

LEGAL MANAGEMENT

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CM Feature

COMMUNICATIONS AND ORGANIZATIONAL MANAGEMENT

Order in the Court

Building a Kinder, More Civil Work Culture

In 1995, Alfred McClure, an attorney in Indiana, and his corporation were being sued. His wife represented the corporation in the litigation. As a result, the plaintiff's attorney deposed Mrs. McClure, while her husband, Alfred, represented her during the deposition.



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When Mrs. McClure had a memory lapse regarding the location of money that was sent to the corporation, the deposition became emotional and tense. Mrs. McClure indicated that she was not feeling well and got up from her seat. At that point, Alfred McClure became upset with opposing counsel and threw the contents of a soft drink cup on the plaintiff's attorney.

Alfred McClure then grabbed near or around opposing counsel's neck and restrained him in his chair.

The deposition was subsequently canceled. In a disciplinary proceeding, the Indiana Supreme Court found that Alfred McClure's conduct "demonstrated a lack of civility" and was prejudicial to the administration of justice in violation of the code of professional conduct ordering a 60-day suspension.

QUICK HIT 1

Professionalism and civility are not optional behaviors to be displayed only on a "good day." They are the mainstays of the legal profession and the foundations upon which lawyers practice law.

Today, states are tackling the problem of unprofessional conduct in the legal profession. Several states, including Ohio, Virginia, Pennsylvania, Georgia, Arizona and New Mexico have enacted creeds of professionalism — how attorneys should interact professionally with clients, opposing counsel, the courts and the public regarding our justice system.

Other states, such as Indiana, South Carolina and Idaho, have incorporated professionalism into their oath of office.

The Michigan Bar has actually taken a different tack. Instead of setting forth ideals of professionalism, Michigan has set forth a requirement of civility between attorneys and the judges in their Rules of Professional Conduct. A violation of these rules will result in a disciplinary sanction.

HOW LEGAL ADMINISTRATORS CAN HELP

While teaching professionalism for continuing legal education credit, I found that many attorneys report a lack of professionalism and courtesy in the legal profession.

These behaviors are not optional; they should not only be displayed on a “good day.” They are the mainstays of the legal profession and the foundations upon which lawyers practice law. Not only does unprofessional conduct tarnish the image of the bar, it can also damage the reputation of the firm where the attorney practices and negatively impact morale at that firm.

QUICK HIT 2

Not only does unprofessional conduct tarnish the image of the bar, it can also damage the reputation of the firm where the attorney practices and negatively impact morale at that firm.

According to Michèle Huff, author of *The Transformative Negotiator* and lecturer on behavioral toxicity in the workplace, unprofessional conduct cannot be confined to the one individual. If left unchecked, it will spread through the entire firm and beyond, doing reputational harm in the community.

She advises legal administrators to identify and meet this behavior head-on.

“Clients are the only reason a law firm exists,” says Dave Evans, Executive Director at Bass, Berry & Sims PLC in Nashville, Tennessee. He emphasizes that professionalism in the practice of law is a cultural directive within his law firm. He says it’s essential that the firm’s attorneys treat their clients with the utmost respect and professionalism.

The following simple rules of civility and common courtesy are a good start to helping your firm achieve these goals.

4 STEPS TO A MORE COURTEOUS WORKPLACE

1. Return phone calls and emails in a timely manner.

I did an ethics presentation at a law firm recently, and the senior partner indicated that that clients often left their law firms because attorneys didn’t return calls in a timely manner. Certainly, attorneys are busy, but honestly, who isn’t? An attorney must give clients the courtesy of returning communication and keep them current on the status of litigation. Servicing your clients is the key to a thriving law practice.



2. Attorneys and support staff must treat everyone with courtesy and respect.

Your support staff will usually have first contact with a client. It is essential that they are trained to treat everyone in a professional, courteous and civil manner, no matter the extenuating circumstances. That said, it's equally important that attorneys treat support staff in a professional manner, too. The support staff is the backbone of any law practice. Our chief criminal prosecutor indicated that it was harder to replace a good administrative assistant than an attorney. He would not tolerate any assistant prosecutor treating support staff in a rude or uncivil manner.

3. Avoid losing your temper.

It can be difficult to not respond in kind to rude behavior. But sometimes, the best way to diffuse a tense situation is to stay silent, walk away and gather your thoughts.

4. Never disparage coworkers.

Here's just one example of why: During a prosecutors' meeting, several attorneys complained about a defense attorney who would open their files during administrative day. So while the prosecutors were taking pleas and completing discovery, the defense attorney was leaving the prosecutors' files in disarray. One of the prosecutors indicated that he recently had a trial with this attorney and that he was an excellent litigator. Another prosecutor immediately quipped, "That must be the one day of the year that he was sober." All the prosecutors laughed. However, the defense attorney called the prosecutor who made the joke and demanded to know why he would question his sobriety. In this day and age of email and social media, a negative comment about another coworker will get back to him or her.

Working to build a kinder culture isn't an easy task. But sometimes, a little civility goes a long way.

ABOUT THE AUTHOR

Philip Bogdanoff is an attorney and became an Assistant Prosecutor in the Summit County Prosecutor's Office in 1981. After 30 years of public service, in 2008 he retired from the Summit County Prosecutor's Office. Currently, he presents continuing legal education for attorneys and their support staff on ethics, professionalism and other topics. He has authored numerous articles on ethics, professionalism and other legal topics.

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