# 2019 APAAC Annual Prosecutor Conference

## June 19-21, 2019
## Arizona Grand Resort & Spa
## Phoenix, Arizona

# Civility & Professionalism in the Practice of Law

Presented By:

**WILLIAM RING**
Coconino County Attorney

Distributed by:

Arizona Prosecuting Attorneys' Advisory Council
1951 West Camelback Road, Suite 202
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ELIZABETH BURTON ORTIZ
EXECUTIVE DIRECTOR

# Civility and Professionalism

William P. Ring, M.S. Ed., J.D.
Coconino County Attorney
APAAC Conference June 2019

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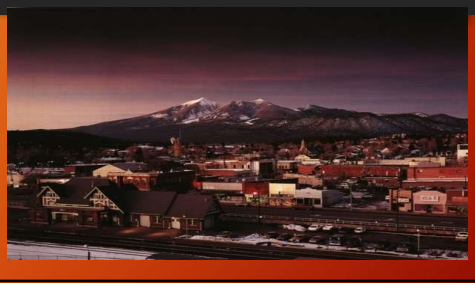
## Flagstaff, Arizona



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## Flagstaff, Arizona

Coconino County Courthouse

3

## *Winston Churchill*

When declaring war on Japan, Churchill was roundly criticized in his own country for his unusually kind words used to address the Emperor of Japan:

His response:

***"When you are about to kill a man, it costs you nothing more to be polite."***

4

Mr. Gerald Baker, Editor in Chief, Wall Street Journal:

Q: "What would you change in Washington right now?"

New Jersey Governor Chris Christie:

A: "Well, the people, predominantly…Its about human relationships. Nobody in the city talks to each other anymore. Or, if they do, they don't speak to each other civilly. They don't develop relationships. They don't develop any sense of trust between each other."

*---Wall Street Journal, Monday November 25, 2013, p. R6*

5

"Civility has been about making sure that the hierarchy of the status quo at the moment…stays permanent."

Lynn Itagaki, Professor of English, University of Missouri
NPR Morning Edition, March 12, 2019.

6

"People of color don't get to orchestrate the terms of civility. Instead, we're always responding to what civility is supposed to be."

Gaye Theresa Johnson, Associate Professor, UCLA
NPR *Morning Edition*, March 14, 2019.

7

"It is a messy-seeming process. The reality of any movement that changes the course of black people's lives is not about civil discourse. There is no movement in America that changes the course of American democracy, including the Revolution, that was about civil discourse."

Andrea Douglas, Director
Jefferson School African American Heritage Center
Charlottesville, North Carolina
NPR *Morning Edition*, March 20, 2019.

8

"A minority is powerless while it conforms to the majority…but it is irresistible when it clogs by its whole weight."

Henry David Thoreau

If the machine of government is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law.

AZ QUOTES

*Resistance to Government*
Henry David Thoreau (1849)
¶22 [*Civil Disobedience*].

9

- Civility is the etiquette of trust. It says: you matter to me.
- It asks people to be thoughtful and clear.
- Personal dignity is reciprocated by mutual respect.
- We listen to understand the message, and allow each other to fully develop the message.
- There can be anger, but no damage mutual respect.
- Anger without respect reinforces negative beliefs about people and undermines trust in organizations.

Workplace Civility: Building Trust. Meg Rush, M.D., Vanderbilt University Medical Center, March 25, 2015.

10

"Civility is a demonstration of respect for fellow human beings, while social cynicism is a form of negative belief about people and organizations."

Predicting cynicism as a function of trust and civility: a longitudinal analysis. *Journal of Nursing Management*, 2014, Vol.22, 974-983, at p. 976.

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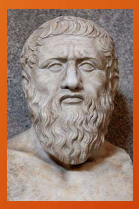
Who gets to argue?

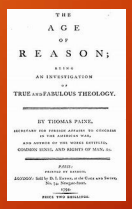
How is the argument made?

Who in our profession has authority to police the tone of the argument?

12

## I. Who Gets to Argue?




THE
AGE
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REASON;
BEING
AN INVESTIGATION
OF
TRUE AND FABULOUS THEOLOGY.

BY THOMAS PAINE,

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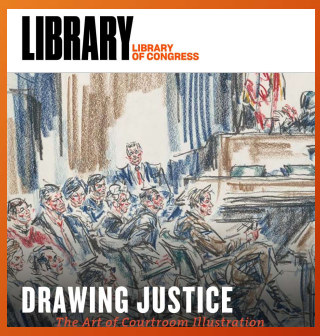


- Singer v. United States, 85 S.Ct. 783 (1965)
- Hurd v. People, 25 Mich. 405, 416 (1872)
- People v. Kelley, 142 Cal. Rptr. 457 (1977)
- Lindsay v. Wyoming, 725 P.2d 649 (1986)
- Romley v. Superior Court, 181 Ariz. 378 (1995)
- United States v. Wade, 388 U.S. 218 (1967)

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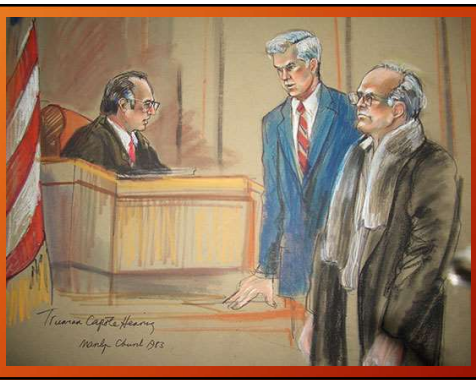

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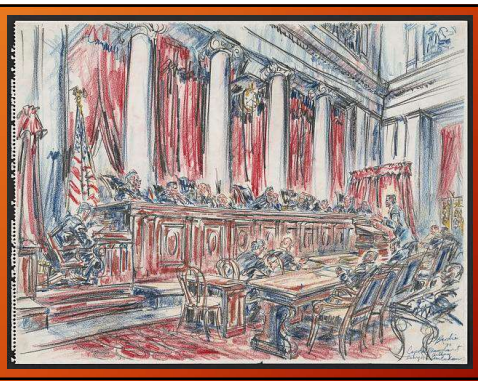

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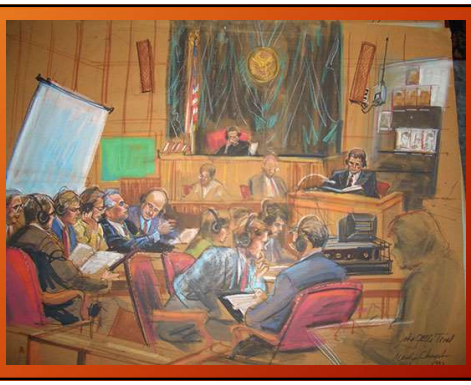

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## II. How is the Argument Made?

- We must believe that there is an objective reality.
- We must rely upon absolute truth and not personal opinion.
- We must apply our well-reasoned *principles* to the truth.
- Principles are embodied in the *constitution* and *laws*, *ethical codes* including certification standards, and *rules of evidence* and *procedure*.

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## Arguments Made to Media.

22

## Civility, Trust and Dignity (?) at the Witness Interview.

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## Stanley, PDJ-2012-9059

Respondent telephoned the Administrative Office of the Arizona Supreme Court (AOC) support desk to voice his concerns about TurboCourt. He left the following voicemail…

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## Outcome of Arizona State Bar Investigation

Admonition and Costs of $1200.00

25

**4. The Sanctioning of Plaintiff's Attorneys.**
D & E requests that ABC's attorneys be sanctioned pursuant to A.R.S. sections 12-341.01(C), 349, 350, and Arizona Rules of Civil Appellate Procedure, Rule 25. We agree that the attorneys who filed this appeal should be sanctioned.

In the first place, Witasick filed a frivolous appeal....

It is also significant that Witasick was sanctioned $1,500.00 by the arbitrator-two years and two appeals ago-in this very case. This prior sanction should have been a prior "lesson" from which Witasick learned something. .....

Many of the statements which defense counsel finds objectionable are not made in pleadings, but in letters from plaintiff's counsel to defense counsel. For example, the following statements to which defendants' attorney objects are contained in such letters:

(1) "To put it bluntly, Mr. Csontos you are completely bereft of any intellectual integrity whatsoever"; (2) "Assuming you are capable of reading basic English...."; (3) "I strongly suggest that you [Mr. Csontos] have a CAT scan run to confirm whether or not you are operating on all cylinders."; (4) "Since I assume that you have no intention of growing up, and will continue pressing positions for which there is no legal support, evidently due to the fact that you have some sort of behavioral or personality disorder which mandates you taking frivolous positions...."

*From: ABC Supply Inc. v. Edwards*, 191 Ariz. 48, 53-54 (Ct.App., 1996)

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## A Distinctly Un-civil Affair

OFFICE OF THE PRESIDING DISCIPLINARY JUDGE SUPREME COURT OF ARIZONA
APR 30 2012
FILED
BY

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

| | |
|---|---|
| IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA,<br><br>MEYER L. ZIMAN,<br>Bar No. 002624,<br><br>Respondent. | PDJ-2011-9067<br><br>REPORT AND ORDER IMPOSING SANCTIONS<br><br>Nos. 10-1394, 10-2329, 11-0130 |

On February 29, 2012 and March 1, 2012, the Hearing Panel ("Panel") composed of Jan Enderle, a public member from Maricopa County, James M. Marovich, an attorney member from Maricopa County, and the Presiding

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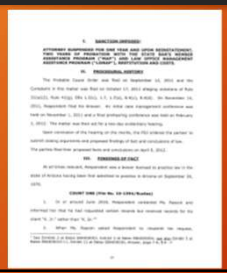
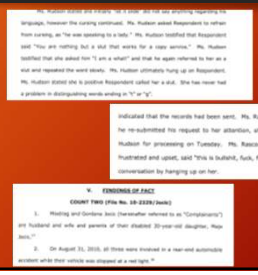
## The Offenses Escalate





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## Count II Can You Hit Your Client?

## Count III Needs No Words.

Warning: Explicit Content

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## Ziman, PDJ-2011-9067

### Count 1:

After berating several records clerks, Mr. Ziman was transferred to a clerk and began cursing her out. When the clerk replied "excuse me but you are talking to a lady." Mr. Ziman stated that she was not a lady and was nothing but a slut who worked for a copy service. Mr. Ziman then slowly repeated the word "slut".

### Count 2:

When meeting with his clients regarding the settlement of their claim, the conversation deteriorated and Mr. Ziman attempted to hit the male client, hit a binder, bit his own fist, then escorted the clients from his office stating "I am done. Door is on the left side. Fucking people."

### Count 3:

In discussing medical records related to his client's personal injury claim, Mr. Ziman was told to call back the next day. Mr. Ziman replied that he was getting so excited thinking about calling back that "[he] just came all over [him]self". When he called back the next day, Mr. Ziman repeatedly identified himself as "Maurie Sieman". At his hearing, Mr. Ziman testified that at 67 years of age, it is physically impossible to "come all over myself".

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## Outcome of Arizona State Bar Investigation

One Year Suspension with Two Years of Probation, if reinstated, Participation in the Law Office Management Assistance Program (LOMAP) and Member Assistance Program (MAP) along with costs of $6303.71

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## Piatt, 191 Ariz. 24, 951 P.2d 889 (1997)

**Client A:**
A twenty year old woman hired Mr. Piatt to represent her in a domestic relations case. During the initial interview, Mr. Piatt asked the client whether she masturbated at the age of fourteen. In another meeting, Mr. Piatt told her that she looked delicious and that it would be even better if her skirt were four inches shorter. At another meeting, Mr. Piatt asked her if she ever had a sexual relationship without emotional involvement and stated that she needed somebody like him who could take care of her needs. After a hearing, Mr. Piatt asked her to come to his house to prepare for a hearing. When she arrived, Mr. Piatt was in a bathrobe and told her that if she was not going to respond to him, he could no longer represent her unless she came up with a lot more money

**Client B:**
During his representation, Mr. Piatt made lewd suggestions to the client at lunch suggesting things that they could do under the tablecloth. Later at his office, Mr. Piatt smacked his lips and told the client that a chemical attraction existed.

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## Outcome of Arizona State Bar Investigation

Censure (now Reprimand) with One year of Probation and Participation in the Member Assistance Program (MAP)

33

## Laddcapp Value Partners, LP v. Lowenstein Sandler, PD

New York Supreme Court, 609-2007 New York Law Journal Dec. 12, 2007

"This is not a white collar interview that you're sitting here interviewing something with your cute little thing going on," Decea said, according to the transcript, later telling her it was, "nothing personal, dear."

After Rice told Decea she thought his comments were indeed personal and offensive, he said, "Your skin is getting thin now."

At another point in the deposition, Decea referred to Rice as "hon." After she questioned his use of the term, Ladd (the deponent) jumped in to suggest that Decea had meant Hun "[a]s in Attila," and that the remark was not personal.

"As in Attila? I don't even understand that," Rice replied.

Later in the deposition, Decea questioned Rice's ability to try the case.

"You better get somebody else here to try this case, otherwise you're going to be one sorry girl," he said.

- Rice went on to become a named partner at the white-collar defense boutique led by well-known litigator Stanley S. Arkin
- A special referee was appointed a few days after the end of the depositions
- Rice argued that Decea's conduct was intended to intimidate her and interfere with her advocacy in violation of New York's Code of Professional Responsibility

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## Judge Sanctions Male Lawyer for Remarks to Female Prosecutor : 'Female lawyers are outside the law, cloud truth and destroy order.' The matter is referred to a disciplinary panel.

September 16, 1993|HENRY WEINSTEIN | LOS ANGELES TIMES LEGAL AFFAIRS WRITER

Appended to the letter was a sheet of paper with the following statement in large block letters: "Male lawyers play by the rules, discover truth and restore order. Female lawyers are outside the law, cloud truth and destroy order."

[U.S.Dist. Ct. Judge] Stotler wrote: "The Court finds that Mr. Swan's gender-biased remarks impugn the integrity of the Court and the judicial system and interferes with the administration of justice, just as would written or verbal assaults based on race, color, national origin, religion, physical disability, age or sexual orientation."

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*ABA Journal*; Legal Ethics

## Lawyer sanctioned for telling opposing counsel it's 'not becoming of a woman' to raise her voice

Jan 14, 2016 By Debra Cassens Weiss

A California lawyer has been ordered to pay deposition costs and to donate $250 to a women's bar group after telling opposing counsel it wasn't "becoming of a woman or an attorney" to raise her voice during a deposition. [U.S. Dist. Ct.]

U.S. Magistrate Judge Paul Grewal sanctioned lawyer Peter Bertling. Grewal cited that comment to opposing counsel Lori Rifkin, Bertling's other bad behavior in depositions, and his foot-dragging in discovery.

"Bertling … has stooped to an indefensible attack on opposing counsel," Grewal said. The lawyer's "sexist remark" was a professional discourtesy, Grewal said, and such remarks "reflect and reinforce the male-dominated attitude of our profession."

Grewal ordered Bertling to donate $250 to the Women Lawyers Association of Los Angeles Foundation. The judge also ordered Bertling to pay fees and costs for that deposition and two others.

Deposition excerpts show Bertling "making extremely long speaking objections, coaching witnesses, cutting off witnesses and even answering for them," Grewal said.

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## Comments to the Online Article

"Nick Nickitas" said:

The sanction for discovery abuse alone sufficed. The sanctionee was a schmuck.

The sex dimension was nothing but political correctness that has no place in America or the profession.

Posted: Jan 14, 2016 10:08 am CST

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## Comments Cont.

"CJColucci" said:

Exhibit No. 5,897,631 in support of the proposition that complaints about "political correctness" are demands for the right to be an a*****e without being called out [for] it.

Posted: Jan 15, 2016 09:42 am CST

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"Hadley V Baxendale" said:

Unless the irony was intended, I can't believe you would try to denigrate a person by using a vulgar reference to genitals. Or does it not count because it was referring to a male's? Imagine a response using a vulgar word for female reproductive organs?

We seek equal treatment under the law, and in the comments section.

Posted: Jan 15, 2016 11:02 am CST

"CJColucci" said:

If you are under the impression that the a*****e is part of one's "genitals," you're doing it wrong.

Posted: Jan 15, 2016 02:20 pm CST

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## "Oy Vey" said:

[I'm] not bothered by what the attorney said since there was no profanity utilized directed towards the opposing counsel.

Posted: Jan 15, 2016 06:47 am CST

40

## "Mlang" said:

In 29 ½ years of practice, I've been subjected to sexist comments at depositions, and in open court, and not just from attorneys, from the bench as well. Even been referred to as "little lady" by a state Supreme Court Justice at oral argument. The real problem with comments of this nature, in front of clients, is that it puts a question in the mind of the client as to whether they are getting a fair shake if they are being represented by a female lawyer, and prompts demands that their files be assigned to a "real", i.e., male, lawyer. Obviously, that stunts a female attorney's ability to market herself to clients, and get promoted to partner. I had hoped that the passage of time would be the death knell of that type of demeaning conduct, but, obviously [it] hasn't."

Posted: Jan 15, 2016 08:48 am CST

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## "Sindiana Jones for the Defense" said:

The assertion that opposing counsel was yelling at his clients is hard for me to believe - not because she's a woman, but because this guy obviously has internalized different codes of conduct for men and for women. Assertive men are often seen as strong and zealous. Assertive women are often seen as loud, irrational, and unpleasant.

But, even if she was yelling, so what? This sanction was about his behavior, not hers. What she did or did not do doesn't cancel out the many ways in which this guy acted like and idiot. If she crossed the lines, there should be a separate proceeding for her.

Here's the catch 22 - Women who so much as whisper about issues of gender bias are met with dismissal, disbelief, and cries of "political correctness has no room in the profession!" and "stop whining; aren't there bigger problems?" and "but she was mean to me!"

But women who don't speak up when things like this happen are blamed for inaction and complacency with the status quo.

No, there's not a separate code of conduct for people (women, people of color, etc.) who have been "othered" in the legal profession. So, stop it.

Posted: Jan 15, 2016 09:09 am CST

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## The Public Lawyer and Young Lawyer context

*In re: Alexander*: 232 Ariz. 1 (2013)

- Maintained a RICO lawsuit while knowing it lacked legal and factual merit, thereby violating duties she owed the public and the legal system.
- ER 3.1 Meritorious Claims. Informing oneself about the facts and applicable law and determine a good faith, non-frivolous argument can be made.
- ER 4.4. Respecting Rights of Others. Refrain from using means that have no substantial purpose other than to embarrass, delay, or burden another.
- ER 1.1. Competence. Its not basic negligence. A lawyer crosses the line between negligence and incompetence by failing to possess or acquire the knowledge and skill necessary for the representation, or by neglecting to investigate the facts and law as required to represent the client.
- ER 8.4. Misconduct. Engage in conduct that is prejudicial to the administration of Justice. The ER does not require a mental state other than negligence.

"Rachael Alexander impeded the administration of justice by demonstrating to all judges in Maricopa County that they risked having to defend against a civil damages lawsuit if they made rulings that displeased MCAO. We agree with the panel that Alexander violated ER 8.4(d) by maintaining the RICO suit against the defendant judges." *In re: Alexander*, 232 Ariz. at ___, 300 P.3d 536, 547 (2013).

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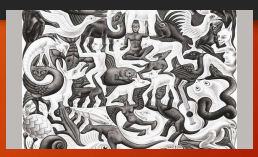
## III. Policing the Tone of the Argument.



Correcting for Mistaken Perspective

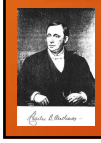
44

George Washington's Rules of Civility & Decent Behavior taken from French Jesuits(1595)

- Every action done in company, ought to be done with some sign of respect to those that are present.
- Speak not when you should hold your peace.
- When you see crime punished you may be inwardly pleased; but always show pity to the suffering offender.
- Use no reproachful language against any one neither curse nor revile.
- Labor to keep alive in your breast that little spark of celestial fire called conscience.

## The Perspective of Service to Others

"Resolve to be honest at all events."
President Abraham Lincoln
Address to Law Graduates (1850)



"It is not enough for an attorney to be honest. He must be *believed* to be honest. It is absolutely essential to the usefulness of an attorney that he be entitled to the confidence of his community where he practices…he must have prudence, and foresight, and tact and industry and courage. All these may exist in a *moderate* degree and he may be a useful member of the profession so long as the practice is to him a clean and honest function.

*- Chief Justice Andrews, Connecticut Supreme Court (1891)*

*From Julie Braman Kane*, Civility: Its not a sign of weakness (2012)

45

"Lawyers, whether or not engaged in the practice of law, should act honorably and treat others with courtesy and respect."

Rule 41, Rules of the Supreme Court, *Comment (2007)*.

Left: Gregory Peck as Atticus Finch in *To Kill a Mockingbird*, 1962.

Right: Gregory Peck as Atticus Finch and Brock Peters as Tom Robinson in *To Kill a Mockingbird*, 1962.

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## Arizona Oath of Admission

Premised upon the text of Rule 41, Rules of the Supreme Court

I, (state your name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Arizona.

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding that shall appear to me to be without merit or to be unjust; I will not assert any defense except such as I honestly believe to be debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor; I will never seek to mislead the judge or jury by any misstatement or false statement of fact or law;

I will maintain the confidence and preserve inciolate the secrets of my client; I will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;

I will abstain from all offensive conduct; I will not advance any fact prejudicial to the honor or reputation of a party or wirness, unless required by the justice of the cause with which I am charged;

I will never reject, from any confideration personal to myself, the cause of the defenseless or oppressed, nor will I delay any person's cause for greed or malice;

I will at all times faithfully and diligently adhere to the rules of professional responsibility and a lawyer's creed of professionalism of the State Bar of Arizona.

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"[1] A lawyer, as a member of the legal profession, is a *representative* of clients, an *officer* of the legal system, and a public citizen having special responsibility for the quality of justice. Whether or not engaging in the practice of law, lawyers should conduct themselves honorably."

"[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawter should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials."

"[9]…These principles include the lawyer's obligation to protect and pursue a client's legitimate interests, within the bounds of the law, while acting honorably and maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system."

From: Preamble, Rule 42, Rules of the Supreme Court

*Consider Yourself a Noble Servant*

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"Unprofessional conduct" means substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona.

"In taking the Oath of Admission to the Bar, Lawyers swear that they will abstain from offensive conduct.

Respondent repeatedly and intentionally committed offensive conduct. Respondent still does not accept that his conduct is offensive.

Lawyers should always strive to treat others with dignity and respect. Rude attacking comments reflect poorly on a self regulating profession.

While in his private life he may be as rude, offensive, and demeaning as he chooses, in his professional life he may not hid behind his First Ammendment rights to ignore his sworn responsibilities."

In re: Meyer L. Ziman, Bar No. 002624
PDJ-2011-9096; Filed April 30, 2012

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"Do as they do in the law. Strive mightily, but eat and drink as friends."

W. Shakespeare, *The Taming of the Shrew*
*Act I, Scene 2.*

## Why Embrace Civility?

Makes Work Fun & Healthy

Reduces Stress/Raises Leadership

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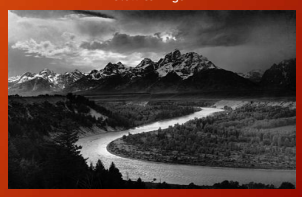
## Civility Attributes

Sound Vision

Solid in Sense of Self

Slow to Anger



Steadfastness

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## Why Embrace Civility?

IN-CIVILITY

- Sullies your reputation and your honor.
- Makes life miserable.
- Adds stress and makes the practice of law intolerable.
- Affects your health and your relationships in the office and at home.
- Increases your work load and the workload of the courts.
- Is much less effective in the end.
- Leads to motions, sanctions, and delayed justice.

Civility

- Improves your standing in the profession and the greater community.
- Improves collegiality, is rewarding, and healthy.
- Reduces stress and workloads
- Produces better results, especially when matters are debatable.
- Takes the burden from the judiciary to set the tone for civility.
- Is a sure sign of genuine leadership.

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## Civility Techniques to use in your practice

1. Know your case. Understand what you are asked to do with it then:
2. Start every case with a phone call. To whom?
3. Early on, encourage voluntary compliance and mutual exchanges of material information.
4. Grant good faith extensions of time. But don't enable delay.
5. Organize disclosures and discovery before you send it.
6. Be complete (avoid "will supplement"). Give 'em everything you've got (unless it is privileged or subject to non-disclosure). Don't make opposing counsel have to ask twice.
7. Volunteer to arrange witness interviews and depositions. Take control of the calendar.
8. Conduct litigation in good faith.
9. Avoid unnecessary provocations, unnecessary witness lists, redundant trial exhibits, etc.
10. Never threaten, call names, or be profane.
11. Don't show up late.
12. Don't ever hide the ball.
13. Object only in good faith and with reason.
14. Don't manufacture artificial inconsistencies as proof of a non-existent credibility problem.
15. Ask only what you need. Answer what is not objectionable.
16. Don't coach or vouch.
17. Notify opposing counsel of cancellations early.
18. Don't ever, without cause, attribute bad motive to opposing counsel.
19. Don't attribute to opposing counsel a position they have not taken.
20. If you supervise or are co-counsel, don't ask a person under your direction to engage in uncertain actions.
21. When drafting motions, read the cases. Avoid string citations that make the judge read voluminous material for no good reason.

*Compiled from material of the American Board of Trial Advocates (2011)*

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## When In-civility Strikes You…

Think of Opportunities…

…Not Hardships.

Trust in the Law…

…and Persevere.

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## When In-Civility Strikes You

- Take a breath: Gain Altitude and perspective. Recall you are a servant of justice, the courts, and your client's legitimate needs. Be a noble warrior.
- Contact a supervisor: Many circumstances require it. Get a second opinion.
- If it is a venomous letter or email: consider meeting personally with opposing counsel. Don't reciprocate.
- If you are a victim of hiding the ball: it can occur through concealment, neglisgent non-disclosure, intentionally misconstruing a request, or objections posed in bad-faith. Consider: (a) calling counsel to discuss mutual exchanges; (b) meet personally on scheduling and exchanges; (c) request personal inspections.
- Don't return discourtesies and escalate the problem. There's nothing noble in that.
- However, civility does not mean you are a door mat. Make a record. If the discourtesy is from a junior lawyer, contact the partner.
- In trial, make courteous objections. Speak with patience. Avoid cynicism. Suffer your frustrations inwardly, not outwardly. If you must, approach the bench, explain, or request a recess to recompose.
- If not in court, try to resolce disputes without first going to court. Going to court can be a gamble for both sides. Instead, be sure you have a real, and clear, disagreement that is not solvable. And then first seek alternatives.

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## Act with Purpose

**Moral Clarity**

*"[T]he fundamental problem is that we have confused rules with principles. Rules can always be bent. Principles cannot…There is no substitute for personal principles…Where human behavior is concerned, any true, lasting change has to come from within."*

And remember:

SOME THINGS ARE NOT FOR SALE

James P. Owen, Cowboy Ethics: *What Wall Street Can Learn From the Code of the West* (2004).

**Courage**

*"Its not the critic who counts:not the man who points out how the strong man stumbles or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena…who strives valiantly…and who, at the worst, if he fails at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat."*

Theodore Roosevelt (1910)

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## The Rules of Professional Conduct

Attributes of Civility and Professionalism

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"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation."

## Rule 1.1: Competence

- Perhaps the most fundamental legal skill consists of determining what kind of legal problem the situation involves.
- Ascertain what's at stake; read the case correctly the first time.
- Make *adequate* and *thorough* preparation.

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A lawyer shall act with reasonable diligence and promptness in representing a client.

## Rule 1.3: Diligence

- Pursue the matter despite opposition, obstruction, or personal inconvenience.
- Act with commitment and dedication.
- Treat people with courtesy and respect.
- These are the attributes of courage, including *tenacity* and *zeal*; but also not pressing for every possible advantage for the client.

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(a)"A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous…"

## Rule 3.1: Meritorious Claims

"The signature of an attorney constitutes a certificate by him that he has read the pleading, motion, or other court document; that to the best of his knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation."

Old Rule 11(c)

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A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

## Rule 3.2: Expediting Litigation

- Dilatory Practices bring the administration of justice into disrepute.
- It is not justification that the bench and bar tolerate the conduct.

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## Rule 3.3: Candor

A lawyer shall not knowingly:

(1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) Fail to disclose to the tribunal legal authority *in the controlling jurisdiction known to the lawyer to be* directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) Offer evidence that the lawyer knows to be false. *If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.*

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"By signing a pleading, motion, or other document, the attorney or party certifies that, to the best of the person's knowledge, information, and belief formed after reasonable inquiry:

1. It is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation."

## Revised Rule 11(B), Ariz. Rules of Civil Procedure*

**Note*: Rule 2.1(c) Local Rules of Procedure, Pinal County, incorporates Rule 11 into all Pleadings.

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## Rule 11(B), Cont.

2. The claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law.

3. The factual contentions have evidentiary support…

**and**

4. The denials of factual contentions are warranted on evidence or, if specifically so identified, are reasonably based on belief or lack of information.

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Competent

Fair

Candid

Just

Diligent

How we show our care and compassion and that our life's work matters

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## Honesty, Hard Work, Trust

Confidence, Prudence, Learning, Foresight, Industry, Professionalism

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