



# ORANGE COUNTY BAR ASSOCIATION CIVILITY GUIDELINES

## PREAMBLE

The practice of law is a noble, time-honored profession requiring and inspiring trust and confidence. Lawyers rightly take pride in seeking mutual cooperation and maintaining personal dignity. Lawyers practicing in Orange County share a commitment to civility and recognize their obligation to be professional with clients, other parties and counsel, the courts, and the public.

Courts expect lawyers to show others respect. Lawyers are officers of the court. Each lawyer's conduct should reflect well on the judicial system, the profession, and the fair administration of justice. Judicial resources are limited and wisely conserved when lawyers avoid frivolous disputes.

Lawyers should inspire public regard for the profession and for the judicial system. Rudeness, distrust, or abusive tactics by lawyers do not reflect well on the legal profession or inspire the public's confidence.

Civility allows for zealous representation, reduces clients' costs, better advances clients' interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution. These guidelines foster the civility and professionalism that are hallmarks of the best traditions of the legal profession.

All OCBA members are encouraged to adopt these guidelines as their personal standards. The guidelines exceed the Rules of Professional Conduct; do not replace any statute or rule; and are not intended as an independent basis for sanctions, discipline, or more litigation. Rather, the guidelines remind us that law is best practiced with civility and that clients, courts, the public, and the fair administration of justice are best served thereby.

## GUIDELINES

### **1. Counsel shall show civility to other counsel and self-represented litigants.**

- a. Communicate in a professional, businesslike manner. Respond to communications within a reasonable time, using reasonable means. Provide accurate redlines and note significant changes when exchanging drafts. Avoid personal attacks, demeaning comments, and misleading characterizations of the other side's positions, both in private communications and in court. Act civilly toward opposing counsel's staff members.
  - b. Extend professional courtesies. Agree to reasonable requests, including those regarding service of papers or extensions of time, whenever possible without prejudicing the client's interests or violating a court's scheduling order. Honor commitments.
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- c. Advise clients about the need for civility. Assure clients you will zealously represent them while still treating others with civility. Resist client requests to engage in abusive or disrespectful behavior.

## **2. Counsel shall show civility during discovery.**

- a. Work together to make discovery self-executing. Meet and confer in good faith to try to limit and expedite discovery – and to resolve disputes without motions. Cooperate to make discovery reasonably convenient: e.g., provide written discovery requests in electronic format, discuss search terms for electronic discovery in advance, produce written responses and responsive documents in a user-friendly manner. Avoid pursuing discovery only to harass adversaries or increase litigation costs. Respond forthrightly and timely to non-objectionable requests.
- b. Schedule depositions reasonably. Respond to inquiries for dates within a reasonable time and on reasonable terms. Make good-faith efforts to accommodate the schedules of other parties, counsel, and witnesses. Delay or cancel depositions only with good cause and as much notice as practicable.
- c. Behave professionally at depositions. Avoid abusive or rude behavior, mischaracterizations of anyone's conduct, baseless instructions not to answer, and questions asked only to embarrass the witness. Make reasonable use of the allotted time, without needlessly running out the clock or requiring an additional day.

## **3. Counsel shall show civility to the courts.**

- a. Respect the court's time. Make good-faith efforts to avoid or narrow issues before raising them with the court. Plan to make witnesses available while minimizing their wait time – consider on-call agreements. Notify the court as soon as possible if a matter resolves.
- b. Communicate respectfully with the court. Treat the court and its personnel with dignity. Avoid personal attacks, disrespectful familiarity, the appearance of impropriety, and improper ex parte communications.
- c. Conduct yourself professionally in court. Be punctual and prepared for every appearance. Wait for your matter respectfully. Let others speak, without interrupting. Accept responsibility for your handling of the case without blaming subordinates.
- d. Show this civility to all bench officers (judges, commissioners, temporary judges, referees), arbitrators, mediators, other dispute resolution providers, and their staffs.