

## **Professionalism Aspirations**

### **Preamble**

*(Approved and endorsed by the Minnesota Supreme Court, January 11, 2001)*

We, the judges and lawyers of Minnesota, have a special responsibility for the quality of justice. We have taken an oath to conduct ourselves in an upright and courteous manner with fidelity to the court and the client, promising no falsehood or deceit. Commensurate with this responsibility and unique oath is the obligation to conduct our affairs according to the highest standards of professionalism.

The following standards reflect our commitment to professionalism. They memorialize our obligations to each other, our clients and to the people of the State of Minnesota. They are designed to raise public confidence in the legal profession and the justice system through the promotion and protection of professionalism and civility.

These standards are not to be used as a basis for litigation, lawyer discipline, or court sanctions. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

### **Professionalism Aspirations**

#### **I. Our Legal System**

A lawyer owes personal dignity, integrity, and independence to the administration of justice. A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms.

**A. Respect And Dignity.** We will uphold the respect and dignity of judges, each member of the Bar, the law and the legal system.

**B. Honesty.** We will conduct our affairs with candor and honesty. Our word is our bond.

**C. Equal Access.** We will dedicate and commit ourselves to equal access to the legal system.

**D. Education.** We will educate our clients, the public, and other lawyers regarding the spirit and letter of these Professional Aspirations.

**E. Appearance of Impropriety.** We will always endeavor to conduct ourselves in such a manner as to avoid even the appearance of impropriety.

#### **II. Lawyer to Client**

A lawyer owes allegiance, learning, skill, and industry to a client. As lawyers, we shall employ appropriate legal procedures to protect and advance our clients' legitimate rights, claims, and objectives. In fulfilling our duties to each client, we will be mindful of our obligation to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner.

##### **A. Independent Judgment.**

1. We will be loyal and committed to our clients' lawful objectives, but will not permit that loyalty and commitment to interfere with our duty to provide objective and independent advice.

2. We will always be conscious of our duty to the system of justice.

3. We reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect our clients' lawful objectives.

4. We will advise our clients, if necessary, that they do not have a right to demand that we engage in abusive or

offensive conduct and we will not engage in such conduct.

5. We will neither encourage nor cause clients to do anything that would be unethical or inappropriate if done by us.

### **B. Proper Conduct on Behalf of Clients.**

1. We will affirm among parties and other lawyers that civility and courtesy are expected and are not a sign of weakness.

2. We will endeavor to achieve our clients' legitimate objectives in our office practice work and in litigation as expeditiously and economically as possible.

3. We will not employ tactics that are designed primarily to delay resolution of a matter or to harass or drain the financial resources of the parties.

## **III. Lawyer to Lawyer**

A lawyer owes courtesy, candor, cooperation, and compliance with all agreements and mutual understandings to opposing counsel, in the conduct of an office practice and in pursuit of the resolution of legal issues. As professionals, ill feelings between clients should not influence our conduct, attitude, or demeanor toward opposing counsel. Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. A lawyer owes the same duty to an opposing party who is pro se.

### **A. Courtesy and Punctuality.**

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.

2. We will not, even when called upon by a client to do so, abuse others or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.

3. We will be courteous, civil and prompt in oral and written communications and punctual in honoring scheduled appearances, meetings, depositions, appointments, etc. with opposing counsel.

4. We will disagree without being disagreeable. We recognize that effective representation does not require antagonistic or obnoxious behavior.

5. We will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations or acrimony toward opposing counsel, parties, and witnesses.

6. We will not ask a witness or an opposing party a question solely for the purpose of harassing or embarrassing that individual.

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

### **B. Drafting.**

1. We will not quarrel over matters of form or style, but concentrate on matters of substance.

2. We will try to achieve the common goal in the preparation of agreements.

3. When we purport to identify for other counsel or parties changes we make in documents submitted for their review, we will identify all such changes accurately.
4. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
5. We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.
6. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We 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.

### **C. Scheduling, Extensions, Cancellations.**

1. We will not arbitrarily schedule a meeting, deposition, court appearance, hearing, or other proceeding until a good faith effort has been made to schedule it by agreement. If we are unable to contact the other lawyer, we will send written correspondence suggesting a time or times that will become operative unless an informal objection is directed to us within a set reasonable time.
2. We will endeavor in good faith to honor previously scheduled trial or hearing settings, vacations, seminars, meetings or other functions that produce good faith calendar conflicts on the part of opposing counsel. We will not seek accommodation from another member of the Bar for the rescheduling of any court setting, discovery, hearing, meeting, etc. unless a legitimate need exists.
3. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of our clients will not be adversely affected.
4. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.
5. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed.

### **D. Discovery.**

1. We will make reasonable efforts to conduct discovery by agreement.
2. We will refrain from excessive and/or abusive discovery.
3. We will comply with all reasonable discovery requests. We will not resist discovery requests that are not objectionable.
4. We will not seek court intervention to obtain discovery that is clearly improper and not desirable.
5. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.
6. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.
7. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

8. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.
9. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge. We will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. We will encourage witnesses to respond to all deposition questions that are reasonably understandable.
10. We will not use any form of discovery or discovery scheduling as a means of harassment.
11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

**E. Sanctions.** We will not seek or threaten sanctions or disqualifications without first conducting a reasonable investigation and unless it is necessary for protection of our client's lawful objectives or fully justified by the circumstances.

**F. Opportunity to Respond.**

1. We will not serve motions, pleadings or briefs in any manner that unfairly limits another party's opportunity to respond. We will not seek ex parte relief without first attempting to notify the opposing party or attorney. We will not file memoranda or affidavits that are not permitted by court rules. We will furnish opposing counsel copies of all submissions to the court either contemporaneously or as soon as practical.
2. We will not cause a default or dismissal to be entered, when we know the identity of an opposing counsel, without first making a good faith attempt to inquire about the counsel's intention to proceed.

**G. Settlement.**

1. We will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.
2. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

**H. Request During Trial or Hearing.** During trial or hearing we will honor reasonable requests of opposing counsel that do not prejudice the rights of our clients or sacrifice tactical advantage.

**I. Conduct of Others.** We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

#### **IV. LAWYER AND JUDGE**

Lawyers and judges owe each other respect, diligence, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the court and the profession.

**A. Lawyers' Duties to Court and Administrative Tribunal.**

1. We will speak and write civilly and respectfully in all communications with the court or administrative tribunal.
2. We will be punctual and prepared for all appearances so that all hearings, conferences, and trials may commence on time to the greatest extent possible.
3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.
4. We will not engage in any conduct that brings disorder or disruption to the courtroom or administrative hearing area.

We will advise our clients and witnesses appearing in these settings of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court or administrative hearing officer.

6. We will avoid argument or posturing through sending copies of correspondence between counsel to the court, unless specifically permitted or invited by the court.

7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any problems.

8. We will act and speak civilly to all other court staff with an awareness that they, too, are an integral part of the judicial system.

### **B. The Duties of Judges, Referees, and Administrative Law Judges to Lawyers and Parties.**

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that we have both the obligation and the authority to insure that all proceedings are conducted in a civil manner.

2. If we observe a lawyer being uncivil to another lawyer or others, we will call it to the attention of the offending lawyer on our own initiative.

3. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.

4. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

5. In scheduling all hearings, meetings and conferences, we will be considerate of time schedules of lawyers, parties, and witnesses.

6. We will make all reasonable efforts to decide promptly all matters presented to us for decision.

7. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

8. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by exigencies of litigation practice.

9. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a party has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

10. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom, or the causes which, a lawyer represents.

11. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

12. We will not adopt procedures that needlessly increase litigation expense.

### **C. The Duties of Judges, Referees, and Administrative Law Judges to Each Other**

1. We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

2. In all written and oral communications, we will abstain from disparaging personal remarks, criticisms, or sarcastic or demeaning comments about another colleague.

3. We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

## **Summary Standards**

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