

**California Attorney  
Standards of Civility and Professionalism  
Short Version  
*(February 5, 2007 draft)***

SECTION 1. Dignity, decorum and courtesy have traditionally characterized the courts and legal profession of civilized nations, and are not empty formalities. They are essential to an atmosphere that promotes justice and to a lawyer's responsibility to the fair and impartial administration of justice.

SECTION 2. A lawyer should be mindful that the goals of the law include improving the administration of justice, devotion to public service, and contributing uncompensated time to persons who cannot afford legal assistance.

SECTION 3. A lawyer should treat clients with courtesy and respect, and represent them in a civil and professional manner. A lawyer should advise current and potential clients that it is not acceptable to engage in abusive or offensive behavior.

As an officer of the court, a lawyer should not allow clients to prevail upon the lawyer to engage in uncivil or unprofessional behavior.

A lawyer should not compromise the standards of civility and professionalism to achieve an advantage over the other side.

SECTION 4. A lawyer's communications about the legal system should at all times and under all circumstances reflect civility, professional integrity, personal dignity, and respect for the legal system. A lawyer should not engage in offensive conduct or otherwise disparage the intelligence, integrity, ethics, morals or behavior of other counsel, other parties, the court, or other participants when those characteristics are not at issue.

SECTION 5. A lawyer should be punctual in communications and at trials, hearings, meetings, depositions and other scheduled appearances.

SECTION 6. A lawyer should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

A lawyer should balance the client's interests and need to promptly resolve matters against the opponent's schedule and willingness to grant reciprocal extensions, the time needed for the task, and whether a court would be likely to grant the extension.

Consistent with existing law and court orders, a lawyer should agree to reasonable requests for extensions of time that are not adverse to the client's interests.

SECTION 7. Lawyers should not calculate serving process to disadvantage or embarrass the receiving party or unfairly limit the party's opportunity to respond.

SECTION 8. Written materials should be factual and concise, and should not make personal attacks.

SECTION 9. A lawyer should not use the discovery process to harass opposing counsel or delay the resolution of a dispute.

SECTION 10. Motions should be filed or opposed only in good faith and when the issue cannot be otherwise resolved.

A lawyer should promptly draft proposed orders that accurately articulate the court's ruling. Opposing counsel should be given an opportunity to voice objections before submitting the proposed order to the court.

SECTION 11. A lawyer's dealings with nonparty witnesses should leave them with a good impression of the legal system.

SECTION 12. A lawyer should avoid ex parte communication with the court on the substance of a case pending before the judge.

SECTION 13. A lawyer should raise and explore the possibility of settlement and alternative dispute resolution in every case as soon as the case can be evaluated.

SECTION 14. To promote a positive image of the profession, a lawyer should conduct him or herself with dignity and respect, and assist the Court in properly reviewing the case.

SECTION 15. A lawyer should not seek opposing party's default to obtain a judgment or substantive order without giving opposing party sufficient advance written warning to allow the opposing party to cure the default.

SECTION 16. A lawyer should avoid even the appearance of bias by notifying opposing counsel or unrepresented opposing parties of any close, personal relationships between the lawyer and judicial officers or court-appointed experts and allowing opposing counsel or party a reasonable opportunity to object.

SECTION 17. A lawyer should handle all professional matters with due respect for the privacy rights of parties and non-parties.

SECTION 18. A lawyer should ensure that business transactions take place in a cooperative atmosphere and with informed agreement.

SECTION 19. In addition to other applicable Sections of these Standards, family law practitioners have special duties. A lawyer should take a problem-solving approach and keep the best interests of the child in mind in dissolution of marriage and child custody proceedings. The lawyer should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere.

SECTION 20. In addition to other applicable Sections of these Standards, criminal law practitioners have special duties. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. A criminal law lawyer should appreciate these duties, maintain civility in the practicing criminal law, and recognize that opponents who vigorously advocate their positions are merely fulfilling professional obligations.

SECTION 21. A lawyer can expect judges to be courteous, respectful, and professional with lawyers, the parties, witnesses, and court personnel.

ATTORNEY'S PLEDGE. I commit to these Standards of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility to the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the enjoyment of the practice of law, I will encourage other attorneys to participate in a commitment to the Standards.

# **California Attorney Standards of Civility and Professionalism**

**Long Version**  
***(February 5, 2007 draft)***

## INTRODUCTION

As officers of the court with responsibilities to the administration of justice, lawyers have an obligation to be professional with clients, opposing parties and counsel, the courts and the public. This obligation includes: civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation – all of which are essential to the fair administration of justice.

These voluntary Standards are guidelines to foster a level of civility and professionalism that exceeds the requirements of the minimal mandated Rules of Professional Conduct as the standard of practice in California. These standards are not intended to supplant local rules, procedural rules, or rules of professional conduct, nor are they intended as the basis for discipline or professional negligence. They are offered in this spirit: as a reminder that the practice of law is a noble profession and that civility by its practitioners promotes both the effectiveness and the enjoyment of the practice.

Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance the character and conscience of our service to justice.

Attorneys are encouraged to comply with the spirit of these guidelines, and not simply blindly adhere to their strict letter. These guidelines are applicable to all lawyers regardless of practice area. They are also applicable to judges, as lawyers and judges have a shared obligation to enhance and preserve the dignity and integrity of our system of justice.

The Standards are intended to complement codes of professionalism adopted by bar associations in California. It is especially noted, with much gratitude, that these guidelines could not have been drafted without significant assistance from the Santa Clara County Bar Association's Code of Professionalism.

**SECTION 1  
RESPONSIBILITIES TO THE JUSTICE SYSTEM**

Dignity, decorum and courtesy have traditionally characterized the courts and legal profession of civilized nations, and are not empty formalities. They are essential to an atmosphere that promotes justice and to a lawyer's responsibility to the fair and impartial administration of justice.

**SECTION 2  
RESPONSIBILITIES TO THE PUBLIC AND THE PROFESSION**

A lawyer should be mindful that the goals of the law include improving the administration of justice, devotion to public service, and contributing uncompensated time to persons who cannot afford legal assistance.

For example:

- a. A lawyer should contribute pro bono time to community activities and to individuals who cannot afford legal services.
- b. A lawyer should become involved in organized activities designed to improve the administration of justice and the legal profession.

**SECTION 3  
RESPONSIBILITIES TO THE CLIENT AND CLIENT REPRESENTATION**

A lawyer should treat clients with courtesy and respect, and represent them in a civil and professional manner. A lawyer should advise current and potential clients that it is not acceptable to engage in abusive or offensive behavior.

As an officer of the court, a lawyer should not allow clients to prevail upon the lawyer to engage in uncivil or unprofessional behavior.

A lawyer should not compromise the standards of civility and professionalism to achieve an advantage over the other side.

**SECTION 4  
COMMUNICATIONS**

A lawyer's communications about the legal system should at all times and under all circumstances reflect civility, professional integrity, personal dignity, and respect for the legal system. A lawyer should not engage in offensive conduct or otherwise disparage the intelligence, integrity, ethics, morals or behavior of other counsel, other parties, the court, or other participants when those characteristics are not at issue.

For example, in communications about the legal system and with participants:

- a. A lawyer's conduct should be consistent with high respect and esteem for the civil and criminal justice systems.
- b. This standard does not prohibit a lawyer's good faith, factually based expressions of dissent or criticism made in public or private discussions with the purpose of improving the legal system or profession.
- c. A lawyer should not exhibit or appeal to or engender bias against a person on account of that person's race, color, religion, sex, national origin, ancestry, age, sexual orientation or disability.
- d. A lawyer should be mindful of the parties' rights and should not make exaggerated, false, or misleading statements to the media while representing a party in a pending matter.

For example, in communications with adversaries:

- a. Lawyers should avoid hostile, demeaning or humiliating words.
- b. A lawyer should not draft letters to create a "record" of events that have not occurred or assign a position that opposing party has not taken.
- c. Letters intended only to make a record should be used sparingly and only when necessary. Lawyers should agree to reasonable requests to waive procedural formalities.
- d. Unless specifically permitted or invited by the court, a lawyer should not send a copy of a letter addressed to opposing counsel to the judge, nor should a lawyer send a letter to the judge with a copy to opposing counsel.

## **SECTION 5 PUNCTUALITY**

A lawyer should be punctual in communications and at trials, hearings, meetings, depositions and other scheduled appearances.

For example:

- a. A lawyer should arrive sufficiently in advance to resolve preliminary matters.
- b. A lawyer should timely notify participants when the lawyer will be late or is aware that a participant will be late.

## SECTION 6 SCHEDULING, CONTINUANCES AND EXTENSIONS OF TIME

A lawyer should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

For example:

- a. A lawyer should schedule by agreement whenever possible, should consider the court, opposing counsel or party, and other participants' scheduling interests, and should send formal notice after agreement is reached.
- b. A lawyer should not arbitrarily or unreasonably withhold consent to a request for scheduling accommodations or engage in delay tactics.
- c. A lawyer should promptly notify the court or tribunal, and opposing counsel, of problems with key participants' availability.
- d. A lawyer should promptly notify opposing counsel and, if appropriate, the court or tribunal when scheduled meetings, hearings or depositions must be cancelled or rescheduled.

A lawyer should balance the client's interests and need to promptly resolve matters against the opponent's schedule and willingness to grant reciprocal extensions, the time needed for the task, and whether a court would be likely to grant the extension.

Consistent with existing law and court orders, a lawyer should agree to reasonable requests for extensions of time that are not adverse to the client's interests.

For example:

- a. Unless time is of the essence, a lawyer should agree without requiring motions or other formalities, and regardless of whether the requesting counsel previously refused to grant an extension.
- b. A lawyer should agree to an appropriate continuance when new counsel substitutes in.
- c. A lawyer should advise clients that failing to agree with reasonable requests for time extensions is inappropriate.
- d. A lawyer should not use extensions or continuances for harassment or to extend litigation.
- e. A lawyer should only place conditions on an agreement to an extension that are fair and essential or that the lawyer is entitled to impose, such as preserving rights or seeking reciprocal scheduling concessions.

- f. By agreeing to extensions, a lawyer should not seek to cut off an opponent's substantive rights.

## **SECTION 7 SERVICE OF PAPERS**

Lawyers should not calculate serving process to disadvantage or embarrass the receiving party or unfairly limit the party's opportunity to respond.

For example:

- a. A lawyer should serve papers on the attorney who is responsible for the matter at his or her principal place of work.
- b. If possible, papers should be served upon counsel at a time agreed upon in advance.
- c. A lawyer should not serve papers so close to a court appearance that it inhibits opposing counsel's ability to prepare for that appearance or respond to the papers.
- d. A lawyer should not serve papers to take advantage of an opponent's absence from the office or to inconvenience the opponent, such as late on Friday afternoon or the day preceding a holiday.
- e. When it is likely that service by mail will prejudice the opposing party, a lawyer should serve papers by other permissible means.

## **SECTION 8 WRITINGS SUBMITTED TO THE COURT, COUNSEL OR OTHER PARTIES**

Written materials should be factual and concise, and should not make personal attacks.

For example:

- a. A lawyer should avoid degrading other persons' intelligence, ethics, morals, integrity, or personal behavior.
- b. A lawyer should clearly identify all changes made in a document.

## **SECTION 9 DISCOVERY**

A lawyer should not use the discovery process to harass opposing counsel or delay the resolution of a dispute.

For example:

a. As to Depositions:

1. A lawyer should take depositions only to learn facts or information or to preserve testimony.
2. When another party notices a deposition for the near future, a lawyer should not schedule another deposition for an earlier date without opposing counsel's agreement.
3. A lawyer should not delay a deposition in bad faith, but only when necessary to meet scheduling problems.
4. A lawyer should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer.
5. A lawyer should remember that vigorous advocacy can be consistent with professional courtesy, and that arguments or conflicts with other counsel should not be personal.
6. A lawyer should not engage in offensive conduct or disparage the intelligence, integrity, ethics, morals or behavior of other participants when those characteristics are not at issue. This includes disparaging remarks based on race, color, national origin, ancestry, sex, sexual orientation, age, religion, medical condition, or physical or mental disability.
7. A lawyer questioning the deponent should provide other counsel present with a copy of all documents shown to the deponent before or contemporaneously with showing each document to the deponent.
8. Once a question is asked, a lawyer should not interrupt a deposition for the purpose of coaching the deponent or suggesting answers.
9. A lawyer should not direct a deponent to refuse to answer a question without a legal basis for doing so.
10. A Lawyer should refrain from self-serving speeches.

- b. As to Document Demands:
1. A lawyer should limit demands for document production to those documents actually and reasonably needed to prosecute or defend an action.
  2. A lawyer should not make demands to harass or embarrass a party or witness or impose an inordinate burden or expense in responding.
  3. If a lawyer inadvertently receives privileged document(s), the lawyer should promptly inform the producing party that the documents were received and return or destroy them.
  4. In responding to document demands, a lawyer should not interpret the request in such a way as to avoid disclosure or withhold documents on the grounds of privilege, except where appropriate.
  5. A lawyer should not produce disorganized or unintelligible documents, or produce documents in a way that hides or obscures the existence of particular documents.
  6. A lawyer should not delay in producing documents in order to prevent opposing counsel from inspecting documents prior to scheduled depositions or for other tactical reason.
- c. As to Interrogatories:
1. A lawyer should use interrogatories sparingly and not to harass or impose undue burden or expense on the opposing party.
  2. A lawyer should not read or respond to interrogatories in any manner that is not truly responsive.
  3. When a lawyer lacks a good faith belief in the merit of an objection, the lawyer should not object to an interrogatory. If an interrogatory is objectionable in part, a lawyer should answer the unobjectionable portion.

## **SECTION 10 MOTION PRACTICE**

Motions should be filed or opposed only in good faith and when the issue cannot be otherwise resolved.

A lawyer should promptly draft proposed orders that accurately articulate the court's ruling. Opposing counsel should be given an opportunity to voice objections before submitting the proposed order to the court.

For example:

- a. Before filing a motion, a lawyer should engage in more than a pro forma effort to resolve the issue.
- b. Civil discovery motions should be filed sparingly.
- c. A lawyer should not engage in conduct that forces opposing counsel to file a motion and then not oppose the motion.
- d. A lawyer who has no valid objection to a proposed motion should promptly make this position known to opposing counsel, who then may file an unopposed motion or avoid filing a motion.
- e. After opposing a motion, if a lawyer recognizes that the movant's position is correct, the lawyer should promptly advise the movant and the court of this change in position.
- f. If opposing counsel has objection to the proposed order, opposing counsel should promptly voice any objections. If the lawyers cannot resolve all objections, the drafting lawyer should promptly submit the proposed order to the court, stating any unresolved objections.
- g. Unless required by law to file and serve papers on a specific date or time, a lawyer should not file or serve a papers in any manner that unfairly limits another party's opportunity to respond.

## **SECTION 11 DEALING WITH NONPARTY WITNESSES**

A lawyer's dealings with nonparty witnesses should leave them with a good impression of the legal system.

For example:

- a. A lawyer should be courteous and respectful in communications.
- b. Upon request, a lawyer should extend professional courtesies and grant reasonable accommodations, unless to do so would substantially prejudice the client's lawful objectives.
- c. A lawyer should take special care to protect a witness under the age of 14 from undue harassment or embarrassment and to state questions in a form that is appropriate to the witness's age and development.
- d. A lawyer should not issue subpoenas to nonparty witnesses for inappropriate tactical or strategic purposes, such as to intimidate or harass the nonparty.

- e. A lawyer should notify all counsel when a deposition subpoena has been served.
- f. A lawyer who obtains documents pursuant to a deposition subpoena should, upon request, make copies of the documents available to all other counsel at their expense.

## **SECTION 12 EX PARTE COMMUNICATION WITH THE COURT**

A lawyer should avoid ex parte communication with the court on the substance of a case pending before the judge.

For example:

- a. Even where laws or rules permit an ex parte application or communication to the court, a lawyer should make diligent efforts to notify the opposing party or counsel and make reasonable efforts to accommodate counsel's schedule so that the opposing party may be represented.
- b. Where rules permit an emergency ex parte application or communication to the court, a lawyer should make the application or communication only when the lawyer's client will be seriously prejudiced if the application or communication were made with regular notice.

## **SECTION 13 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION**

A lawyer should raise and explore the possibility of settlement and alternative dispute resolution in every case as soon as the case can be evaluated.

For example:

- a. A lawyer should attempt to de-escalate any controversy and bring the parties together.
- b. A lawyer should consider whether alternative dispute resolution would adequately serve the client's interest and dispose of the controversy expeditiously and economically.
- c. A lawyer should advise the client at the outset of the availability of alternative dispute resolution.
- d. A lawyer should not interfere with a client's desire to settle the dispute quickly and in a cost-effective manner.
- e. A lawyer should not use an alternative dispute resolution process for delay or other improper purposes. A lawyer should participate in good faith, provide the

alternative dispute resolution officer with all of the necessary facts, law, theories, opinions and arguments to assist the officer in resolving the dispute.

- f. A lawyer should not falsely hold out the possibility of settlement as a means for terminating discovery or delaying trial.

#### **SECTION 14 CONDUCT IN COURT**

To promote a positive image of the profession, a lawyer should conduct him or herself with dignity and respect, and assist the Court in properly reviewing the case.

For example:

- a. A lawyer should be punctual and prepared.
- b. A lawyer's conduct should be according to the law, in a way that avoids disorder or disruption, and preserve the right to a fair trial.
- c. A lawyer should display courtesy, dignity and respect toward the judge presiding so as to maintain respect for and confidence in the judicial office.
- d. A lawyer should refrain from conduct that ridicules, pokes fun at, mocks, demeans, or otherwise embarrasses or humiliates others, the Court, or Court staff.
- e. Before appearing in court, a lawyer should advise the client of the kind of behavior expected of the client and endeavor to prevent the client from creating disorder or disruption in the courtroom.
- f. A lawyer should make objections for legitimate and good faith reasons, and not for the purpose of harassment or delay.
- g. A lawyer should honor opposing counsel's requests that do not prejudice the lawyer's client's rights or sacrifice tactical advantage.

#### **SECTION 15 DEFAULT**

A lawyer should not seek opposing party's default to obtain a judgment or substantive order without giving opposing party sufficient advance written warning to allow the opposing party to cure the default.

**SECTION 16**  
**SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS OR**  
**COURT APPOINTED EXPERTS**

A lawyer should avoid even the appearance of bias by notifying opposing counsel or unrepresented opposing parties of any close, personal relationships between the lawyer and judicial officers or court-appointed experts and allowing opposing counsel or party a reasonable opportunity to object.

**SECTION 17**  
**PRIVACY**

A lawyer should handle all professional matters with due respect for the privacy rights of parties and non-parties.

For example:

- a. A lawyer should not inquire into, attempt or threaten to use, facts about the private lives of any party or other individuals for the purpose of gaining an advantage in a case. This guideline does not preclude inquiry into sensitive matters relevant to an issue, as long as the inquiry is pursued as narrowly as possible.
- b. If a lawyer must inquire into an individual's private matters, the lawyer should cooperate in arranging for protective measures designed to assure that the information revealed is disclosed only to those persons who need it in order to present the relevant evidence to the court.

**SECTION 18**  
**NEGOTIATION OF BUSINESS TRANSACTIONS**

A lawyer should ensure that business transactions take place in a cooperative atmosphere and with informed agreement.

For example:

- a. In non-confrontational transactional settings, cooperation is encouraged. With client approval, lawyers should consider giving each party permission to contact the employees of the other party for the purpose of promptly and efficiently obtaining the information and documents necessary to complete the transaction. When granted permission, a lawyer should not use the contact to communicate on any issue in controversy or to gain any advantage "against" the party or their attorney.

**SECTION 19**  
**ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS**

In addition to other applicable Sections of these Standards, family law practitioners have special duties. A lawyer should take a problem-solving approach and keep the best interests of the child in mind in dissolution of marriage and child custody proceedings. The lawyer should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere.

For example:

- a. A lawyer should not assist in vindictive conduct and should treat all participants with courtesy and respect in order to lower the emotional level of a family dispute.
- b. A lawyer should attempt to resolve disputes by agreement, and should consider alternatives to litigation as a means of achieving resolution of disputes.
- c. A lawyer representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the marriage dissolution on the child.

**SECTION 20**  
**ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS**

In addition to other applicable Sections of these Standards, criminal law practitioners have special duties. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. A criminal law lawyer should appreciate these duties, maintain civility in practicing criminal law, and recognize that opponents who vigorously advocate their positions are merely fulfilling professional obligations.

For example:

- a. A lawyer should not elevate professional disputes to a personal level by criticizing opposing counsel.
- b. While prosecutors must ensure that innocent persons are not prosecuted, they should also advocate for public safety where the evidence supports this position.
- c. A prosecutor or defense counsel should not make disparaging personal comments.
- d. A prosecutor should not question the propriety of defending “guilty” persons, as this undermines the public’s understanding of the criminal justice system and the roles of its participants.
- e. Appellate counsel and trial counsel should communicate openly and without rancor, endeavoring to keep the proceedings on a professional level.

For example:

1. Appellate counsel should use tact and sensitivity when communicating with trial counsel about claims of ineffective assistance of counsel or prosecutorial misconduct as grounds for appeal, and should be mindful of the professional pride and passion that the questions raise.
2. Trial counsel should cooperate in a professional and courteous manner with appellate counsel to the extent allowed by law.

## **SECTION 21 JUDGES' CONDUCT**

A lawyer can expect judges to be courteous, respectful, and professional with lawyers, the parties, witnesses, and court personnel.

For example:

- a. A lawyer can expect a judge to refrain from hostile, demeaning or humiliating language in written opinions or in communications.
- b. A lawyer can expect a judge to abstain from impugning the integrity or professionalism of the lawyer based solely on the client or cause represented.
- c. A lawyer can expect a judge to control courtroom decorum and proceedings so that the litigation is conducted in a civil and efficient manner.
- d. A lawyer can expect a judge to require court personnel to be respectful and courteous to all participants in the litigation.
- e. A lawyer can expect a judge to be considerate of the time constraints of the lawyers, parties and witnesses when scheduling matters and to avoid, where possible, scheduling that conflicts with the lawyer's required appearance before another judge.
- f. A lawyer can expect a judge to promote these Standards in his or her court.

## **ATTORNEY'S PLEDGE**

I commit to these Standards of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility to the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the enjoyment of the practice of law, I will encourage other attorneys to participate in a commitment to the Standards.