standards* were aspirational, that is, a reaffirmation by judges and lawyers as to what constitutes professional conduct for our working environment. The Committee was careful to avoid making the *Standards* fodder for satellite litigation of any sort.

The Committee solicited comments on these interim recommendations from the bench and bar. We received a substantial number of such comments from within and outside the Seventh Circuit, indeed, from lawyers and academics in other countries as well. Not surprisingly, the *Standards*¹⁷ proved the most controversial of our recommendations. Some lawyers said the *Standards* without sanctions were useless. Others said that the *Standards* were flawed because they would be used as the basis for sanctions, notwithstanding the express language to the contrary in the preamble. Nonetheless, an overwhelming number of the comments were positive. Lawyers agreed that there was a problem and thought that our recommendations as to how to address the problem were on the right track.

The Civility Committee used these comments to fine-tune its recommendations which were published last year in the Committee's Final Report.¹⁸ Much has occurred since the Committee's Final Report was disseminated:

- West Publishing Company has published the Report in Federal Rules Decisions.
- The Final Report has been featured in programs—with Committee members speaking—at federal judicial workshops and conferences in virtually every circuit.
- Judges throughout the country, including members of the United States Supreme Court, have commented favorably on the Report. Last month at the annual Judicial Conference of the District of Columbia, Justice Sandra Day O'Connor cited the Seventh Circuit survey in urging the bar to devote "increased attention to the issues of civility and professionalism."¹⁹

17. The *Standards* are set forth as an Appendix hereto. See *infra* text accompanying note 28.

18. *Final Report of the Committee on Civility of the Seventh Federal Judicial Circuit*, 143 F.R.D. 441 (1992) [hereinafter *Final Report*].

19. Justice Sandra Day O'Connor, Remarks to the Judicial Conference of the District of Columbia (June 25, 1993).

- The EEOC has adopted the proposed *Standards* in our Final Report for all of its attorneys nationwide.
- The American Bar Association and bar associations throughout the country have featured the Report when conducting seminars and workshops on civility problems and “Rambo” tactics. Law review articles and bar publications have also discussed the Report.
- Seventh Circuit law schools including Northwestern, Marquette, Loyola, and Valparaiso have integrated the proposed *Standards* into course materials.

The Seventh Circuit has approved the Report, and each lawyer admitted to practice before the Circuit, as a precondition to admission, must state that he or she has read and will abide by the *Standards*. The Chicago and Illinois State Bar Associations are currently in the process of petitioning the Illinois Supreme Court to do the same.²⁰

The Report has been cited in Seventh Circuit opinions by both circuit²¹ and district court²² judges. Indeed, in one recent case,²³ a district court judge cited the Report in response to a circuit court opinion²⁴ which upheld the district court sentence in a criminal case, but criticized the district court judge for language that he used at the sentencing hearing. The district court judge took the unprecedented step of publishing an opinion of his own, without any matter in the case pending, for the sole purpose of rebuking the circuit court for language it used in criticizing him. He also cited our Report as authority for his remarks, a use of the Report certainly never contemplated by the Committee.

Where do the bench and bar go from here? That is a question that the lawyers and judges in this nation will be deciding. I suspect that there will be some disagreement. Let me illustrate, with two lawyer comments to the Committee’s recommendations, some of the ambivalence in our profession.

After the publication of our Interim Report, a lawyer wrote somewhat poignantly to the Committee:

20. Julie Gold, *Civility Pact Waiting for OK*, CHI. DAILY L. BULL., Nov. 15, 1993, at 3.

21. See, e.g., *Castillo v. St. Paul Fire & Marine Ins. Co.*, 938 F.2d 776 (7th Cir. 1991).

22. *United States v. Lopez*, 799 F. Supp. 922 (C.D. Ill. 1992); *In re Stotler & Co.*, 144 B.R. 385 (Bankr. N.D. Ill. 1992); *In re Regensteiner Printing Co.*, 142 B.R. 815 (Bankr. N.D. Ill. 1992); *Castillo v. St. Paul Fire & Marine Ins. Co.*, 1992 U.S. Dist. LEXIS 16866 (C.D. Ill. Nov. 2, 1992).

23. *Lopez*, 799 F. Supp. at 922.

24. *United States v. Lopez*, 974 F.2d 50 (7th Cir. 1992).

When a lawyer behaves uncivilly, contentiously opposing everything his opponent proposes, both litigants suffer because they must pay even higher attorneys' fees and the disposition of the case is delayed. It is no secret that a lawyer's contentiousness causes more work for the lawyers on both sides and slows down the progress of litigation. In these days of overcrowded dockets and exorbitant legal fees, such conduct is downright unethical. And I have not seen a shred of evidence that such conduct advances the client's interests one iota.

This lawyer concluded:

Just a few years ago, I believed that the law was a noble calling and that most lawyers tried to make the world a better place. Now I find that most lawyers are not only non-productive but downright counterproductive in our society. This is not why I went to law school. My cynicism is something that I must come to terms with; if it becomes too intolerable, I can quit or move to a smaller city. Clients, on the other hand, have no choice and virtually no control over the permanent damage being done to them by their own lawyers as well as opposing counsel.²⁵

Let us contrast the concerns of this young lawyer with the public comments by a senior partner of a large Chicago law firm—in response to our Report at an American Bar Association seminar in Chicago. These comments were later published in *Newsweek Magazine*: “‘Don't forget, I'm at [law firm] now. We pride ourselves on being assholes. It's part of the firm culture.’”²⁶ I suspect that this lawyer did not really mean what was said. Unfortunately for all, however, the words, like those of Lawyers A and V,²⁷ were recorded and published nationally.

Many lawyers lament that the practice of law today appears to be much less a profession than a business in which “winning isn't everything; it's the only thing.” Some of these older lawyers look back with nostalgia at their former practices. They remember the collegiality, the unhurried and relaxed environment of some courtrooms, and the general honorableness of a profession in which lawyers dealt with each other on a regular basis. Our law firms have undergone fundamental changes in recent years. It is clear that the practice of law is now as much a business as a calling or a profession.

25. Letter received by the Chairperson of the Committee on Civility of the Seventh Federal Judicial Circuit.

26. *Overheard*, *NEWSWEEK*, Nov. 18, 1991, at 23.

27. See *supra* text accompanying note 3.

Our survey results show that civility problems are significantly greater and more common in large urban areas where the practice of law has become depersonalized. However, those who practice in smaller legal communities should not assume they will be forever insulated from this erosion of professionalism. Not always for the good, big city courts and large firms are the trendsetters in our profession. I am afraid that the erosion of professionalism that we have witnessed in the cities undoubtedly will eventually trickle down to the smaller centers of practice.

Nevertheless, I am not as pessimistic for our profession's future as is the disillusioned young lawyer whom I quoted. Nor do I believe that the words of the cynical big firm senior partner reflect the aspirations of a majority of our nation's trial lawyers. I am convinced, and the results of the Committee's Seventh Circuit survey support me, that most lawyers take pride in the traditional values of the legal profession and are willing to work together to preserve those values.

As the practice of law continues to evolve, the challenge to all of us in the 1990s is whether we can retain in the new law firm businesses those values that have traditionally been important to us as professionals.

APPENDIX
PROPOSED STANDARDS FOR PROFESSIONAL CONDUCT
WITHIN THE SEVENTH FEDERAL JUDICIAL CIRCUIT²⁸

Preamble

A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, 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 to 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 to deny justice.

The following standards are designed to encourage us, judges and lawyers, 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 lawyers 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 this Circuit.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceeding in this Circuit. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

28. *Final Report*, *supra* note 18, at 448.

Lawyer's Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests 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 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.

7. When we 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 opportunity for review of the writing to other counsel. 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 and 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 a 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, provided our clients' legitimate rights will not be materially or adversely affected.
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 necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

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 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 reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

26. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

27. 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.

28. 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 any differences before the draft order is presented to the court.

29. 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.

30. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

Lawyers' Duties 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 any 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 or disruption.
5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.
6. We will not write letters to the court in connection with a pending action, unless invited or permitted by 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 availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.
8. We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they, too, are an integral part of the judicial system.

Courts' Duties to Lawyers

1. We will be courteous, respectful, and civil to lawyers, 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 lawyers, parties, or witnesses.

3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

4. In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties, and witnesses.

5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.

6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

9. We will not impugn the integrity or professionalism of any lawyer on the basis of clients whom or the causes which a lawyer represents.

10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

11. We will not adopt procedures that needlessly increase litigation expense.

12. We will bring to lawyers' attention uncivil conduct which we observe.

Judges' Duties to Each Other

1. We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

2. In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.

3. We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.