

Has Professionalism Become a Causality of our Changing Times?

By Richard S. Victor

The downturn in our economy along with court decisions and legislative enactments closing areas of practice for lawyers has caused some attorneys to take cases in areas of law that they never practiced in before. Unfortunately, this development has had some unintended results. Not only has it caused attorneys to find themselves dealing with attorneys who may be unfamiliar with the local practices and procedures, but it has also caused attorneys who have a specific “mind set”, which they may have had in their prior specialty, to use that way of practicing in areas of law that call for a different way to “get things done.” Lawyers who had been used to confrontation and “Bulldog” techniques may find that the practice of a different area requires more skill in having patience, techniques in negotiations, and the art of dealing with emotions.

Another unintended result is the different treatment lawyers give to each other when cases are “hotly” contested. Lawyers sometimes get caught up in the emotions of their clients or the reality that their fee is contingent on the amount of time they can bill out or the settlement/verdict that is received. In some cases, disrespect for brother/sister counsel has been an unfortunate result of this conduct and the fact that some attorneys may

even attempt to prolong matters, avoiding resolution, in order to maintain hourly billings. Winning at any cost becomes the goal; it also becomes the downfall for our profession.

In 2001 the Oakland County Bar had a special Domestic Relations Task Force to develop an Attorney Code of Conduct. This Code applies to attorneys in every field of law. It bears repeating.

- 1. Never knowingly deceive another lawyer or the court and do not file frivolous motions or other proceedings.**
- 2. Honor promises and commitments made to another lawyer.**
- 3. Make all reasonable efforts to schedule matters with opposing counsel by agreement. Communicate with opposing counsel in an effort to avoid litigation and to resolve existing litigation.**
- 4. Only seek sanctions against opposing counsel where required for the protection of the client. Do not make unfounded accusations of unethical conduct about opposing counsel or intentionally embarrass another lawyer.**

- 5. Agree to reasonable extensions of time in litigation if the extensions will not materially adversely affect the client or unduly delay court process.**
- 6. Exchange all exhibits before the day of any court hearing if it is reasonably possible to do so. Where it is not possible, the exchange should take place as early as possible on the day of the hearing**
- 7. Respond promptly to communications, either written or by telephone, from opposing counsel.**
- 8. Do not use unmeritorious, deceptive or unreasonable delaying tactics and always ATTEMPT TO BE PUNCTUAL FOR ANY SCHEDULED MOTION OR HEARING. If it appears that being on time for a scheduled matter will not be possible, make every reasonable effort, as early as possible, to notify opposing counsel and the court.**
- 9. Do not send motions or other papers at a time or in a manner, which will unfairly limit the other party's opportunity to respond or will unfairly prejudice their ability to represent their client's position.**

10. Advise the client of this code of conduct and the expectation that every attorney is required to follow it.