

1 **Rule 14-301. Standards of Professionalism and Civility.**

2 ~~To enhance the daily experience of lawyers and the reputation of the Bar as a whole, the Utah~~
3 ~~Supreme Court, by order dated October 16, 2003, approved the following Standards of Professionalism~~
4 ~~and Civility as recommended by its Advisory Committee on Professionalism.~~

5 Preamble

6 A lawyer's conduct should be characterized at all times by personal courtesy and professional
7 integrity in the fullest sense of those terms. In fulfilling a duty to represent a client vigorously as lawyers,
8 we must be mindful of our obligations to the administration of justice, which is a truth-seeking process
9 designed to resolve human and societal problems in a rational, peaceful, and efficient manner. We must
10 remain committed to the rule of law as the foundation for a just and peaceful society.

11 Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the
12 fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay
13 and often to deny justice.

14 Lawyers should exhibit courtesy, candor and cooperation in dealing with the public and participating
15 in the legal system. The following standards are designed to encourage lawyers to meet their obligations
16 to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and
17 professionalism, both of which are hallmarks of a learned profession dedicated to public service.

18 Lawyers should educate themselves on the potential impact of using digital communications and
19 social media, including the possibility that communications intended to be private may be republished or
20 misused. Lawyers should understand that digital communications in some circumstances may have a
21 widespread and lasting impact on their clients, themselves, other lawyers, and the judicial system.

22 We expect judges and lawyers will make mutual and firm commitments to these standards.
23 Adherence is expected as part of a commitment by all participants to improve the administration of justice
24 throughout this State. We further expect lawyers to educate their clients regarding these standards and
25 judges to reinforce this whenever clients are present in the courtroom by making it clear that such tactics
26 may hurt the client's case.

27 Although for ease of usage the term "court" is used throughout, these standards should be followed
28 by all judges and lawyers in all interactions with each other and in any proceedings in this State. Copies
29 may be made available to clients to reinforce our obligation to maintain and foster these standards.
30 Nothing in these standards supersedes or detracts from existing disciplinary codes or standards of
31 conduct.

32 Cross-References: R. Prof. Cond. Preamble [1], [13]; R. Civ. P. 1; R. Civ. P. 65B(b)(5); R. Crim. P.
33 1(b); R. Juv. P. 1(b); R. Third District Court 10-1-306; Fed. R. Civ. P. 1; DUCivR 83-1.1(g).

34 1. Lawyers shall advance the legitimate interests of their clients, without reflecting any ill-will that
35 clients may have for their adversaries, even if called upon to do so by another. Instead, lawyers shall treat
36 all other counsel, parties, judges, witnesses, and other participants in all proceedings in a courteous and
37 dignified manner.

38 Comment: Lawyers should maintain the dignity and decorum of judicial and administrative
39 proceedings, as well as the esteem of the legal profession. Respect for the court includes lawyers' dress
40 and conduct. When appearing in court, lawyers should dress professionally, use appropriate language,
41 and maintain a professional demeanor. In addition, lawyers should advise clients and witnesses about
42 proper courtroom decorum, including proper dress and language, and should, to the best of their ability,
43 prevent clients and witnesses from creating distractions or disruption in the courtroom.

44 The need for dignity and professionalism extends beyond the courtroom. Lawyers are expected to
45 refrain from inappropriate language, maliciousness, or insulting behavior in depositions, meetings with
46 opposing counsel and clients, telephone calls, email, and other exchanges. They should use their best
47 efforts to instruct their clients and witnesses to do the same.

48 Cross-References: R. Prof. Cond. 1.4; R. Prof. Cond. 1.16(a)(1); R. Prof. Cond. 2.1; R. Prof. Cond.
49 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.4; R. Prof. Cond. 3.5(d); R. Prof. Cond.
50 3.8; R. Prof. Cond. 3.9; R. Prof. Cond. 4.1(a); R. Prof. Cond. 4.4(a); R. Prof. Cond. 8.4(d); R. Civ. P.
51 10(h); R. Civ. P. 12(f); R. App. P. 24(k); R. Crim. P. 33(a); Fed. R. Civ. P. 12(f).

52 2. Lawyers shall advise their clients that civility, courtesy, and fair dealing are expected. They are
53 tools for effective advocacy and not signs of weakness. Clients have no right to demand that lawyers
54 abuse anyone or engage in any offensive or improper conduct.

55 Cross-References: R. Prof. Cond. Preamble [5]; R. Prof. Cond. 1.2(a); R. Prof. Cond. 1.2(d); R. Prof.
56 Cond. 1.4(a)(5).

57 3. Lawyers shall not, without an adequate factual basis, attribute to other counsel or the court
58 improper motives, purpose, or conduct. Lawyers should avoid hostile, demeaning, or humiliating words in
59 written and oral communications with adversaries. Neither written submissions nor oral presentations
60 should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless
61 such matters are directly relevant under controlling substantive law.

62 Comment: Hostile, demeaning, and humiliating communications include all expressions of
63 discrimination on the basis of race, religion, gender, sexual orientation, age, handicap, veteran status, or
64 national origin, or casting aspersions on physical traits or appearance. Lawyers should refrain from acting
65 upon or manifesting bigotry, discrimination, or prejudice toward any participant in the legal process, even
66 if a client requests it.

67 Lawyers should refrain from expressing scorn, superiority, or disrespect. Legal process should not be
68 issued merely to annoy, humiliate, intimidate, or harass. Special care should be taken to protect
69 witnesses, especially those who are disabled or under the age of 18, from harassment or undue
70 contention.

71 Cross-References: R. Prof. Cond. Preamble [5]; R. Prof. Cond. 3.1; R. Prof. Cond. 3.5; R. Prof. Cond.
72 8.4; R. Civ. P. 10(h); R. Civ. P. 12(f); R. App. P. 24(k); R. Crim. P. 33(a); Fed. R. Civ. P. 12(f).

73 4. Lawyers shall never knowingly attribute to other counsel a position or claim that counsel has not
74 taken or seek to create such an unjustified inference or otherwise seek to create a “record” that has not
75 occurred.

76 Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.5(a); R. Prof. Cond.
77 8.4(c); R. Prof. Cond. 8.4(d).

78 5. Lawyers shall not lightly seek sanctions and will never seek sanctions against or disqualification of
79 another lawyer for any improper purpose.

80 Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d);
81 R. Civ. P. 11(c); R. Civ. P. 16(d); R. Civ. P. 37(a); Fed. R. Civ. P. 11(c)(2).

82 6. Lawyers shall adhere to their express promises and agreements, oral or written, and to all
83 commitments reasonably implied by the circumstances or by local custom.

84 Cross-References: R. Prof. Cond. 1.1; R. Prof. Cond. 1.3; R. Prof. Cond. 1.4(a), (b); R. Prof. Cond.
85 1.6(a); R. Prof. Cond. 1.9; R. Prof. Cond. 1.13(a), (b); R. Prof. Cond. 1.14; R. Prof. Cond. 1.15; R. Prof.
86 Cond. 1.16(d); R. Prof. Cond. 1.18(b), (c); R. Prof. Cond. 2.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.3; R.
87 Prof. Cond. 3.4(c); R. Prof. Cond. 3.8; R. Prof. Cond. 5.1; R. Prof. Cond. 5.3; R. Prof. Cond. 8.3(a), (b); R.
88 Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d).

89 7. When committing oral understandings to writing, lawyers shall do so accurately and completely.
90 They shall provide other counsel a copy for review, and never include substantive matters upon which
91 there has been no agreement, without explicitly advising other counsel. As drafts are exchanged, lawyers
92 shall bring to the attention of other counsel changes from prior drafts.

93 Comment: When providing other counsel with a copy of any negotiated document for review, a lawyer
94 should not make changes to the written document in a manner calculated to cause the opposing party or
95 counsel to overlook or fail to appreciate the changes. Changes should be clearly and accurately identified
96 in the draft or otherwise explicitly brought to the attention of other counsel. Lawyers should be sensitive
97 to, and accommodating of, other lawyers' inability to make full use of technology and should provide hard
98 copy drafts when requested and a redline copy, if available.

99 Cross-References: R. Prof. Cond. 3.4(a); R. Prof. Cond. 4.1(a); R. Prof. Cond. 8.4(c); R. Prof. Cond.
100 8.4(d); R. App. P. 11(f).

101 8. When permitted or required by court rule or otherwise, lawyers shall draft orders that accurately
102 and completely reflect the court's ruling. Lawyers shall promptly prepare and submit proposed orders to
103 other counsel and attempt to reconcile any differences before the proposed orders and any objections are
104 presented to the court.

105 Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 8.4; R. Civ. P. 7(f); R. Third District Court 10-1-
106 306(6).

107 9. Lawyers shall not hold out the potential of settlement for the purpose of foreclosing discovery,
108 delaying trial, or obtaining other unfair advantage, and lawyers shall timely respond to any offer of
109 settlement or inform opposing counsel that a response has not been authorized by the client.

110 Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4(a); R. Prof. Cond. 4.1(a); R. Prof. Cond.
111 8.4(c); R. Prof. Cond. 8.4(d).

112 10. Lawyers shall make good faith efforts to resolve by stipulation undisputed relevant matters,
113 particularly when it is obvious such matters can be proven, unless there is a sound advocacy basis for not
114 doing so.

115 Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.4(d); R. Prof. Cond.
116 8.4(d); R. Third District Court 10-1-306 (1)(A); Fed. R. Civ. P. 16(2)(C).

117 11. Lawyers shall avoid impermissible ex parte communications.

118 Cross-References: R. Prof. Cond. 1.2; R. Prof. Cond. 2.2; R. Prof. Cond. 2.9; R. Prof. Cond. 3.5; R.
119 Prof. Cond. 5.1; R. Prof. Cond. 5.3; R. Prof. Cond. 8.4(a); R. Prof. Cond. 8.4(d); R. Civ. P. 77(b); R. Juv.
120 P. 2.9(A); Fed. R. Civ. P. 77(b).

121 12. Lawyers shall not send the court or its staff correspondence between counsel, unless such
122 correspondence is relevant to an issue currently pending before the court and the proper evidentiary
123 foundations are met or as such correspondence is specifically invited by the court.

124 Cross-References: R. Prof. Cond. 3.5(a); R. Prof. Cond. 3.5(b); R. Prof. Cond. 5.1; R. Prof. Cond.
125 5.3; R. Prof. Cond. 8.4(a); R. Prof. Cond. 8.4(d).

126 13. Lawyers shall not knowingly file or serve motions, pleadings or other papers at a time calculated
127 to unfairly limit other counsel's opportunity to respond or to take other unfair advantage of an opponent, or
128 in a manner intended to take advantage of another lawyer's unavailability.

129 Cross-References: R. Prof. Cond. 8.4(c); R. Juv. P. 19.

130 14. Lawyers shall advise their clients that they reserve the right to determine whether to grant
131 accommodations to other counsel in all matters not directly affecting the merits of the cause or prejudicing
132 the client's rights, such as extensions of time, continuances, adjournments, and admissions of facts.
133 Lawyers shall agree to reasonable requests for extension of time and waiver of procedural formalities
134 when doing so will not adversely affect their clients' legitimate rights. Lawyers shall never request an
135 extension of time solely for the purpose of delay or to obtain a tactical advantage.

136 Comment: Lawyers should not evade communication with other counsel, should promptly
137 acknowledge receipt of any communication, and should respond as soon as reasonably possible.
138 Lawyers should only use data-transmission technologies as an efficient means of communication and not
139 to obtain an unfair tactical advantage. Lawyers should be willing to grant accommodations where the use
140 of technology is concerned, including honoring reasonable requests to retransmit materials or to provide
141 hard copies.

142 Lawyers should not request inappropriate extensions of time or serve papers at times or places
143 calculated to embarrass or take advantage of an adversary.

144 Cross-References: R. Prof. Cond. 1.2(a); R. Prof. Cond. 2.1; R. Prof. Cond. 3.2; R. Prof. Cond. 8.4;
145 R. Juv. P. 54.

146 15. Lawyers shall endeavor to consult with other counsel so that depositions, hearings, and
147 conferences are scheduled at mutually convenient times. Lawyers shall never request a scheduling
148 change for tactical or unfair purpose. If a scheduling change becomes necessary, lawyers shall notify
149 other counsel and the court immediately. If other counsel requires a scheduling change, lawyers shall
150 cooperate in making any reasonable adjustments.

151 Comment: When scheduling and attending depositions, hearings, or conferences, lawyers should be
152 respectful and considerate of clients' and adversaries' time, schedules, and commitments to others. This
153 includes arriving punctually for scheduled appointments. Lawyers should arrive sufficiently in advance of
154 trials, hearings, meetings, depositions, and other scheduled events to be prepared to commence on time.
155 Lawyers should also advise clients and witnesses concerning the need to be punctual and prepared.
156 Lawyers who will be late for a scheduled appointment or are aware that another participant will be late,
157 should notify the court, if applicable, and all other participants as soon as possible.

158 Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 5.1; R. Prof. Cond. 8.4(a);
159 R. Juv. P. 20; R. Juv. P. 20A.

160 16. Lawyers shall not cause the entry of a default without first notifying other counsel whose identity is
161 known, unless their clients' legitimate rights could be adversely affected.

162 Cross-References: R. Prof. Cond. 8.4; R. Civ. P. 55(a); Fed. R. Civ. P. 55(b)(2).

163 17. Lawyers shall not use or oppose discovery for the purpose of harassment or to burden an
164 opponent with increased litigation expense. Lawyers shall not object to discovery or inappropriately assert
165 a privilege for the purpose of withholding or delaying the disclosure of relevant and non-protected
166 information.

167 Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 4.1; R.
168 Prof. Cond. 4.4(a); R. Prof. Cond. 8.4; R. Civ. P. 26(b)(1); R. Civ. P. 26(b)(8)(A); R. Civ. P. 37(a)(1)(A),
169 (D); R. Civ. P. 37(c); R. Crim. P. 16(b); R. Crim. P. 16(c); R. Crim. P. 16(d); R. Crim. P. 16(e); R. Juv. P.
170 20; R. Juv. P. 20A; R. Juv. P. 27(b); Fed. R. Civ. P. 26(b)(1); Fed. R. Civ. P. 26(g)(1)(B)(ii), (iii).

171 18. During depositions lawyers shall not attempt to obstruct the interrogator or object to questions
172 unless reasonably intended to preserve an objection or protect a privilege for resolution by the court.
173 "Speaking objections" designed to coach a witness are impermissible. During depositions or conferences,
174 lawyers shall engage only in conduct that would be appropriate in the presence of a judge.

175 Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.4; R. Prof. Cond.
176 3.5; R. Prof. Cond. 8.4; R. Civ. P. 30(c)(2); R. Juv. P. 20; R. Juv. P. 20A; Fed. R. Civ. P. 30(c)(2); Fed. R.
177 Civ. P. 30(d)(2); Fed. R. Civ. P. 30(d)(3)(A).

178 19. In responding to document requests and interrogatories, lawyers shall not interpret them in an
179 artificially restrictive manner so as to avoid disclosure of relevant and non-protected documents or
180 information, nor shall they produce documents in a manner designed to obscure their source, create
181 confusion, or hide the existence of particular documents.

182 Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 8.4; R. Prof. Cond. 3.4; R.
183 Civ. P. 26(b)(1); R. Civ. P. 37; R. Crim. P. 16(a); R. Juv. P. 20; R. Juv. P. 20A; Fed. R. Civ. P. 37(a)(4).
184 20. Lawyers shall not authorize or encourage their clients or anyone under their direction or
185 supervision to engage in conduct proscribed by these Standards.
186 Adopted by Supreme Court order October 16, 2003.