

# Standards for Professional Conduct within Michigan's Seventh Judicial Circuit

Reaffirmed and distributed by the  
Genesee County Bar Association



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# MICHIGAN CODE OF JUDICIAL CONDUCT

*An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. The provisions of this code should be construed and applied to further those objectives.*

*CANON 1: A Judge Should Uphold the Integrity and Independence of the Judiciary.*

## LAWYER'S OATH OFFICE

*I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;*

*I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as condition for the privilege to practice law in this state.*

*Supreme Court Rules concerning the State Bar of Michigan Rule 15: Section 3 (excerpts).*



## HISTORY

The guidelines were originally adopted during the 1993–1994 bar year with the intent to cover a wide range of issues dealing with behavior between attorneys and the court, between opposing attorneys, between the court and attorneys and between members of the bench. The hallmark of these guidelines is to assure civility and courtesy, even within the adversarial nature of the court system. Care has been taken not to compromise client advocacy while promoting civility, professionalism, and integrity.

More than ten years later, the Genesee County Bar Association seeks to reaffirm the commitment to these standards and guidelines by updating and reprinting the code. Endorsement of the guidelines was sought, and granted, by the following:

### **Genesee County Judicial Council**

### **Genesee County Bar Foundation**

#### **GCBA Practice Committees**

Circuit Court Committee  
District Court Committee  
Family Law Committee  
Probate Court Committee  
Professional Practice Committee

#### **Specialty Bar Associations**

Young Lawyers Section  
Women Lawyers Section  
Mallory, VanDyne, Scott Bar Association  
Flint Trial Lawyers  
Centennial American Inns of Court



## PREAMBLE

A lawyer's conduct shall be characterized by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously we shall be mindful of our obligation to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a peaceful, rational, and efficient manner.

A judge's conduct shall be characterized by courtesy and patience toward all participants. In administering justice, all participants in a legal proceeding deserve respect, diligence, punctuality, and protection against unjust and improper criticism or attack.

Conduct that is uncivil, abrasive, abusive, hostile or obstructive impedes the fundamental goal of resolving disputes peacefully, rationally, and efficiently. Such conduct tends to delay and often deny justice.

The following standards are designed to encourage judges and lawyers to meet their obligations to each other, to litigants, and to the system of justice in order to achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

Judges and lawyers are expected to commit, voluntarily, to these standards, and thereby, to improve the administration of justice throughout this Circuit.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceedings in this Circuit. Copies will be made available to reinforce our obligation to maintain and foster these standards.

These standards should not be construed to discourage proper advocacy, especially in relation to examination of an adverse witness.



## LAWYERS' DUTIES TO OTHER COUNSEL

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In dealing with others, we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses, in a civil and courteous manner, not only in court, but in written and oral communications as well.
2. We will not, regardless of client demands, indulge in abusive or offensive conduct directed to other counsel, parties, or witnesses. We will abstain from making disparaging personal remarks or being acrimonious toward other counsel, parties, or witnesses. We will treat adverse parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.
5. We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances or necessary to protect our client's lawful interests.
6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.
7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to



writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for the review of the writing to the other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of the other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

8. We will endeavor to confer early to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.
9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.
10. We will not use any form of discovery or discovery scheduling as a means of harassment.
11. We will make good faith efforts to resolve by agreement our objection to matters contained in pleadings and discovery requests and objections.
12. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.
14. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.



15. We will attempt to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.
16. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.
17. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.
18. We will not cause any default or dismissal to be entered without first notifying opposing counsel when we know his or her identity.
19. We will take depositions only when actually needed to ascertain facts or information or to preserve testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.
20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.
21. We will not obstruct questioning during a deposition unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.





22. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.
23. We will carefully craft document production requests and interrogatories so they are limited to those that we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
24. We will respond to document requests and interrogatories reasonably and not strain to interpret the requests or interrogatories in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents and information. We will not hide or obscure the existence of particular documents and information.
25. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.
26. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will 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.
27. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.



## LAWYERS' DUTIES TO THE COURT

1. We will speak and write civilly and respectfully in all communications with the court.
2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may start on time; if delayed, we will notify the court and counsel, if possible.
3. We will be considerate of the time constraints and pressures on the court and court staff.
4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct and apparel expected and required, and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.
6. Before a hearing or trial date is set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.
7. We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they, too, are an integral part of the judicial system.
8. We will not, absent good cause, attribute bad motives or improper conduct to a court or bring disrepute to the court.



## COURTS' DUTIES TO LAWYERS

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to ensure that all litigation proceedings are conducted in a civil manner.
2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.
3. We will be punctual in convening all hearings, meeting, and conferences; if delayed, we will notify counsel, if possible.
4. In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties, and witnesses.
5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.
6. We will give the issue in controversy deliberate, impartial, and studied analysis and consideration.
7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.
8. We recognize that a lawyer has a right and duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.



9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients or the causes which a lawyer represents.
10. We will do our best to ensure that court personnel act civilly toward lawyers, parties, and witnesses.
11. We will not adopt procedures that needlessly increase litigation expense.
12. We will bring to lawyers' attention uncivil conduct which we observe.

## **JUDGES' DUTIES TO EACH OTHER**

1. We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.
2. In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.
3. We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.



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