

Topeka Bar Association

Standards of Professional Courtesy

After consideration of professionalism codes of many jurisdictions and the American Bar Association's Guidelines for Litigation Conduct, the Topeka Bar Association adopts the following standards 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. Participants, as used in these standards, is intended to include judges, judges pro tem, hearing officers, and lawyers. When relevant the term may also include litigants, court personnel, and witnesses.

1. All participants in a judicial proceeding shall speak and write civilly, courteously, and respectfully.
2. Proceedings shall be conducted with an appropriate air of formal decorum in court, including:
 - a. Unless excused by the Court, lawyers and parties should stand when addressing the Court, such as when making an objection or argument, or when the Court is directly addressing the individual, such as when accepting a plea;
 - b. Wearing appropriate dress. Judges should wear a robe when conducting evidentiary hearings, oral arguments, and dockets at which parties or witnesses are in attendance. Attorneys should dress in business attire--*Committee comment*: Appropriate business attire for men requires wearing a jacket and tie. Proper dress for women must be appropriate attire for court. Attorneys should not appear in court wearing sports, leisure or casual wear. Stirrup pants, culottes, men's shirts with banded collars, casual sandals or shoes will not be considered proper court attire;
 - c. Being silent in the courtroom except when given the floor by the court, when making an objection, or when quietly discussing issues with a client as necessary during a proceeding. Except in unusual circumstances, discussions or interviews with clients or witnesses and negotiations with other attorneys should not occur in the courtroom;
 - d. Standing in front of the bar only when appearing on the case presently being heard by the court;
 - e. Directing objections to the court and not to other counsel and otherwise not engaging in a colloquy with opposing counsel;

- f. Stating the legal basis for any objection, including statutory references as appropriate (remembering that the goal is to make an adequate record);
- g. Requesting permission of the Court before approaching a witness or the bench;
- h. Utilizing the court room whenever practical if parties or witnesses are present, recognizing the provisions of K.S.A. 60-104 and that sometimes circumstances specific to a case make use of the conference room or chambers more appropriate;
- i. Ensuring that cell phones, beepers and similar devices are turned off before entering the courtroom or judge's chambers; and
- j. Respectfully addressing or referring to witnesses, litigants, counsel and court personnel by title or surname.

3. Participants shall be considerate of the time constraints and pressures of each other and consider the costs of litigation.

- a. Appearing on time and being prepared to begin the hearing promptly. Attorneys will meet with opposing counsel and clients in advance of the hearing.
- b. When good cause for delay exists, notifying the other participants;
- c. Lawyers and litigants should not expect to see the court unless an appointment or advance arrangements with the court have been made.
- d. Counsel shall consult with each other regarding scheduling matters in a good faith effort to avoid scheduling conflicts.
- e. Lawyers should endeavor to confer early with other counsel to assess settlement possibilities. Lawyers will not falsely hold out the possibility of settlement to obtain unfair advantage.
- f. Lawyers and parties should stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.
- g. Lawyers will not use any form of discovery or discovery scheduling as a means of harassment.
- h. Whenever circumstances allow, lawyers will make good faith efforts to resolve by agreement objections before presenting them to the court.
- i. Lawyers will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

j. Requests for extensions of time will not be used solely for the purpose of unjustified delay or to obtain unfair advantage.

k. Participants 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 participants.

l. Lawyers will promptly notify other counsel and, if appropriate, the court or other persons, when hearings, depositions, meetings or conferences are to be canceled or postponed.

m. Lawyers or, if the lawyer is unavailable, the lawyer's staff, shall promptly return phone calls, faxes, e-mail, and other communications.

n. Lawyers should agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided the clients' legitimate rights will not be materially or adversely affected.

o. Lawyers shall contact opposing counsel before filing any motion, except in exigent circumstances, and confer regarding the necessity of a motion or, if the motion needs to be filed to preserve the record, whether the motion, or parts of it, are disputed.

4. Lawyers will not cause any default or dismissal to be entered without first notifying opposing counsel, when opposing counsel's identity is known, or otherwise take action adverse to the interest of a litigant unless notice has been given or ex parte proceedings are permitted.

5. Discovery should be conducted with professionalism.

a. Lawyers will take depositions only when actually needed. Depositions will not be for purposes of harassment or other improper purposes.

b. Lawyers will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

c. Lawyers will not obstruct questioning during a deposition or object to deposition questions unless permitted under applicable law. Only questions which are necessary and appropriate for the prosecution or defense of an action will be asked.

d. Lawyers should carefully craft document production requests and interrogatories so they are limited to documents or information which is reasonably believed to be necessary and appropriate for the prosecution or defense of an action. Discovery will not be designed to place an undue burden or expense on a party or for any other improper purpose.

e. Discovery requests will be responded to reasonably and in a manner which does not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information, or for any other improper purpose. Objections will be based on a good faith belief in their merit and not for the purpose of withholding or delaying the disclosure of relevant information or for any other improper purpose.

6. When a draft order is to be prepared by counsel to reflect a court ruling, counsel will draft an order that accurately and completely reflects the court's ruling. Counsel 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.

7. Lawyers will not ascribe a position to another counsel that counsel has not taken.

8. Unless permitted or invited by the court, counsel shall not send copies of correspondence between counsel to the court.

9. Participants shall not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities in any written or oral communication with the court.

10. Participants shall be courteous, respectful, and civil when discussing opinions or decisions of the court, ever mindful that a position articulated by a judge is the result of that judge's earnest effort to interpret the law and the facts correctly and that the public's perception of the system is vital to the continued trust in our profession.

11. Participants shall refrain from ex parte communication with the court and court personnel.

12. Participants shall respect the privacy of the court by not entering the judge's office without permission and by accessing the courtroom from the hallway rather than from judge's chambers. Participants shall also respect the privacy of court personnel.

13. Participants shall follow all rules, including those related to continuances and other scheduling matters.

14. Lawyers shall seek all criminal continuances from the criminal assignment judge and, in seeking any continuance, be prepared to state just cause and seek the continuance as far in advance of the hearing as is possible.

15. Participants should avoid making ill-considered accusations of unethical conduct.

16. Participants will not, encourage or knowingly authorize any person under the participant's control to engage in conduct that would be improper conduct if the participant was to engage in the conduct.

17. Participants will not, absent good cause, attribute bad motives or improper conduct to other counsel.

18. Lawyers will not lightly seek court sanctions.

19. Lawyers will in good faith adhere to all express promises and to agreements with other counsel, whether oral or in writing, and to all agreements implied by the circumstances or local customs.

20. When lawyers reach an oral understanding on a proposed agreement or a stipulation and decide to commit it in writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide other counsel the opportunity to review the writing. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the other counsel's attention. Lawyers will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.