



York County  
Court of Common Pleas  
**Code of Civility**

# YORK COUNTY COURT OF COMMON PLEAS

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This booklet was developed by the Professionalism Committee of the York County Bar Association in conjunction with the Judges of York County Court of Common Pleas. It was first printed in November 2003.

### I. INTRODUCTION

**A. The Code of Civility was adopted in Pennsylvania on December 6, 2000.** Its purpose is to remind lawyers and judges of our professional responsibilities. Justice Anthony Kennedy stated this concept at a speech to the American Bar Association in 1997..." We are civil to each other because we respect one another's human aspirations and equal standing in a democratic society. We must restore civility to every part of our legal system and public discourse. Civility defines our common cause in advancing the rule of law. Our honest and decent citizens must be persuaded to devote themselves to public life, but they will be reluctant to do so if our discourse is not marked by civility."

**B. Mission Statement of Professionalism Committee of York County.** The York County Bar Association, as part of its strategic plan directed the Professionalism Committee to create a Code of Civility. The mission statement is: To develop standards of conduct in civility for all persons involved in the judicial system in York County, to develop a plan to educate all participants as to those standards, and to implement the standards in the legal process.

**C. Guidelines** This document is a guideline for all participants involved in the legal system. Each Judge reserves the right to establish protocol and decorum that may differ from that stated in these guidelines.

### II. MATTERS INSIDE THE COURTHOUSE

#### A. Court Calendar

1. The Court calendar should be consulted concerning trial terms, and motion practice and procedures.
2. The court normally begins business between 8:30 AM and 9:30 AM. Check with the individual judge to determine the exact time. The court normally attempts to conclude matters by **4:30 PM**.
3. The court makes every effort to commence proceedings at the time set. Counsel, parties and witnesses should be prompt.

#### B. Conference with the Court

1. Counsel and witnesses shall have no ex parte communication with the court or its staff.
2. If counsel requests a meeting with a judge in chambers or by telephone conference, counsel must first notify other counsel of the meeting and its purpose. Counsel shall be

responsible for contacting the judge's assistant to coordinate an appropriate time for the meeting.

3. Should a continuance be necessary, counsel shall attempt to obtain concurrence of counsel and then notify the court and request a new date and time for the conference. Counsel shall be responsible for coordinating the new date.

### **C. Dress and Presentation**

1. Dress in a fashion consistent with the respect that a lawyer expects the public to have for the profession. Hang overcoats or other wearing apparel on coat racks designed for such ware. Do not present an issue to the court while wearing your overcoat. If in the courthouse on business not requiring a court appearance, remember that the courthouse is the center of the judicial process and dress accordingly. The same formality of dress that is appropriate for the courtroom is expected for an appearance before a judge at the judge's office or in the judge's chambers. Soda, coffee and other food items may not be brought into the courtroom by anyone.

2. Advise clients and witnesses of the appropriate dress and the conduct that is expected of them when appearing in court. Educate the client and witnesses as to the procedure and decorum that is expected while they are part of the judicial process. Chewing gum, soda, coffee and other food items are not permitted to be brought into the courtroom.

### **D. Court Seating**

1. The moving party's table is to the left facing the judge and the non-moving party's table is to the right facing the judge.

2. Only counsel and the parties shall sit at counsel table. The witnesses shall sit in the spectators' section only, unless otherwise authorized by the court. Facial gestures and comments between witnesses, the parties and counsel are not permitted during the proceeding.

3. If additional tables are needed for counsel, make such request to the court in advance of the proceeding.

4. If additional equipment, such as televisions, electronic equipment, chalk boards, or easels are needed, make such request in advance of such proceeding making certain that the courtroom is equipped to handle such items and determine that the equipment functions prior to the commencement of the proceeding.

### **E. Decorum of Participants**

1. The proceeding shall at all times be conducted in a dignified and formal manner. Courtesy shall be exhibited by everyone to everyone in the courtroom. At all times, communication in the presence of clients and witnesses shall be conducted with respect and courtesy.

2. When addressing the court, counsel is reminded as follows:

a. Ask permission to address the court by prefacing remarks with the phrase "May it please the court."

- b. Stand when addressing the court. It is recognized that some judges may have different policies on this issue. To be certain, check with the court's tip staff, law clerk or secretary to ascertain the particular judge's policy.
- c. At the beginning or each proceeding, the moving party's counsel should identify themselves and opposing counsel, identify the proceeding and state whom they represent.
- d. Lawyers should directly address the court and witnesses.
- e. Extraneous comments are to be discussed outside the presence of the court and the jury.
- f. Lawyers are expected to stand when addressing and conducting voir dire of a jury.
- g. If making objections, stand and state a brief reason for the objection. If it is necessary to expand the record after an objection during a jury trial, lawyers should request they be permitted to approach the bench and quietly, out of the hearing of the jury, state their reasons. No argument should be presented in front of the jury.
- h. Request permission to approach the bench before doing so. While at side bar, lawyers must stand in a dignified manner, recognizing they are in view of other participants in the proceeding.
- i. Lawyers must make certain their voices are heard and assure that witnesses can also be heard.

3. Lawyers must avoid initiating conversation with jurors who have served on a jury in a case they were trying.

4. All participants should avoid admonishing anyone or making disparaging comments or actions to anyone in the courtroom.

- a. Participants shall not, by their facial expressions, nodding, or other conduct, exhibit any opinion, adverse or favorable, concerning any testimony or other behavior that is presented.
- b. Both judges and lawyers must be cognizant of the effect of gender specific terms when addressing others included in the judicial process since such language tends to degrade the recipient in the eyes of all participating.
- c. In addressing a witness, opposing counsel, clients or the court, their title should always be utilized. For example, use Mr., Mrs., Ms., Dr., Your Honor, Attorney, etc.
- d. Counsel or the court may request that a side bar conference may be held to discuss any inappropriate conduct of this nature.

5. Lawyers, even if they disagree with an approach taken by the court, must always protect the dignity and independence of the judiciary, particularly from unjust criticism and attack.

6. All cell phones and beepers shall be turned off while any person is in the courtroom or in chambers.

7. The court staff is not permitted to assist any attorney or attorney's assistant without permission of the court. Copying of documents, faxing documents, use of telephones, etc., should be done at the attorney's office. The attorney, and not his or her staff, is responsible for seeking the court's permission.

8. The practice of standing for the jury will no longer be used after January 1, 2004, and participants shall only stand for the judge.

#### **F. Witnesses**

1. Make sure all witnesses are available, in the courthouse and ready to proceed at the conclusion of other witnesses' testimony. Should there be any difficulty with scheduling, counsel must inform the court prior to or at the beginning of the hearing.

2. Lawyers must advise their clients and witnesses to avoid verbal or non-verbal communication with the testifying witness, counsel or the court by facial expressions, nodding or other conduct or by the expression of agreement or disagreement with any testimony.

3. If a witness was on the stand at a recess or adjournment, when the court re-enters the courtroom, the witness should be on the stand ready to proceed. During any recess or adjournment, the witness should not discuss his or her testimony with anyone.

4. When addressing a witness, a lawyer should stand or sit with the court's permission, behind their desk, stand beside the podium or other designated place to conduct the questioning. If they need to approach the witness, it may be done so only after obtaining court permission. The lawyer should say "Your Honor, may I approach the witness?" after providing the rationale for doing so.

#### **G. Scheduling and Presentation**

1. If an attorney has court appearances that are scheduled for the same date and time, the seniority of the judge determines which proceeding shall occur first. The seniority of the judges is set forth in the Court calendar.

2. The rankings of proceedings as to precedence are: Federal Court, State appellate court, Common Pleas jury trials, Common Pleas bench trials, district justice hearings, administrative hearings, and motions court.

3. The attorney will file a motion and state whether other counsel concur, the reason for the continuance and a proposed order.

4. If there is a conflict between two judges' calendars for different proceedings, it is incumbent upon the lawyer to immediately notify the less senior judge of such conflict. The judge will attempt to assist in the resolution of such dual appearances and conflicts.

5. In presenting motions, out-of-town counsel shall present their motions first, then members of the local bar shall present in accordance with their seniority. The Court, within its discretion, may allow settlements to be presented first.

6. Be aware of the time that Motion Court or the business session commences. Lawyers shall supply to opposing counsel a copy of the proposed motion and notice of the date the motion is to be presented to the court at least three business days prior to presenting the motion and shall certify to the court that the notice has been given prior to presentation. Judges should be provided with the motion three business days in advance, but at least 24 hours in advance of the presentation. Normally, all motions must be presented during business sessions unless emergency relief is required or otherwise specified by local rule.

7. A lawyer should deliver to all counsel involved in a proceeding any written communication that a lawyer sends to the court. Such copies should be delivered at substantially the same time and by the same means as the written communication is delivered to the court. Ex parte communications with the court must be avoided.

8. Should a continuance be sought, counsel is responsible for notifying other counsel of this request and seeking concurrence of other counsel. The appropriate motion shall be presented to the court, with the motion identifying the proceeding, nature of the proceeding and the name, address, and telephone number of the court in which the attorney is appearing.

9. Counsel is responsible for notifying their clients and witnesses of any change in a scheduled proceeding.

10. Any continuance is within the discretion of the court to grant or deny.

#### **H. Exhibits**

1. All exhibits should be pre-marked before the proceeding to the extent possible. A copy of each exhibit should be made available to the court so that the judge may review this exhibit at the same time the witness is addressing it.

2. The lawyer should hand a copy of the pre-marked exhibit to the clerk, a copy to the court, a copy to opposing counsel and a copy to the witness. This should occur before the lawyer begins questioning the witness.

3. Each lawyer should prepare a list of his or her own exhibits, tracking them as they are admitted into evidence. It is not necessary to hold all exhibits until the end of the case and move for their admission at that time. Rather, move for admission of an exhibit as it is appropriate during the course of the proceeding.

4. When referring to an exhibit, a lawyer and a witness should refer to the exhibit number.

5. At the conclusion of a day's proceeding, make certain that all of the exhibits are present and in order. Make certain that the original exhibits have not been inadvertently removed from the court records by witnesses or counsel. Counsel are responsible for any exhibits not entered of record.

### **III. MATTERS OUTSIDE THE COURTHOUSE**

**A. Roles of Attorneys.** Our Code of Professional Conduct reminds us that attorneys have not only the role of a lawyer, but also the role of a citizen and counselor. Thus, all members of the Bench and Bar are engaged in a common enterprise---- to achieve a

better working legal system. Therefore, support our legal process, participate politically and encourage others to vote.

### **B. Communications-courtesy is compatible with advocacy.**

1. Communications are lifelines. Keep the lines open. Telephone calls and correspondence are a two-way channel, so respond to them promptly.
2. Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearing and trial dates. Reasonable requests for scheduling accommodations should never be unreasonably refused. If you request a continuance or extension, then coordinate the new date and send confirmatory letters to all concerned.
3. Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system. Grant extensions of time when they are reasonable and when such requests will not have a material adverse effect on your client's interests.
4. Be respectful to staff of opposing counsel, as they are an integral part of the system.
5. Avoid personal attacks upon opposing counsel, witnesses or others.

### **C. Pretrial and Discovery Practice**

1. On the record do not refer to opposing counsel, opposing party or witnesses by their first name.
2. Avoid interrupting the other attorney or the witness and maintain a calm demeanor.
3. During depositions make copies of exhibits in advance, hand the exhibit to the other side, giving an opportunity to review the exhibit before you begin questioning the witness.
4. At the conclusion of proceeding, shake hands with counsel and the opponent.
5. Before you file a motion, attempt a resolution with the opposing side by personal contact before sending letters or drafting a motion, listening carefully to the opposing view in an attempt to find a solution.
6. If letters are attached as exhibits, redact substantive data not relevant to the issue at hand.
7. If you receive an invoice from a third party as a result of a discovery request, promptly pay such invoice so that third parties are not inconvenienced.
8. If an adversary is entitled to something, provide it without unnecessary formalities since discovery costs time and money.

### **D. Mentoring of Lawyers and the Profession**

1. If another lawyer is senior to you, then offer to attend the meeting at the lawyer's office, not your own.
2. In court presentations permit the senior attorneys to proceed before you.
3. Help out-of-town attorneys with York County procedures.

4. If another attorney is in need as a result of a disability, death in the family or other such emergency, offer to assist and be mindful of the impact of such issues, especially concerning deadlines.

#### **IV. DUTIES BETWEEN LAWYERS AND JUDGES AND QUASI- JUDICIAL PROCEEDINGS**

**A. Adherence to Pennsylvania Code of Civility** The principles to be followed between judges and lawyers is succinctly set forth in the Pennsylvania Code of Civility, which is incorporated by reference in the York County Code of Civility. It is expected that both judges and lawyers will commit to adhere to these principles.

##### **B. Duties in Quasi-Judicial Proceedings**

1. Scope. It is the scope of this section of the Code to cover two types of Quasi-Judicial Proceedings. The first type of proceedings are those where attorneys and their clients are appearing in front of other attorneys who have been appointed by either a Court of competent jurisdiction, or where the Quasi-Judicial Proceeding is part of a larger proceeding which may end in front of a Judge. This includes Boards of Arbitration, custody conciliation hearings, custody mediation conferences, bankruptcy creditors meetings, or similar proceedings. The second type is where lawyers and their clients appear in front of non-lawyers but where there exists a right to appeal to a Court. This includes matters such as support conferences, hearings before municipal boards and others.

2. Attorneys should dress in a fashion consistent with dress in a typical judicial proceeding.

3. An attorney behaves as if participating in a typical judicial proceeding. Even when rules of evidence are relaxed or totally inapplicable, be civil and demonstrate appropriate decorum. Avoid the use of first names. Rather, use a title or last name with all participants; use self-control, courtesy and proper demeanor.

4. Judicial officers must respect counsel, recognizing that counsel may have several cases involving different courtrooms at the same time. Judicial officers must be mindful that counsel is also trying to arrange other individuals' schedules as well, such as witnesses and litigants.

5. Judicial officers should treat all participants in the legal process with courtesy, respect and civility.

#### **V. CIVILITY IN TRANSACTIONAL MATTERS**

**A.** Lawyers engaged in estate, corporate, commercial, and real estate matters (Transactional Practices) are also susceptible to lapses in professionalism. Unprofessional conduct or lack of civility in transactional practices can be veiled and less obvious because of the manner in which negotiations and transactions are handled. Transactional practices generally do not have the oversight of the court, which can serve as a deterrent or tempering factor in litigation. Professional conduct in these areas of practice often depends on the honor system and one's conscience.

**B.** Lawyers in Transactional practices should promote civility by being aware of themselves and by educating their clients that polite, courteous, and civil behavior is

appropriate and not a shortcoming. It is a lawyer's responsibility to understand, as well as educate the client to, the difference between egregious conduct and aggressive representation.

C. The essence of professionalism is appropriate behavior. The following principles of behavior are generally recognized as a guide for professionalism in Transactional practices:

1. Honesty

- a. Your word is your bond. You should exhibit integrity in all dealings.
- b. If you are required to summarize or revise a document, be accurate. Do not slip in terms that are inconsistent with the party's negotiated understanding.
- c. If there is a problem, discuss it; do not conceal it. Accept responsibility for your mistakes.
- d. Make certain the client's goals are lawful.

2. Communicate

- a. Communication is the lifeblood of any transaction. Return phone calls promptly and respond to faxes and correspondence.
- b. Thoroughly understand your client's goals and position in the transaction. Communicate these accurately to others when the situation calls for it.
- c. Communicate with and use non-party participants in the transaction where they add knowledge or value or can help expedite the matter. Remember that others have skills and knowledge to contribute to the transaction.
- d. Counsel the client to have real expectations regarding time, results and methods.

3. Follow the Golden Rule.

- a. Courtesy and respect are the rules, not the exception.
- b. Show respect for the other lawyers, parties and non-party participants.
- c. Do not take unfair advantage of a young lawyer or a lawyer impaired because of advanced age or other reasons.
- d. Do not attribute bad motive or unethical conduct to other counsel or parties without good cause.

4. Work Expeditiously and Economically

- a. Do the work promptly. Deliver when you say you will.
- b. Work to keep the transaction on course and on schedule.
- c. Refrain from conduct that needlessly increases the cost of the transaction.
- d. Be mindful of value for the client; explore alternative methods of accomplishing the client's goals more simply and economically.

- e. Avoid the urge to justify a fee; do not concoct problems or paperwork that is extraneous or not germane to the matters involved.

#### 5. Play Fair

- a. Know the difference between hard bargaining and unfair bargaining.
- b. Communicate through appropriate channels.
- c. Avoid language that is intentionally ambiguous and can create misunderstandings in the future.
- d. Do not withhold material information or purposefully delay the presentation of information or documents for the purpose of obtaining an unfair advantage.
- e. Promptly perform or assist others as is required in all follow-up work required after a transaction to finalize the transaction.