

Denver Bar Association

Principles of Professionalism

Adopted by the Denver Bar Association Board of Trustees on April 8, 1999; as amended May 2007.

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PRINCIPLES OF PROFESSIONALISM

PREAMBLE

The law is the means by which our society seeks to ensure justice for all. A lawyer's role is to help people to act within the law, and, when they have disputes and grievances, to resolve them within the law.

How we conduct ourselves is part of the process of the law. As much as the substantive law, how we conduct ourselves affects whether the parties achieve justice. The effectiveness of the legal system depends upon our conduct. Among the purposes of the law is the fair and efficient resolution of disputes and the fostering of civil relationships in society. In carrying out our duty to advance the purposes of the law, we are committed to conducting ourselves according to the following precepts:

We believe that integrity, honesty, candor, fairness, trust, respect, dignity and courtesy are guiding principles of our conduct.

Professionalism is fundamental to the effective and efficient representation of clients in the legal system and the even-handed administration of justice.

We will endeavor to make legal services available to people who have legal needs, but cannot afford to pay customary charges, and will also strive to provide advisory or other assistance to non-profit community service organizations. As officers of the court, we represent our clients within the system of justice and represent the system of justice to our clients. Justice is never obtained when success is achieved at the expense of the rights and legitimate interests of others.

We are committed to the zealous representation of our clients, using our skills and training to seek their legitimate ends. We are equally committed to preventing the use of the legal system to cause unjust harm or to gain unjust advantage. We recognize that just as legal action pursued for legitimate ends can accomplish great good, legal action pursued for improper purposes or by unjust means can cause great harm.

We must accept fully the responsibility that comes with the privilege and licensure of practicing law. This requires that we respect the legal rights of others, that we act reasonably and with candor toward others, and that we not seek to advance our personal interests at the expense of the legitimate interests of others.

Justice is not achieved where short-term victory plants the seed of future conflict. The satisfactory completion of a transaction creates a foundation for future cooperation. The just resolution of a dispute begins a process of reconciliation for the parties.

Neither we nor our clients are the sole possessors of truth or righteousness in any circumstance. While we may strive zealously for our clients' rights, our zeal also must be directed to achieving justice in the process. An unjust process can never lead to a just result, and a successful result cannot remedy the harm of an unjust process.

As licensed professionals, we understand that the law is more than a business, it is also a calling. We will keep our Lawyer's Oath in mind in our daily practice. We understand and accept our role in the American justice system, and freely accept our responsibility to support and defend the Constitution of the United States of America and the State of Colorado.

The following principles are designed to promote professionalism by providing guidance for the many choices we have to make in conducting ourselves as lawyers. They apply to all aspects and areas of the practice of law. They are not intended to replace the Rules of Professional Conduct, nor are they intended to establish enforceable standards of practice for lawyers. Rather, these are principles upon which we can build professional relationships.

COURTESY AND CIVILITY

1. We will work together toward resolution of our cases by being reasonable.
2. We will be cooperative, to the extent it does not prejudice our clients' legitimate interests.
3. We will treat others with courtesy and respect. We will always endeavor to retain our objectivity, and will try not to take personally disagreements that arise in the zealous representation of our clients.
4. We will communicate promptly with opposing counsel to discuss any disputes, ambiguities or other issues. We recognize that in most instances genuine, personal interaction serves our clients better than perfunctory communication. While electronic means are appropriate methods to communicate, we will not use electronic communication such as facsimile transmission, email, text messaging or telephone contact as a means of gaining unfair advantage or as a substitute for effective interpersonal dialogue.
5. We will allow ourselves and each other sufficient time to resolve any dispute or disagreement by communicating with one another in a timely and professional manner and by agreeing to reasonable deadlines in light of the nature and status of the matter.
6. We will scrupulously refrain from making misleading statements of law or fact, whether by omission, inference or implication. We will refrain from unseemly or discourteous references to opposing parties, counsel, courts, legal systems, or other civil and criminal justice professionals.
7. We will respond to all communications in a timely manner, and allow for reasonable time for opposing counsel to respond.
8. We will work to reduce the level of anger or animosity among or between parties to a conflict or transaction wherever and whenever we can, and will strive whenever possible not to add to, or manipulate, the emotional overburden of any dispute or transaction by our conduct, words, or attitudes.

AGREEMENTS, TRANSACTIONS, AND STIPULATIONS

1. We will abide by our promises and agreements, whether written or oral. Our word is our bond. In the event of a conflict, we will attempt in good faith to resolve the conflict before seeking court intervention.
2. We will cooperate in presenting evidence by providing the court and counsel with the names of witnesses to be called and estimates of time for examination, and by sharing equipment (such as audio-visual equipment) in the courtroom.
3. We will cooperate by agreeing upon and keeping reasonable deadlines for exchanging drafts, scheduling and completing transactions, and providing required documentation.
4. We will seek agreements on preliminary, procedural and factual matters, and enter into written stipulations or agreements which will make more effective use of everyone's time.
5. We will respond promptly to requests for agreements, even when our response is that agreement on a certain issue is not possible.
6. When discussing final stipulations or agreements, we will act promptly to submit proposals for agreement both as to form and content, and will cooperate in assuring that the final documents fairly and accurately reflect the parties' agreements.
7. When exchanging drafts of agreements, we will draw attention to any changes or suggestions for new language and issues which have not been agreed upon beforehand.

7(a) When exchanging documents electronically, we will offer “redline” versions, or otherwise call specific attention to all changes we have made. We will also take steps to assure that the final document executed by the parties is the document to which all parties have agreed.

7(b) When exchanging documents electronically, the sender will take responsibility to assure removal of all “metadata” and other information the sender does not intend to share that may be imbedded in the document file, before sending the document file to counsel, parties, or others.

8. We will act promptly to advise the courts and other interested parties of all stipulations and agreements.

9. We will follow through to assure that all details involved in concluding any agreement or transaction are seen to quickly and efficiently.

10. We will not ask for an opinion in any matter that we in a similar situation would be unable to give.

11. We will use plain language and understandable structure in all documents wherever possible.

12. We will not unduly interfere with another attorney’s ability to conduct a conflict check as early in the transaction as possible.

13. When dealing with unrepresented persons, we will encourage them to engage counsel, we will inform them that we do not and cannot represent their interests, and will avoid any appearance or impression that we are providing any unrepresented persons advice as to the transaction or matter.

14. While always keeping our client’s interests paramount, we will also keep in mind that our goal should be the prompt, efficient and fair resolution of disputes, and the prompt, efficient and fair completion of transactions on which we are engaged.

SCHEDULING

1. We will endeavor to schedule hearings, depositions, or other matters by agreement with opposing counsel.

2. We will give opposing counsel notice of cancellation of hearings, depositions, and other matters at the earliest possible time.

3. We will not seek extensions or postponements for the purpose of harassment or to prolong, delay, or increase the cost or complexity of any matter.

4. In scheduling matters, including requests for reasonable extensions of time, we will act in a spirit of cooperation and accommodation. We will act with consideration of the need for expediting the litigation or transaction and the professional and personal schedules of others involved. We will raise scheduling conflicts only when they actually exist.

5. When scheduling, we will keep in mind that a reasonable balance between life and work helps promote the efficient and fair administration of justice and effective delivery of legal services. We will not make unreasonable demands on off-hours time when dealing with parties, witnesses, opposing counsel, co-counsel, associates or partners.

USE OF DATA-TRANSMISSION TECHNOLOGIES

1. We will use data-transmission technologies only as an efficient means of communication and not as a means of obtaining an unfair advantage. The use of such technologies does not require receiving counsel to discontinue other matters to respond.
2. We will honor reasonable requests to retransmit materials or to provide hard copies.

DISCLOSURE AND DISCOVERY

1. We will not use any form of discovery or discovery scheduling as a means of harassing anyone or for the purpose of obstructing the prosecution or defense of the case.
2. We will only use definitions and instructions in written discovery that are pertinent, clear, and concise.
3. We will object to disclosure or discovery only when we have a good faith belief in the merit of the objection.
4. We will not lightly seek court sanctions.
5. We will provide disclosures, and respond to written discovery requests reasonably. We will not strain to interpret requests or disclosure requirements in the rules of procedure in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

CONDUCT DURING DEPOSITIONS

1. We will conduct ourselves in depositions with the same courtesy and respect as is expected in court.
2. We will not conduct examinations or engage in other behavior which is purposely offensive, demeaning, harassing, intimidating, or which unnecessarily invades the privacy of anyone.
3. If sensitive or controversial matters are to be inquired into in a deposition, counsel should consider discussing those matters with opposing counsel in advance. When appropriate, we will attempt to engage in meaningful dialogue with opposing counsel for the purpose of exploring agreements regarding the scope of the examination and the use of the information after the deposition.
4. We will attempt to minimize arguments.
5. We will refrain from coaching deponents by objecting, commenting, or otherwise acting in a manner which suggests a particular answer to a question.
7. We will not object for the purpose of disrupting or distracting the questioner or the witness. We will object only in the manner provided by the rules.
8. We will not interrupt the examination for an off-the-record conference with the deponent for the purpose of obstructing the deposition or coaching the witness.
9. We will not intentionally misstate facts or mischaracterize prior statements or testimony.

MOTIONS AND CONDUCT IN COURT

1. We will scrupulously avoid misleading the court in our presentation of the law, facts, case history or procedure.
2. We will be familiar with the issues to be addressed by the court.
3. We will only make objections which are concise, specific, and have a sound legal basis.
4. We will not impute improper motives to other lawyers or make any statements that impugn their character unless clearly justified by the facts and essential to the resolution of an issue.
5. We will demonstrate courtesy and respect for the court and its staff at all times. When in court, we will stand when the judge and jury enter, when addressing the judge, and when the judge and jury leave, unless the custom and practice of a particular court is different.
6. We will avoid talking at the same time as the court, each other or the witness.
7. We will dress appropriately in court.
8. We will not transmit copies of correspondence to the court unless requested or encouraged by the court or required by extraordinary circumstances.
9. We will not engage the court staff in ex parte communications concerning the merits of a pending case, ask the court staff for an indication of how the judge may rule, or ask the court staff for legal advice.
10. We will respectfully seek permission before continuing to argue after the court has ruled.
11. We will not take positions on litigated or contested matters that are legally or factually unsupportable, and will not use motions or procedural issues to delay the prompt and fair resolution of a matter, or to harass, intimidate, or wear down an opponent.