

HAMPDEN COUNTY BAR ASSOCIATION CODE OF PROFESSIONALISM

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HAMPDEN COUNTY BAR ASSOCIATION CODE OF PROFESSIONALISM

2013 Edition

PREAMBLE

Members of the Hampden County Bar Association have practiced law with a level of professionalism that goes well beyond the requirements of the Massachusetts Rules of Professional Conduct. To make that level of professionalism the standard for practice in Hampden County, this Code of Professionalism is adopted to apply to all lawyers who practice in Hampden County. As lawyers, we owe duties of professionalism to our clients, opposing parties and their counsel, the courts and other tribunals, and the public as a whole. Those duties require professional integrity, personal dignity, candor, diligence, respect, courtesy, cooperation and competence.

This Code is structured to provide general guiding principles.

Lawyers are encouraged to maintain their competence through continuing education and professional development. Lawyers are further encouraged to comply with both the spirit and letter of this Code. The goals stated herein are equally applicable to all lawyers regardless of area of practice. Individual lawyers and law offices are encouraged to make this Code their personal standard for practice.

This Code should be read in the context of the lawyer's underlying duty to zealously represent the lawyer's client. . However, in zealously representing their clients, all lawyers should conduct themselves within the highest bounds of professionalism. The legal profession must strive for the highest standards of lawyer behavior to elevate and enhance our service to justice.

SECTION 1 RESPONSIBILITIES TO THE PUBLIC

A lawyer should always be mindful that the law is a learned profession and that among its goals are devotion to public service, improvement of the administration of justice, and the contribution of uncompensated time and civic influence on behalf of persons who cannot afford adequate legal assistance through pro bono service.

SECTION 2 RESPONSIBILITIES TO THE CLIENT

A lawyer should work to achieve his or her client's lawful and meritorious objectives expeditiously and as economically as possible in a civil and professional manner; such work

should include providing objective and independent advice even when advising his or her client against pursuing, or discontinuing litigation.

SECTION 3 SCHEDULING

A lawyer should understand and advise his or her client that civility and courtesy in scheduling meetings, hearings, and discovery are expected as professional conduct. A lawyer should undertake scheduling with respect for the availability of other lawyers and key participants and provide sufficient, effective notice of events and changes in schedule.

SECTION 4 CONTINUANCES AND EXTENSIONS OF TIME

Consistent with existing law and court orders, a lawyer should agree to reasonable requests for extensions of time when the legitimate interests of his or her client will not be adversely affected.

SECTION 5 SERVICE OF PAPERS

The timing and manner of service of papers should not be calculated to disadvantage or embarrass the party receiving the papers including to unfairly impair another party's ability to respond or prepare for a court appearance. A lawyer should never use the mode, timing or place of serving papers primarily to embarrass a party or witness.

SECTION 6 PUNCTUALITY

A lawyer should be punctual in communications with others and in honoring scheduled appearances. A lawyer should promptly notify all other participants when, for a reason beyond his or her control, the lawyer or another participant with whom the lawyer is affiliated, will be unavoidably late.

SECTION 7 WRITINGS SUBMITTED TO THE COURT

Written materials submitted to the court should always be factual, concise, and accurately state current law and fairly represent the parties' position without unfairly attacking the opposing party or opposing counsel.

SECTION 8 COMMUNICATIONS WITH ADVERSARIES

A lawyer should at all times be civil, courteous, and accurate in communicating with adversaries, whether in writing or orally.

SECTION 9 DISCOVERY

A lawyer should conduct discovery in a manner designed to ensure the timely, efficient, cost effective and just resolution of a dispute. .

a. As to Depositions:

- 1) In scheduling depositions, a lawyer should within reason accommodate schedules of opposing counsel and the deponent, where it is possible to do so without prejudicing the client's rights.
A lawyer should not delay a deposition for bad faith purposes but only if necessary to meet real scheduling problems.
- 2) A lawyer should avoid repetitive or argumentative questions or those asked solely for purposes of harassment.
- 3) A lawyer representing a deponent or representing another party should limit objections to those that are well founded and necessary for the protection of the client's interest. A lawyer should remember that most objections are preserved and need be made only when the form of a question is defective or privileged information is sought.
- 4) Once a question is asked, a lawyer should not, through objections or otherwise, coach the deponent or suggest answers.
- 5) A lawyer should not direct a deponent to refuse to answer a question unless the question seeks privileged information or is manifestly irrelevant or calculated to harass.

b. As to Document Demands:

- 1) A lawyer should limit demands for production of documents to documents actually and reasonably believed to be needed for the prosecution or defense of an action and demands should not be made to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

- 2) A lawyer should not produce documents in a disorganized or unintelligible fashion, or in a way calculated to hide or obscure the existence of particular documents.

c. As to Interrogatories:

- 1) A lawyer should not object to interrogatories except when a good faith belief exists in the merit of the objection. Objections should not be made for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, a lawyer should answer the unobjectionable portion.

SECTION 10 MOTION PRACTICE

Motions should be filed or opposed only in good faith and when the issue cannot be otherwise resolved. Before filing a motion, a lawyer should engage in a good faith effort to resolve the issue. In particular, civil discovery motions should be filed sparingly.

SECTION 11 DEALING WITH NONPARTY WITNESSES

It is important to promote high regard for the profession and the legal system among those who are neither lawyers nor litigants. A lawyer's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility and be designed to leave the witness with an appropriately good impression of the legal system. Upon request, a lawyer should extend professional courtesies and grant reasonable accommodations, unless to do so would materially prejudice the client's lawful objectives.

SECTION 12 EX PARTE COMMUNICATIONS WITH THE COURT

A lawyer should not communicate ex parte with a judicial officer or his or her staff on a case pending before the court, unless permitted by law.

SECTION 13 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

A lawyer should raise and explore the issue of settlement and alternative dispute resolution in every case as soon as the case can be evaluated.

A lawyer should advise the client at the outset of the availability of alternative dispute resolution.

A lawyer involved in an alternative dispute resolution process should participate in good faith, and should not use the process for purposes of delay or for other improper purposes.

**SECTION 14
TRIALS AND HEARINGS**

A lawyer should conduct himself or herself in trial and hearings in a manner that promotes a positive image of the profession, assists the court in properly reviewing the case, and displays appropriate respect for the judicial system, such as

A lawyer should be punctual and prepared for all court appearances.

A lawyer should always deal with parties, counsel, witnesses, jurors or prospective jurors, court personnel and the judge with courtesy and civility.

**SECTION 15
DEFAULT**

A lawyer should not seek an opposing party's default to obtain a judgment or substantive order without giving that opposing party sufficient advance written warning to allow the opposing party to cure the default.

**SECTION 16
SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS
OR COURT APPOINTED EXPERTS**

A lawyer should avoid even the appearances of impropriety or bias in relationships with judicial officers, arbitrators, mediators, and independent, court appointed experts and should disclose the existence of any social relationship or friendship with such person(s).

**SECTION 17
PRIVACY**

All matters should be handled with due respect for the rights of privacy of parties and non-parties. A lawyer should not use private irrelevant information for advantage and should take reasonable protective measures to safeguard privacy.

**SECTION 18
COMMUNICATION ABOUT THE LEGAL SYSTEM
AND WITH PARTICIPANTS**

Lawyers should conduct themselves with clients, opposing counsel, parties and the public in a manner consistent with the high respect and esteem which lawyers should have for the courts, the civil and criminal justice systems, the legal profession and other lawyers. A lawyer's public communications should at all time and under all circumstances reflect appropriate civility, professional integrity, personal dignity, and respect for the legal system. A lawyer should refrain from engaging in conduct that exhibits or is intended to appeal to or engender bias.

SECTION 19
NEGOTIATION OR BUSINESS TRANSACTIONS

A lawyer should ensure that all business transactions and agreements are negotiated, documented and consummated in an atmosphere of cooperation and with informed authority of the client. Lawyers engaged in a transactional practice have unique responsibilities to act in good faith and to avoid taking unfair advantage because much of the practice is conducted without judicial supervision.

SECTION 20
REDLINING

A lawyer should clearly identify, for other counsel or parties, all changes that a lawyer makes in documents.

SECTION 21
ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS

In addition to other applicable sections of this Code, in family law proceedings, a lawyer should seek to reduce emotional tension and trauma and encourage the parties and lawyers to interact in a cooperative atmosphere, and keep the best interest of the children in mind, avoiding actions or decisions in child support or custody matters to be motivated by financial or tactical objectives of the client.

SECTION 22
ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS

In addition to other applicable sections of this Code, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, a lawyer should appreciate these roles and demonstrate the importance of such roles under our Constitution and Declaration of Rights.