

STATEMENT ON PROFESSIONALISM

Issued by the Supreme Court of Ohio
On February 3, 1997

The Court created the Supreme Court Commission on Professionalism in order to address its concerns that trends were developing among lawyers in Ohio and elsewhere which emphasize commercialism in the practice of law and de-emphasize our historical heritage that the practice is a learned profession to be conducted with dignity, integrity and honor as a high calling dedicated to the service of clients and the public good. These trends have been evidenced by an emphasis on financial rewards, a diminishing of courtesy and civility among lawyers in their dealings with each other, a reduction in respect for the judiciary and our system of justice and a lessening of regard for others and commitment to the public good.

As professionals, we need to strive to meet lofty goals and ideals in order to achieve the highest standards of a learned profession. To this end, the Court issues A Lawyer's Creed and A Lawyer's Aspirational Ideals which have been adopted and recommended for the Court's issuance by the Supreme Court Commission on Professionalism. In so doing, it is not the Court's intention to regulate or to provide additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio's lawyers, judges and legal educators. It is the Court's hope that these individuals, their professional associations, law firms, and educational institutions will utilize the Creed and the Aspirational Ideals as guidelines for this purpose.

A LAWYER'S CREED

To my clients, I offer loyalty, confidentiality, competence, diligence, and my best judgment. I shall represent you as I should want to be represented and be worthy of your trust. I shall counsel you with respect to alternative methods to resolve disputes. I shall endeavor to achieve your lawful objectives as expeditiously and economically as possible.

To the opposing parties and their counsel, I offer fairness, integrity, and civility. I shall not knowingly make misleading or untrue statements of fact or law. I shall endeavor to consult with and cooperate with you in scheduling meetings, depositions, and hearings. I shall avoid excessive and abusive discovery. I shall attempt to resolve differences and, if we fail, I shall strive to make our dispute a dignified one.

To the courts and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. Where consistent with my client's interests, I shall communicate with opposing counsel in an effort to avoid or resolve litigation. I shall attempt to agree with other counsel on a voluntary exchange of information and on a plan for discovery. I shall do honor to the search for justice.

To my colleagues in the practice of law, I offer concern for your reputation and well-being. I shall extend to you the same courtesy, respect, candor, and dignity that I expect to be extended to me.

To the profession, I offer assistance in keeping it a calling in the spirit of public service, and in promoting its understanding and an appreciation for it by the public. I recognize that my actions and demeanor reflect upon our system of justice and our profession, and I shall conduct myself accordingly.

To the public and our system of justice, I offer service. I shall devote some of my time and skills to community, governmental and other activities that promote the common good. I shall strive to improve the law and our legal system and to make the law and our legal system available to all.

A LAWYER'S ASPIRATIONAL IDEALS

As to clients, I shall aspire:

- (a) To expeditious and economical achievement of all client objectives.
- (b) To fully informed client decision-making. I should:
 - (1) Counsel clients about all forms of dispute resolution;
 - (2) Counsel clients about the value of cooperation as a means toward the productive resolution of disputes;
 - (3) Maintain the sympathetic detachment that permits objective and independent advice to clients;
 - (4) Communicate promptly and clearly with clients; and
 - (5) Reach clear agreements with clients concerning the nature of the representation.
- (c) To fair and equitable fee agreements. I should:
 - (1) Discuss alternative methods of charging fees with all clients;
 - (2) Offer fee arrangements that reflect the true value of the services rendered;
 - (3) Reach agreements respecting fees with clients as early in the relationship as possible;
 - (4) Determine the amount of fees by consideration of many factors and not just time spent; and
 - (5) Provide written agreements as to all fee arrangements.
- (d) To comply with the obligations of confidentiality and the avoidance of conflicting loyalties in a manner designed to achieve fidelity to clients.
- (e) To achieve and maintain a high level of competence in my field or fields of practice.

As to opposing parties and their counsel, I shall aspire:

- (a) To cooperate with opposing counsel in a manner consistent with the competent representation of my client. I should:
 - (1) Notify opposing counsel in a timely fashion of any canceled appearance;
 - (2) Grant reasonable requests for extensions or scheduling changes; and
 - (3) Consult with opposing counsel in the scheduling of appearances, meetings, and depositions.
- (b) To treat opposing counsel in a manner consistent with his or her professional obligations and consistent with the dignity of the search for justice. I should:
 - (1) Not serve motions or pleadings in such a manner or at such a time as to preclude opportunity for a competent response;
 - (2) Be courteous and civil in all communications;
 - (3) Respond promptly to all requests by opposing counsel;
 - (4) Avoid rudeness and other acts of disrespect in all meetings, including depositions and negotiations;
 - (5) Prepare documents that accurately reflect the agreement of all parties; and
 - (6) Clearly identify all changes made in documents submitted by opposing counsel for review.

As to the courts and other tribunals, and to those who assist them, I shall aspire:

(a) To represent my clients in a manner consistent with the proper functioning of a fair, efficient, and humane system of justice. I should:

- (1) Avoid non-essential litigation and non-essential pleading in litigation;
- (2) Explore the possibilities of settlement of all litigated matters;
- (3) Seek non-coerced agreement between the parties on procedural and discovery matters;
- (4) Avoid all delays not dictated by competent representation of a client;
- (5) Prevent misuses of court time by verifying the availability of key participants for scheduled appearances before the court and by being punctual; and
- (6) Advise clients about the obligations of civility, courtesy, fairness, cooperation, and other proper behavior expected of those who use our system of justice.

(b) To model for others the respect due to our courts. I should:

- (1) Act with complete honesty;
- (2) Know court rules and procedures;
- (3) Give appropriate deference to court rulings;
- (4) Avoid undue familiarity with members of the judiciary;
- (5) Avoid unfounded, unsubstantiated, or unjustified public criticism of members of the judiciary;
- (6) Show respect by attire and demeanor;
- (7) Assist the judiciary in determining the applicable law; and
- (8) Give recognition to the judiciary's obligations of informed and impartial decision-making.

As to my colleagues in the practice of law, I shall aspire:

(a) To recognize and develop a professional interdependence for the benefit of our clients and the legal system;

(b) To defend you against unjust criticism; and

(c) To offer you assistance with your personal and professional needs.
obligations of informed and impartial decision-making.

As to our profession, I shall aspire:

(a) To improve the practice of law. I should:

- (1) Assist in continuing legal education efforts;
- (2) Assist in organized bar activities;
- (3) Assist law schools in the education of our future lawyers; and
- (4) Assist the judiciary in achieving objectives of A Lawyer's Creed and these Aspirational Ideals.

(b) To promote the understanding of and an appreciation for our profession by the public. I should:

- (1) Use appropriate opportunities, publicly and privately, to comment upon the roles of lawyers in society and government, as well as in our system of justice; and
- (2) Conduct myself always with an awareness that my actions and demeanor reflect upon our profession.

(c) To devote some of my time and skills to community, governmental and other activities that promote the common good.

As to the public and our system of justice, I shall aspire:

(a) To consider the effect of my conduct on the image of our system of justice, including the effect of advertising methods.

(b) To help provide the pro bono representation that is necessary to make our system of justice available to all.

(c) To support organizations that provide pro bono representation to indigent clients.

(d) To promote equality for all persons.

(e) To improve our laws and legal system by, for example:

(1) Serving as a public official;

(2) Assisting in the education of the public concerning our laws and legal system;

(3) Commenting publicly upon our laws; and

(4) Using other appropriate methods of effecting positive change in our laws and legal system.

A JUDICIAL CREED

For the purpose of publicly stating my beliefs, convictions, and aspirations as a member of the Judiciary or as a lawyer acting in a judicial capacity in the State of Ohio:

I re-affirm my oath of office and acknowledge my obligations under the Canons of Judicial Ethics.

I recognize my role as a guardian of our system of jurisprudence dedicated to equal justice under law for all persons.

I believe that my role requires scholarship, diligence, personal integrity, and a dedication to the attainment of justice.

I know that I must not only be fair but also give the appearance of being fair.

I recognize that the dignity of my office requires the highest level of judicial demeanor.

I will treat all persons, including litigants, lawyers, witnesses, jurors, judicial colleagues, and court staff with dignity and courtesy and will insist that others do likewise.

I will strive to conduct my judicial responsibilities and obligations in a timely manner and will be respectful of others' time and schedules.

I will aspire every day to make the Court I serve a model of justice and truth.



PROFESSIONALISM
DOs & DON'Ts:

DEPOSITIONS

Issued by the Commission on Professionalism:

If there is one area of the practice of law that consistently gives rise to an inordinate number of complaints about lack of professionalism, it is the area of depositions. Depositions, of course, are an extremely important and valuable component of our adversary system, but, if abused and mishandled, they can engender unnecessary and costly strife that impedes and undercuts the entire process. To help correct this situation, the Commission on Professionalism is publishing the following guidelines, a set of deposition “dos and don’ts.” The Commission believes that if lawyers follow these guidelines — which are consistent with, and to some extent provide specific amplification of, the Supreme Court’s Statements on Professionalism — lawyers will be able to use depositions to advance the legitimate interests of their clients, while, at the same time, treating all participants in the process, including deponents and opposing counsel, with courtesy, civility, and respect. It is not the Commission’s intention to regulate or to suggest additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio’s lawyers. In short, by adhering to these guidelines, lawyers will be acting as professionals and in the manner that the courts expect.

Therefore, as a lawyer who is scheduling, conducting or attending a deposition:

DO

- Review the local rules of the jurisdiction where you are practicing before you begin.
- Cooperate on scheduling. Rather than unilaterally sending out a notice of deposition, call opposing counsel first and cooperate on the selection of the date, time, and place. Then send out a notice reflecting the agreed upon date.
- If, after a deposition has been scheduled, a postponement is requested by the other side, cooperate in the rescheduling unless the requested postponement would be one of those rare instances that would adversely affect your client’s rights.
- Arrive on time.
- Be prepared, including having multiple copies of all pertinent documents available in the deposition room, so that the deposition can proceed efficiently and expeditiously.
- Turn off all electronic devices for receiving calls and messages while the deposition is in progress. (OVER)

- Attempt to agree, either before or during the deposition, to a reasonable time limit for the deposition.
- Treat other counsel and the deponent with courtesy and civility.
- Go “off record” and confer with opposing counsel, privately and outside the deposition room, if you are having problems with respect to objections, the tone of the questions being asked or the form of the questions.
- Recess the deposition and call the court for guidance if your off-the-record conversations with opposing counsel are not successful in resolving the “problem.”
- If a witness is shown a document, make sure that you have ample copies to distribute simultaneously to all counsel who are present.
- If a deponent asks to see a document upon which questions are being asked, provide a copy to the deponent.
- Inform your client in advance of the deposition (if the client plans to attend) that you will be conducting yourself at the deposition in accordance with these “dos and don’ts.”

DON’T

- Attempt to “beat your opponent to the punch” by scheduling a deposition for a date earlier than the date requested by your opponent for deposition(s) that he or she wants to take.
- Coach the deponent during the deposition when he or she is being questioned by the other side.
- Make speaking objections to questions or make statements that are intended to coach the deponent. Simply say “object” or “objection.”
- Make rude and degrading comments to, or ad hominen attacks on, deponent or opposing counsel, either when asking questions or objecting to questions.
- Instruct a witness to refuse to answer a question unless the testimony sought is deemed by you to be privileged, work product, or self-incriminating, or if you believe the examination is being conducted in a manner as to unreasonably annoy or embarrass the deponent.
- Take depositions for the purpose of harassing a witness or in order to burden an opponent with increased litigation expenses.
- Overtly or covertly provide answers to questions asked of the witness.
- Demand conferences or breaks while a question is pending, unless the purpose is to determine whether a privilege should be asserted.
- Engage in conduct that would be inappropriate in the presence of a judge.



PROFESSIONALISM
DOs & DON'Ts:

PROFESSIONALISM IN THE COURTROOM

Issued by the Commission on Professionalism:

To be truly professional when appearing in court, a lawyer must act in a proper manner. Such conduct goes beyond complying with the specific rules of procedure and of evidence promulgated by the Supreme Court of Ohio and with local rules issued by trial courts and individual judges. Proper conduct in the courtroom also includes adhering to common principles of civility and respect when dealing with the judge, court staff, and opposing counsel. The Supreme Court of Ohio Commission on Professionalism has prepared this list of “dos and don’ts,” to illustrate a number of principles so that lawyers appearing in Ohio courts will fully understand what is expected of them. In creating this list, the Commission does not intend to regulate or to provide additional bases for discipline, but rather to help promote professionalism among Ohio’s lawyers.

By following the principles of civility and respect, lawyers will enhance their professionalism, as well as the dignity of courtroom proceedings.

DO

- Be prepared for your participation in any court conference or proceeding.
- Wear appropriate courtroom attire when appearing in court. If you are a male attorney, always wear a tie.
- Advise your clients on how to dress appropriately for any scheduled court appearance.
- Be on time for all court conferences and proceedings. (The best practice is to arrive at least five minutes in advance of the scheduled time.)
- If you are going to be late, call the courtroom so those who are waiting are properly informed.
- Turn your cell phone and all other electronic devices off or to silent mode before entering a courtroom.
- Be courteous when addressing the judge and opposing counsel, both in the courtroom and in chambers.
- Begin any argument on the record before the judge or jury, by saying, “May it please the court.”
- Stand whenever you address the judge in the courtroom.
- Show all exhibits to opposing counsel before showing the exhibit to a witness. (OVER)

- Ask the judge's permission before approaching a witness during trial or before publishing an exhibit to the jury during an examination.
- Speak clearly and enunciate when addressing the judge or a witness.
- Agree to stipulate to facts that are not in dispute if they will not adversely affect your client.
- Respect the private nature of a sidebar conference; avoid making statements or arguments at a level that may be overheard by the jury.
- Inform the judge in advance of any delays in the scheduling of witnesses.
- Treat court personnel with the same respect you would show the judge.
- Be accurate when setting forth pertinent facts and pertinent rules of law.
- Answer questions from the judge directly and forthrightly.
- Bring to the judge's attention any possible ethics issues as soon as you become aware of them.
- Verify immediately the availability of necessary participants and witnesses after a date for a hearing or trial has been set, so you can promptly notify the judge of any problems.
- During final argument, be circumspect when summarizing testimony that contains profane words.

DON'T

- Make ad hominem attacks on opposing counsel or be sarcastic in either your oral arguments or written briefs.
- Shout when making an objection in a court proceeding.
- Make any speaking objections in a jury case except for an explanatory single word or two (e.g., "hearsay," "leading," "no foundation"). DO request a side bar conference if you must expound on your objections.
- Interrupt opposing counsel or the judge, no matter how strongly you disagree with what is being said.
- Argue with the judge or react negatively after the judge has ruled on an objection or other matter.
- Tell the judge that he or she has committed a reversible error.
- Tell the judge that another judge has ruled a different way without providing a copy of the other judge's written opinion.
- Display anger in the courtroom.
- Make facial objections during testimony or during arguments by opposing counsel.
- Bring a beverage to the trial table unless it is in a non-descript glass or cup and only if you determined that the judge does not object to a beverage on the trial table.
- Lean or sit on the trial table, jury box, or any other furniture in the courtroom.
- Move freely around the courtroom once a proceeding is underway without obtaining permission from the judge.
- Celebrate or denounce a verdict as it is delivered, and also advise clients and interested spectators not to do so. DO behave civilly with opposing counsel when leaving the courtroom.



PROFESSIONALISM
DOs & DON'Ts:

WORKING WITH OPPOSING COUNSEL AND OTHER LAWYERS

Issued by the Commission on Professionalism:

Under “A Lawyer’s Creed” issued by the Supreme Court of Ohio in February 1997, Ohio lawyers pledge to offer fairness, integrity, and civility to opposing parties and their counsel. The Supreme Court of Ohio Commission on Professionalism prepared this list of “dos and don’ts” to illustrate some of the ways lawyers can fulfill this pledge in their everyday communication with opposing counsel and other lawyers. In creating this list, it is not the commission’s intention to regulate or to provide additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio’s lawyers. By following these practices, lawyers will elevate the level of professionalism in their day-to-day interactions with other lawyers.

DO

- Maintain a courteous and cooperative working relationship with opposing counsel and other lawyers.
- Avoid motions about minor issues that should be worked out informally.
- Wait 24 hours before deciding to respond to an intemperate, untrue, or exasperating communication from another attorney.
- Discuss discovery disputes with opposing counsel in person, by phone, or by e-mail before sending a formal letter that stakes out your position.
- Consult in advance with other attorneys to avoid scheduling conflicts.
- Cooperate with other attorneys when you have obtained permission of the court to extend deadlines imposed by a court order.
- Extend professional courtesies regarding procedural formalities and scheduling when your client will not suffer prejudice, DO be fair-minded with respect to requests for stipulations, and DO agree to stipulate to facts that are not in dispute if they will not adversely affect your client.
- Keep your word. (OVER)

- Respond in a timely fashion to communications from opposing counsel and other attorneys.
- Identify the changes you made from previous drafts when exchanging document drafts.
- Promptly notify other counsel (and, where appropriate, the court or other persons who are affected) when hearings, depositions, meetings, or conferences must be cancelled or postponed.
- Conclude a matter with a handshake or an exchange of courteous messages.
- Require that persons under your supervision conduct themselves with courtesy and civility and that they adhere to these precepts when dealing with other attorneys and their staffs.

DON'T

- Respond in kind when confronted with unprofessional behavior by another attorney.
- Serve papers at a time or in a manner intended to inconvenience or take advantage of opposing counsel, such as late on a Friday afternoon, on the day preceding a holiday, or when you know counsel is absent or ill.
- Be belligerent, insulting, or demeaning in your communications with other attorneys or their staff.
- Use discovery as a means of harassment.
- Publicly disparage another attorney, either during or after a case concludes.

2701.03 Disqualification of common pleas judge - affidavit.

(A) If a judge of the court of common pleas allegedly is interested in a proceeding pending before the court, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the court or a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the court, any party to the proceeding or the party's counsel may file an affidavit of disqualification with the clerk of the supreme court in accordance with division (B) of this section.

(B) An affidavit of disqualification filed under section 2101.39 or 2501.13 of the Revised Code or division (A) of this section shall be filed with the clerk of the supreme court not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled and shall include all of the following:

(1) The specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of those allegations or, in relation to an affidavit filed against a judge of a court of appeals, a specific allegation that the judge presided in the lower court in the same proceeding and the facts to support that allegation;

(2) The jurat of a notary public or another person authorized to administer oaths or affirmations;

(3) A certificate indicating that a copy of the affidavit has been served on the probate judge, judge of a court of appeals, or judge of a court of common pleas against whom the affidavit is filed and on all other parties or their counsel;

(4) The date of the next scheduled hearing in the proceeding or, if there is no hearing scheduled, a statement that there is no hearing scheduled.

(C)

(1) Except as provided in division (C)(2) of this section, when an affidavit of disqualification is presented to the clerk of the supreme court for filing under division (B) of this section, all of the following apply:

(a) The clerk of the supreme court shall accept the affidavit for filing and shall forward the affidavit to the chief justice of the supreme court.

(b) The supreme court shall send notice of the filing of the affidavit to the probate court served by the judge if the affidavit is filed against a probate court judge, to the clerk of the court of appeals served by the judge if the affidavit is filed against a judge of a court of appeals, or to the clerk of the court of common pleas served by the judge if the affidavit is filed against a judge of a court of common pleas.

(c) Upon receipt of the notice under division (C)(1)(b) of this section, the probate court, the clerk of the court of appeals, or the clerk of the court of common pleas shall enter the fact of the filing of the affidavit on the docket of the probate court, the docket of the court of appeals, or the docket in the proceeding in the court of common pleas.

(2) The clerk of the supreme court shall not accept an affidavit of disqualification presented for filing under division (B) of this section if it is not timely presented for filing or does not satisfy the requirements of divisions (B)(2), (3), and (4) of this section.

(D)

(1) Except as provided in divisions (D)(2) to (4) of this section, if the clerk of the supreme court accepts an affidavit of disqualification for filing under divisions (B) and (C) of this section, the affidavit deprives the judge against whom the affidavit was filed of any authority to preside in the proceeding until the chief justice of the supreme court, or a justice of the supreme court designated by the chief justice, rules on the affidavit pursuant to division (E) of this section.

(2) A judge against whom an affidavit of disqualification has been filed under divisions (B) and (C) of this section may do any of the following that is applicable:

(a) If, based on the scheduled hearing date, the affidavit was not timely filed, the judge may preside in the proceeding.

(b) If the proceeding is a domestic relations proceeding, the judge may issue any temporary order relating to spousal support pendente lite and the support, maintenance, and allocation of parental rights and responsibilities for the care of children.

(c) If the proceeding pertains to a complaint brought pursuant to Chapter 2151. or 2152. of the Revised Code, the judge may issue any temporary order pertaining to the relation and conduct of any other person toward a child who is the subject of a complaint as the interest and welfare of the child may require.

(3) A judge against whom an affidavit of disqualification has been filed under divisions (B) and (C) of this section may determine a matter that does not affect a substantive right of any of the parties.

(4) If the clerk of the supreme court accepts an affidavit of disqualification for filing under divisions (B) and (C) of this section, if the chief justice of the supreme court, or a justice of the supreme court designated by the chief justice, denies the affidavit of disqualification pursuant to division (E) of this section, and if, after the denial, a second or subsequent affidavit of disqualification regarding the same judge and the same proceeding is filed by the same party who filed or on whose behalf was filed the affidavit that was denied or by counsel for the same party who filed or on whose behalf was filed the affidavit that was denied, the judge against whom the second or subsequent affidavit is filed may preside in the proceeding prior to the ruling of the chief justice of the supreme court, or a justice designated by the chief justice, on the second or subsequent affidavit.

(E) If the clerk of the supreme court accepts an affidavit of disqualification for filing under divisions (B) and (C) of this section and if the chief justice of the supreme court, or any justice of the supreme court designated by the chief justice, determines that the interest, bias, prejudice, or disqualification alleged in the affidavit does not exist, the chief justice or the designated justice shall issue an entry denying the affidavit of disqualification. If the chief justice of the supreme court, or any justice of the supreme court designated by the chief justice, determines that the interest, bias, prejudice, or disqualification alleged in the affidavit exists, the chief justice or the designated justice shall issue an entry that disqualifies that judge from presiding in the proceeding and either order that the proceeding be assigned to another judge of the court of which the disqualified judge is a member, to a judge of another court, or to a retired judge.

Effective Date: 01-01-2002