

SAINT LUCIE COUNTY BAR ASSOCIATION

Standards of Professional Courtesy

Preamble

The effective administration of justice requires the interaction of many professions and disciplines, but no role is more critical than the role of the lawyer. In fulfilling that role, a lawyer performs many tasks, few of which are easy, most of which are exacting. In the final analysis, a lawyer's duty is always to the client. But in striving to fulfill that duty a lawyer must be ever conscious of his broader duty to the judicial system that serves both attorney and client. To the judiciary, a lawyer owes candor, diligence and utmost respect. To the administration of justice, a lawyer unquestionably owes the fundamental duties of personal dignity and professional integrity. Coupled with those duties is a lawyer's duty of courtesy and cooperation with fellow professionals for the efficient administration of our system of justice and the respect of the public it serves.

In furtherance of these fundamental concepts, in recognition that they must be applied in a manner consistent with the Rules Regulating The Florida Bar and in keeping with the long tradition of professionalism among and between members of this bar association, the following Standards of Professional Courtesy are hereby adopted.

1. Attorneys should treat each other, the opposing party, the court and the members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.

DISCUSSION: Counsel should not be discourteous or offensive with opposing counsel, whether at hearings, depositions or at any other time when involved in the representation of clients. In all contacts with the court and court personnel, counsel should treat the court and its staff with courtesy and respect and without regard to whether counsel agrees or disagrees with rulings of the court in any specific case. Counsel should remember that the disrespect brought upon fellow members of the bar and the judiciary reflects on all members of the profession as well.

2. Attorneys should, when practical, consult with opposing counsel before scheduling hearings and depositions in a good faith attempt to avoid scheduling conflicts.

DISCUSSION: When scheduling hearings and depositions, attorneys should communicate with opposing counsel in an attempt to schedule them at a mutually agreeable time. This practice will avoid unnecessary delays, expense to clients, and stress to attorneys and their staff in the management of their calendars and practice. If a request is made to clear time for a hearing or deposition, the attorney to whom the request is made should confirm that the time is available or advise of a conflict within a reasonable time, preferably the same business day, but in any event before the end of the following business day. Conflicts should be indicated only when they actually exist and the requested time is not available. The courtesy requested by this standard should not be used for the purpose of obtaining delay or any unfair advantage. An attorney who has attempted to comply with this rule is justified in setting a hearing or deposition without agreement from opposing counsel if opposing counsel fails or refuses promptly to accept or reject the time offered for the hearing or deposition; if opposing counsel raises an unreasonable number of calendar conflicts; if opposing counsel has consistently failed to comply with this standard; or if the action involves so many attorneys that compliance with this standard is impractical. In such cases, attempts should be made to set depositions and hearings at convenient times and dates for all parties. Depositions and hearings should not be set with less than one week notice unless by agreement of counsel or when a genuine emergency exists.

3. Notice of cancellation of depositions and hearings should be given to the court and opposing counsel at the earliest possible time.

DISCUSSION: Calling at or just prior to the time of a scheduled hearing or deposition to advise the court or opposing counsel of the cancellation demonstrates a lack of courtesy and consideration. Early notice of cancellation of a deposition or a hearing avoids unnecessary travel and expenditure of time by opposing counsel and early notice of cancellation of hearing to the court allows time previously reserved to be used for other matters.

4. Proposed orders which are to be submitted to the court for approval should be prepared promptly, and proposed orders on non-routine matters should be submitted to opposing counsel first.

DISCUSSION: In routine matters, the attorney charged with preparing the order should come to the hearing with a prepared order to be submitted to the court and a copy of such order should be sent to opposing counsel prior to the hearing. If an order was not submitted to the court at the routine hearing, the attorney charged with preparing the proposed order should prepare it promptly, generally no later than the following business day. Examples of routine orders include most orders on motions to dismiss, motions on discovery matters, motions for continuances and uncontested matters. Where the order to be entered is not routine, a copy should be sent to opposing counsel before the order is submitted to the court. Examples of non-routine orders include those entered in complex matters or matters which involve factual disputes.

5. Attorneys should cooperate with each other when conflicts and calendar changes are necessary and requested.

DISCUSSION: Counsel should never request a calendar change or misrepresent a conflict in order to obtain an advantage or delay. However, in the practice of law, emergencies affecting family or professional commitments will arise which create conflicts and make such requests inevitable. Attorneys should be cooperative with each other whenever possible in agreeing to calendar changes, and should make such requests of other counsel only when absolutely necessary.

6. Except where any material right of the client is involved, counsel should stipulate to matters in order to avoid unnecessary hearings.

DISCUSSION: Attorneys should be willing to agree to and stipulate to matters where no genuine objection exists in order to avoid unnecessary utilization of court time and inconvenience to counsel where the only purpose of the hearing would be to advise the court and opposing counsel that there is no objection to the relief sought. In securing the elimination of unnecessary hearings, the attorney seeking an order should attempt to ascertain prior to the hearing, whether any opposition exists. Additionally, the opposing attorney should promptly inform movant's counsel that no objection will be made so that a timely cancellation of the hearing can be made.

7. When scheduling hearings, counsel should attempt to secure sufficient time to allow full presentation and to allow opposing counsel equal time in response.

DISCUSSION: Too often insufficient time is reserved to allow both sides to address the issues before the court. This causes the court to use more time than was reserved, often causing delay to other litigants and counsel. Similarly, continuations of hearings where insufficient time was reserved often causes greater delay than initially reserving an appropriate amount of time. Continued hearings cause difficulties for the court and counsel and are particularly frustrating to litigants. In fulfilling this standard, counsel should cooperate with one another to the extent that it is practical in attempting to use only that amount of time necessary for resolution of the issues to be adjudicated.

8. Reasonable extension of time should be granted to opposing counsel where such extension will not have a material, adverse effect on the rights of the client.

DISCUSSION: Because we are an integral part of the practice of law, additional time is often required to complete a given task. Traditionally, members of this bar association have readily granted any reasonable request for an extension of time as an accommodation to opposing counsel who, because of a busy trial schedule, personal emergency or heavy workload, needs additional time to prepare a response or comply with a legal requirement. This tradition should continue; provided, however, that no lawyer should request an extension of time solely for the purpose of delay or to obtain any unfair advantage.