

**Civility in the Courtroom**

Hon. Andre B. Gammage  
Magistrate Judge, St. Joseph Circuit Court

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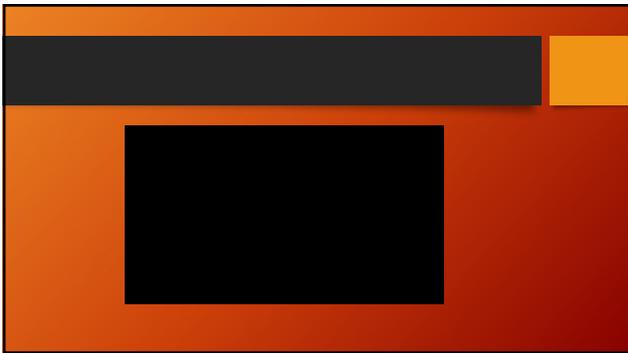
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"You seem to be in some distress," said the kindly judge to the witness. "Is anything the matter?"

"Well, your Honour," said the witness, "I swore to tell the truth, the whole truth and nothing but the truth, but every time I try, some lawyer objects."

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“ Whether or not engaging in the practice of law, lawyers should conduct themselves honorably. ”

Rules of Professional Conduct, Preamble (1)

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“ A lawyer’s responsibility as a representative of clients, an officer of the legal system, and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be an effective (the word zealous was replaced by effective) advocate on behalf of a client and at the same time assume that justice is being done. ”

Rules of Professional Conduct, Preamble (8)

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Rules of Professional Conduct, Preamble (9)

" In the nature of the practice of law, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from the conflict between a lawyer's responsibilities to clients, the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules.

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

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Trial Rule 60 (B) (3) allows a court to set aside a judgment on the grounds of "other misconduct of an adverse party"

Misconduct under this rule can be based on a violation of the Code of Professional Responsibility even if the conduct does not violate the rule of trial procedure. Relief from judgment as a result of party misconduct applies to both intentional and negligent conduct. *Outback Steakhouse of Florida, Inc. v. Markley*, 856 N.E.2d 65 (Ind.2006); *Dumont v. Davis*, 992 N.E.2d 795 (Ind.Ct.App. 2013)

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Defense Counsel:

"I've about had it. Cut the Scenes in front of the jury."

"I don't care for your unsolicited advice."

"He keeps telling me I'm wrong and I'm going to show that I am not. "Loser pays a thousand dollars" if I'm right."

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Plaintiff Counsel:

“Are we going to put up with this?”

“I would prefer you not talk to me. You talk to the judge, I will do the same.”

“Keep your hands off of me. I don’t get with this judge.”

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

• Ind. Admission and Discipline Rule 22

• “At every trial, indeed at every moment of our practice we have the opportunity to better our profession.”

• Hon. Steven H. David  
Indiana Supreme Court

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“ Professionalism and civility must be the foundation of the practice of law. Upon this foundation we lay competency, honesty, dedication to the rule of law, passion and humility. Every lawyer and every judge is charged with the duty to maintain the respect due to the courts and each other. Our clients and the public expect it. Our profession demands it. ”

Wisner v Laney, 984 N.E.2d 1201 (Ind. 2012)

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“The magistrate judge, having spent forty years as a judge in this state, recalls a time when law was practiced with civility and grace; a time when simple disputes were resolved by a telephone call and agreements between counsel were sealed with a handshake; a time when disputes not so resolved were brought before the court in a manner that minimized expense and strife, recognizing that reasonable people can, at times reasonably disagree. As the instant dispute so clearly demonstrates, that time is no more. The magistrate judge mourns its passing.”

U.S. Magistrate Judge V. Sue Shields of the Southern District of Indiana

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As the former president of the American College of Trial Lawyers, Gene W. Lafitt wrote:

“To me, the case for civility is overwhelming. I am unable to understand why one would abandon civility in favor of boorish, bullying, obnoxious, unfair behavior that is harmful to his reputation and in most instances, to the interests of his client. Not only does civility cost nothing, but it also holds the promise of sparking benefits.”

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U.S. Supreme Court Justice Sandra Day O’Connor wrote in her memoirs:

“Few Americans can even recall that our society once sincerely trusted and respected its lawyers.”

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