

Knoxville Bar Association
Guidelines for Professional Courtesy and Conduct
Adopted by the KBA Board of Governors –
October 16, 2002

Preamble

A lawyer owes a client undivided allegiance, the full application of the lawyer's learning, skill, and industry, and the employment of all appropriate legal means to protect and enforce the client's legitimate rights, claims, and objectives. At the same time, in meeting a client's goals, a lawyer must be mindful of the need to maintain the highest degree of professionalism possible. The law demands the utmost professionalism from its practitioners so that it may be understood as a learned and respected profession serving the public good by ensuring that our system of justice works fairly and efficiently.

The lawyers of the Knoxville Bar thus adopt the following Guidelines for Professional Courtesy and Conduct to assist all lawyers in attaining this degree of professionalism. The Guidelines are not intended to be rules or mandates governing the conduct of lawyers and hence are not designed for enforcement by sanction or disciplinary action. Neither are they intended to be nor should they be construed as establishing any minimum standards of professional care or competence. Rather, the purpose of the Guidelines is to promote and foster the ideals of professional courtesy, conduct, and cooperation among all attorneys in both litigation and non-litigation, commercial, and transactional settings.

General Guidelines for All Lawyers

1. A lawyer should strive to maintain a courteous tone in correspondence, pleadings, and other written communications as well as oral communications.
2. A lawyer should avoid taking action adverse to the interest of a party known to be represented without notice to opposing counsel sufficient to permit response.
3. A lawyer should promptly respond to attempts by other lawyers to contact him or her, whether by telephone or correspondence.

4. A lawyer should avoid making ill-considered accusations of unethical conduct toward another lawyer.
5. A lawyer should not engage in intentionally discourteous behavior for the purpose of obtaining an advantage.
6. A lawyer should never intentionally embarrass another lawyer and should avoid personal criticism of him or her in the presence of his or her client or other counsel.
7. A lawyer should never intentionally mislead or deceive another lawyer and should honor promises or commitments made.
8. A lawyer should acknowledge that the legal matters in which he or she is involved are professional and not personal and should endeavor to maintain a friendly and collegial relationship with opposing counsel.
9. A lawyer should contribute time and expertise to qualified persons on a pro bono basis as well as contribute generally to the community.

Specific Guidelines for Litigators

1. A lawyer should stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for failing to stipulate.
2. When a draft order is to be prepared by counsel to reflect a court ruling, a lawyer should draft an order that accurately and completely reflects the court's ruling. A lawyer should 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.
3. Unless permitted or invited by the court, a lawyer should not send copies of correspondence between counsel to the court or otherwise conduct ex parte communications with the Court regarding the merits of a matter.
4. A lawyer should grant reasonable extensions of time to opposing counsel where such extensions will not have a material adverse effect on the rights of the client.

5. A lawyer should respect opposing counsel's schedule by seeking agreement on deposition dates and court appearances rather than merely serving notice.
6. A lawyer should not use discovery or the scheduling of discovery as a means of harassment, to place an undue burden or expense on a party, or for any other improper purpose. Discovery requests should be limited to those matters reasonably believed to be necessary and appropriate for the prosecution or defense of any action. Discovery responses should not be submitted in such a way as to avoid disclosure of relevant and non-privileged information.
7. A lawyer should not engage in any conduct during a deposition that would be inappropriate in the presence of a judge and should do nothing to obstruct questioning during a deposition.
8. A lawyer should not seek sanctions against or disqualification of another attorney unless necessary for the protection of a client and fully justified by the circumstances, and never for the mere purpose of obtaining a tactical advantage.

Specific Guidelines for Transaction/Commercial Lawyers

1. A lawyer owes to opposing counsel and other participating professionals courtesy, candor, and cooperation in all respects not inconsistent with a client's interest, and scrupulous observance of all mutual agreements and understandings in a business transaction.
2. Ill feelings between clients should not influence a lawyer's conduct, attitude or demeanor toward opposing counsel in any transaction.
3. In transactions, a lawyer should not quarrel over matters of form or style unless reasonably mandated under the circumstances, but should concentrate on matters of substance.
4. A lawyer should identify all changes and proposed revisions made by the lawyer in documents submitted to opposing counsel or parties for review.

5. A lawyer should endeavor to achieve the client's lawful objectives in business transactions as expeditiously and economically as possible under the circumstances.
6. A lawyer should not seek tactical advantage by delaying negotiations until the last minute, and should provide meaningful drafts of documents well in advance of closing. To promote efficiency and fairness, a lawyer should, whenever possible, complete the negotiations of all major terms of a transaction before formalizing the operative transaction documents and the closing of the transaction.
7. In requesting and giving third-party opinion letters in transactions, a lawyer should be guided by the principles of the Third Party Legal Opinion Report and Legal Opinion Accord of the Section of Business Law of the American Bar Association (found at 47 Business Lawyer 167 et seq. 1991) (the "Accord"). The Accord should be the centerpiece of the third-party opinion practice and should be used to the maximum degree possible.
8. A lawyer should be guided by the client's goals and reasonable demands in completing a transaction. To this end, in drafting and negotiating transaction documentation, a lawyer should utilize terms in all transaction documents which are clear, concise and practicable (and, if appropriate, the lawyer should include illustrative examples to accompany terms).