

POLK COUNTY TRIAL LAWYERS ASSOCIATION
JUDGES OF THE TENTH JUDICIAL CIRCUIT
STANDARDS OF PROFESSIONAL COURTESY

PREAMBLE

Attorneys are most often retained to represent their clients in disputes. The practice of law is largely an adversarial process. Attorneys are ethically bound to zealously represent and advocate their clients' interest. Nonetheless, there exist certain standards of professional courtesy that are observed. The following standards of professional courtesy describe the conduct preferred and expected by the majority of attorneys practicing in Polk County. These standards are not meant to be exhaustive but set a tone or guide for conduct not specifically covered by these standards.

These standards have been codified with the hope that their dissemination will educate new attorneys and others who may be unfamiliar with the customary local practices. Compliance with these standards, unlike the "Oath of Admission" and the "Rules of Professional Conduct" adopted by the Florida Supreme Court, is intended to be voluntary. They have received the approval of the Board of Directors of the Polk County Trial Lawyers Association. They have also been endorsed by the judges of the Tenth Judicial Circuit, who expect professional conduct by all attorneys who appear and practice before them.

I. DISCOVERY:

1. **Request.** Attorneys should pursue discovery requests that are reasonably related to the matter at issue. Attorneys should not use discovery for the purpose of harassing, embarrassing or causing the adversary to incur unnecessary expenses.
2. **Improper Purpose.** Attorneys should not use discovery for the purpose of causing undue delay or obtaining unfair advantage.
3. **Responses.** Attorneys should ensure that responses to reasonable discovery requests are timely, organized, complete and consistent with the obvious intent of the request. For example, a response to a request to produce should refer to each set of documents as separately marked exhibits.
4. **Extensions.** Attorneys should grant reasonable requests by opposing counsel for extensions of time within which to respond to pleadings, discovery and other matters when such an extension will not prejudice their client or unduly delay a proceeding.

II. SCHEDULING:

1. **Notice.** Attorneys should endeavor to provide opposing counsel, parties, witnesses, and other affected persons, sufficient notice of depositions, hearings and other proceedings, except upon agreement of counsel, in an emergency, or in other circumstances compelling more expedited scheduling. As a general rule, actual notice should be given that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions, and five (5) business days for hearings.

2. **Convenience.** Attorneys should communicate with opposing counsel prior to scheduling depositions, hearings and other proceedings, so as to schedule them at times that are mutually convenient for all interested persons. Further, sufficient time should be reserved to permit a complete presentation by counsel for all parties.

3. **Conflicts.** Attorneys should notify opposing counsel, the court, and others affected, of scheduling conflicts as soon as they become apparent. Further, attorneys should cooperate with one another regarding all reasonable scheduling requests that do not prejudice their clients or unduly delay a proceeding.

4. **Agreements.** Attorneys should promptly notify the court or other tribunal of any resolution between the parties that renders a scheduled court appearance unnecessary or otherwise moot.

III. CONDUCT TOWARDS OTHER ATTORNEYS, THE COURT AND PARTICIPANTS:

1. **Cooperation.** Attorneys should cooperate with opposing counsel during trials and evidentiary hearings by disclosing the identifies of all witnesses reasonably expected to be called and the length of time needed to present their entire case, except when a client's material rights would be adversely affected. They should also cooperate with the calling of witnesses out of turn when the circumstances justify it.

2. **Negativism.** Attorneys should refrain from criticizing or denigrating the court, opposing counsel, parties or witnesses, before their clients, the public or the media, as it brings dishonor to our profession.

3. **Civility.** Attorneys should make an effort to explain to witnesses the purpose of their required attendance at depositions, hearings or trials. They should further impress upon their clients and witnesses the need to be courteous and respectful and not rude or disruptive with the court, opposing counsel, parties and witnesses.

4. **Accommodation.** Attorneys should attempt to accommodate the schedules of witnesses when setting or resetting their appearance and promptly notify them of any cancellations.

5. **Compliance.** Attorneys should respect and abide by the spirit and letter of all rulings of the court.

IV. CANDOR TO THE COURT AND OPPOSING COUNSEL:

1. **Candor.** Attorneys should not knowingly misstate, misrepresent or distort any fact or legal authority to the court or to opposing counsel and shall not mislead by inaction or silence. Further, if this occurs unintentionally and is later discovered, it should immediately be disclosed or otherwise corrected.

2. **Communications with Court.** Attorneys should notify opposing counsel of all oral or written communications with the court or other tribunal, except those involving only scheduling matters. Copies of any submissions to the court (such as correspondence, memoranda of law, case law, etc.), should simultaneously be provided to opposing counsel by substantially the same method of delivery by which

they were provided to the court. For example, if a memorandum of law is hand-delivered to the court, at the same time a copy should be hand-delivered or faxed to opposing counsel.

3. **Drafting Orders.** Attorneys should draft proposed orders promptly and the orders should fairly and adequately represent the ruling of the court. Attorneys should promptly provide, either orally or in writing, proposed orders to opposing counsel for approval. Opposing counsel should then promptly communicate with any objections and at that time, the drafting attorney should immediately submit a copy of the proposed order the court and advise the court as to whether or not it has been approved by opposing counsel.

4. **Drafting Agreements.** Attorneys should draft agreements and other documents promptly and so as to fairly reflect the true intent of the parties. Where revisions are made to an agreement or other documents attorneys should point out or otherwise highlight any such additions, deletions or modifications for all opposing counsel.

V. EFFICIENT ADMINISTRATION:

1. **Good Faith.** Attorneys should refrain from actions intended primarily to harass or embarrass and should refrain from actions which cause unnecessary expense or delay.

2. **Consultation with Opposing Counsel.** Attorneys should, whenever possible, prior to filing or upon receiving a motion, contact opposing counsel to determine if the matter can be resolved in whole or in part. This may alleviate the need for filing the motion or allow submission of an agreed order in lieu of a hearing.

3. **Undisputed Facts.** Attorneys should, whenever appropriate, stipulate to all facts and legal authority not reasonably in dispute.

4. **Settlements.** Attorneys should encourage principled negotiations and efficient resolution of disputes on their merits.

APPROVED BY THE BOARD OF DIRECTORS OF THE POLK COUNTY TRIAL LAWYERS ASSOCIATION JULY, 1992.

ENDORSED BY THE JUDGES OF THE TENTH JUDICIAL CIRCUIT AUGUST, 1992.

The Polk County Trial Lawyers Association expresses its gratitude to the Palm Beach County Bar Association for the text of the Standards of Professional Courtesy.