



Civility in the Legal Profession

By: Janice L. Miller, Esq.



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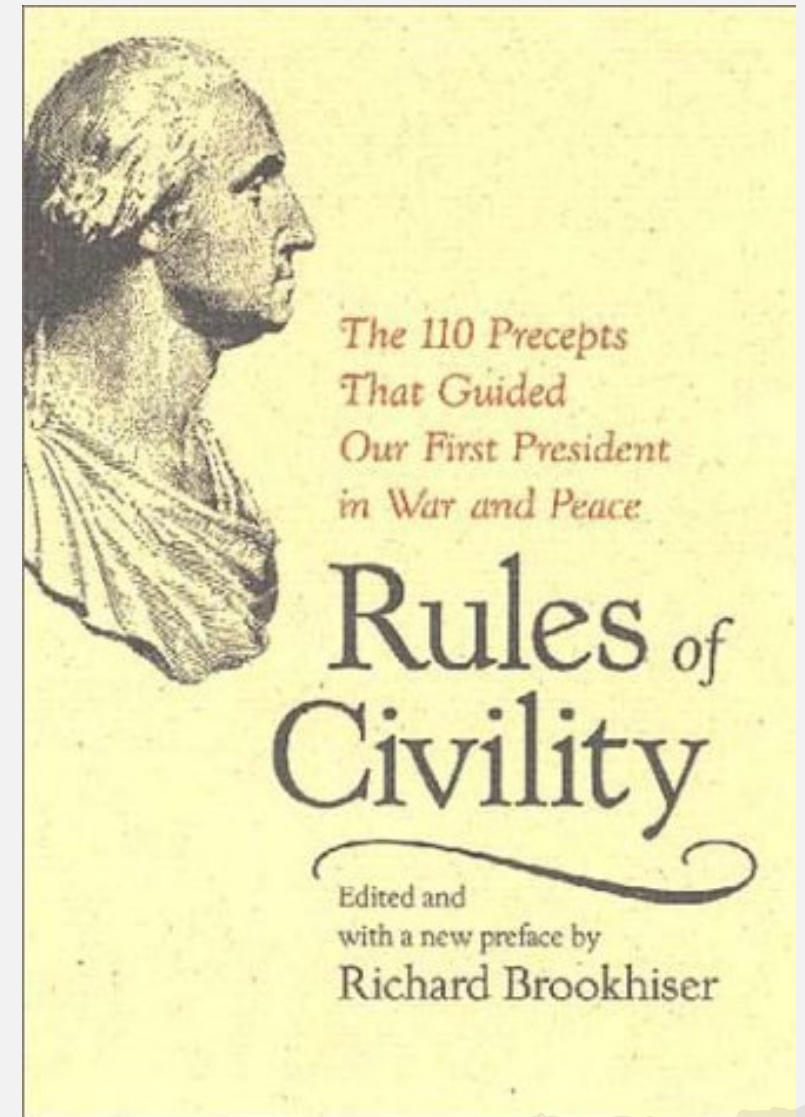
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Civility at the Core of the United States

- Throughout history, civility has been a common theme, often found at the cornerstone of the teachings and leadership beliefs of influential leaders.
- George Washington, the first President of the United States, believed that civility was a crucial character trait.
- At an early age, Washington rewrote a set of rules known as the "110 Rules of Civility & Decent Behavior in Company and Conversation." These rules became ingrained in his system of values, which helped shape his leadership and ultimately led him to become the first President of the United States.

Washington on Rules of Civility

- “In writing or speaking, give to every person his due title according to his degree & the custom of the place.”
- "Show not yourself glad at the misfortune of another though he were your enemy.”
- “Speak not evil of the absent for it is unjust.”



Other United States Leaders on Civility



In addition to Washington, many leaders of the United States have held civility as a top priority.

- “So let us remember that civility is not a sign of weakness.” – John F. Kennedy
 - “Some people equate civility with weakness and compromise with surrender. I strongly disagree.” – Gerald Ford
 - “Civility is not a tactic or a sentiment. It is the determined choice of trust over cynicism, of community over chaos.” – George W. Bush
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Foundation of Civility in the Legal World

- Just as Washington and other leaders of the United States sought to lead in a civil manner, the legal profession has its foundation intertwined with civility.
- In 1872, the California Civil Code was established to provide rules for attorneys. Section 6068 of the California Business and Professions Code builds upon the Civil Code, offering greater detail on the expectations for a properly acting attorney.
- Let's take a step back and consider: What does civility mean in the legal profession?



Civility in the Legal World

- Civility refers to the professional and respectful behavior that lawyers must maintain in their interactions with clients, colleagues, opposing counsel, judges, and court personnel.
- It encompasses a range of conduct that promotes fairness, respect, and courtesy, helping to uphold the integrity and decorum of the legal profession.

Why Does Civility Matter in the Legal Profession?

Civility is a cornerstone of the legal profession, playing a critical role in ensuring the effective functioning of the legal system and promoting positive outcomes for both clients and lawyers.



State Bar of California

In 2007, the President of the State Bar of California, Sheldon Sloan, made it a priority to address issues of civility within the practice of law by adopting, *California Attorney Guidelines of Civility and Professionalism*.

The Guidelines provide best practices of civility in the practice of law and are offered to promote both the effectiveness and the enjoyment of the practice of law and economical client representation.

The President's purpose was to encourage California attorneys to engage in best practices of civility by making the Guidelines their personal standards and goals.



State Bar of California

In Bar President Sloan's initial email to California attorneys, he emphasized simple examples where the shift to a more civil approach was motivating his desire for change. His letter included examples such as:

- You can practice law and do a good job for your client without being rude, aggressive, or causing unnecessary trouble for everyone involved.
- Big-firm lawyers don't need to try to crush opposing sole practitioners by overwhelming them with paperwork.
- No lawyer should ever make false, misleading, or exaggerated statements for the cameras or through any other means of reaching the public.

State Bar of California

- President Sloan concluded his examples by stating that the civility plea was, “All just plain, common sense.”
- Even though the examples given — and the ones that initially come to the mind of a practicing or aspiring lawyer — may seem trivial, the State Bar has had to navigate through bumps in the road to achieve a truly civil profession.
- Even with the non-stop hustle of the legal profession, the idea of civility has been rooted as a necessity prior to attorney’s being licensed.



Civility at the Foundation of Bar Licensure

- Prior to becoming eligible to be licensed to the State Bar, applicants must take rigorous steps to ensure that they are prepared for the job at hand.
- As new attorney's the idea is to go out and advocate for clients on an immediate basis, trying to make an impression on one's field.
- With this mindset, the required prerequisites of civility are often overlooked.

Civility at the Foundation of Bar Licensure

- Bar applicants need to pass the MPRE (professional responsibility exam), have valid moral character, and take an oath that emphasizes the importance of civility before being licensed.
- Since 2014, new admittees to the California Bar have taken an oath promising: “As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy, and integrity.” (Cal. R. Ct. 9.04).

Civility at the Foundation of Bar Licensure

- The foundational civility that the state requires one to possess at the onset of becoming a practicing attorney serves as a constant reminder of how we, as attorneys, must behave, treat clients, and maintain awareness of the legal profession.
- Keeping civility at the forefront of a practicing attorney's mind will help ensure proper behavior toward others and clients.



Constant Reminder

- The State Bar continually reminds its members of the importance of conducting themselves with civility.
- When paying annual bar dues, members are required to formally reaffirm their commitment to a '**civility pledge**' outlined in the Rules of Professional Conduct, following the specific process set by the State Bar. Essentially, members must confirm that they will conduct themselves with professional courtesy and respect while practicing law.

California Civility Task Force (CCTF)

- The reaffirmation of the oath was established by the California Civility Task Force (CCTF).
- The CCTF is a joint project of the California Judges Association and the California Lawyers Association, comprised of over 40 distinguished lawyers and judges.
- The goal of the CCTF is to improve the civility within the California Legal Profession.

California Civility Task Force (CCTF)

- In addition to the Oath renewal, the task force has passed proposals that will:
- Provide training to judges on the need to model civility and curtail attorney incivility, both inside and outside the courtroom.
- Enact meaningful changes to State Bar disciplinary rules, prohibiting repeated incivility and clarifying that civility is not inconsistent with zealous representation.
- **Mandate one hour of attorney MCLE devoted to civility training, to be included in the total number of MCLE hours currently required.**



Ethics and Civility

- Here is a list of various California Bar Associations' publishing guidelines on civility and professionalism.
- With the state as a whole making a push toward civility, and many local bar associations publishing rules and guidelines on the matter, a lack of civility can no longer be attributed to mere ignorance.

Bar Associations

- [Bar Association of San Francisco Guidelines on Civility and Professionalism](#)
- [Contra Costa County Bar Association Standards of Professional Courtesy](#)
- [Los Angeles County Bar Association Code of Civility Guidelines](#)
- [Marin County Bar Association Code of Civility](#)
- [Orange County Bar Association Civility Guidelines](#)
- [Riverside County Bar Association Guidelines of Professional Courtesy and Civility](#)
- [Sacramento County Bar Association Standard of Professional Conduct](#)
- [San Bernardino County Bar Association Civility Code](#)
- [San Diego County Bar Association Attorney Code of Conduct](#)
- [Association of Business Trial Lawyers of San Diego Ethics, Professionalism and Civility Guidelines](#)
- [Santa Clara County Bar Association: Code of Professionalism](#)
- [Ventura County Bar Association Guidelines on Professional Conduct and Civility](#)
- [American Board of Trial Advocates Code of Professionalism](#)
- [American Board of Trial Advocates Principles of Civility, Integrity and Professionalism](#)



What are the Key Principles of Civility in Law?

- Respect for Others
- Professionalism
- Ethical Integrity

Respect for Others

- Treating colleagues, clients, judges, and opposing counsel with courtesy is essential.
- A lawyer can be tough and aggressive without being obnoxious or rude.
- Civility does not imply weakness or a lack of zealous representation.





Professionalism

- Maintaining a standard of conduct that reflects well on the profession is essential.
- Civility helps build a lawyer's reputation as respectful, trustworthy, and reliable.
- Professionalism not only enhances a lawyer's reputation and relationships with other lawyers but also with colleagues across the legal profession.



Ethical Integrity

- Adhering to legal ethics, such as honesty, confidentiality, and fairness, is essential.
 - Upholding the highest standards of integrity and fairness in all professional dealings, while avoiding actions or behaviors that could be perceived as deceitful, manipulative, or unethical, is crucial.
 - Furthermore, ethical integrity ensures that, when engaging in the adversarial nature of legal disputes, one refrains from personal or disrespectful attacks on the opposing side.
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What is the Impact of Civility on Legal Practice?

- Improved Client Relationships
- Enhanced Reputation
- Better Legal Outcomes



“The good news is we have a heart ready for transplant.
The bad news is it’s human. And you’re a lawyer.”

Improved Client Relationships

Respectful communication fosters trust and confidence.

Clients are more likely to trust and respect lawyers who treat them with civility. This leads to stronger attorney-client relationships and better client satisfaction.

Improved client perception of dealing with their attorney will lead to more referrals and greater lifelong clients.

Enhanced Reputation

- A civil attorney is often viewed as competent and reliable.
- Civility helps build a lawyer's reputation as respectful, trustworthy, and dependable.
- An improved client perception of an attorney's reputation and the way they handle cases can lead to more referrals and long-term clients.



Better Legal Outcomes

- Cooperation and constructive dialogue can lead to more effective negotiations and settlements.
- Civility in legal proceedings ensures that all parties have an equal opportunity to present their arguments and be heard.
- By treating opposing parties with dignity and respect, lawyers contribute to a fair and balanced judicial process, which is vital for upholding the principles of justice.

Common Challenges to Civility

- Adversarial Nature of the Legal System
- Time Pressures
- Expectations as a Legal Professional

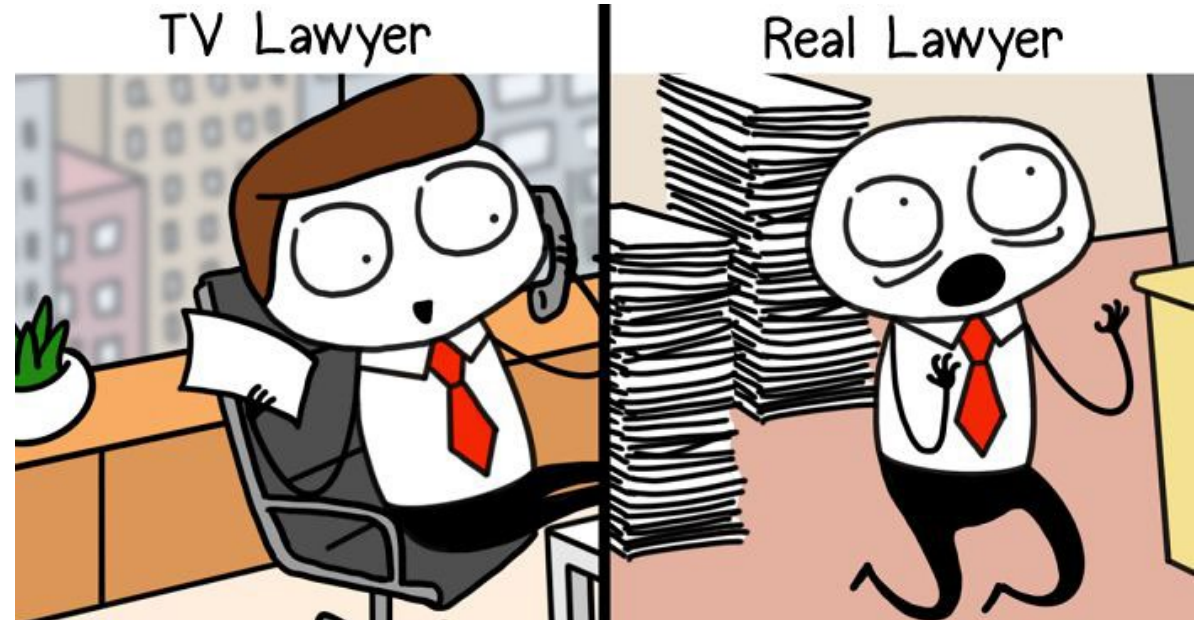


Adversarial Nature of the Legal System

- The competitive, high-stakes environment can sometimes foster incivility.
- The adversarial system pits lawyers against each other, creating a competitive and combative atmosphere.
- This can encourage aggressive tactics and uncivil behavior as lawyers strive to win cases for their clients.

Time Pressures

- Lawyers often work under tight deadlines, which can cause stress and affect behavior.
- Rushed communications and decisions can lead to misunderstandings and uncivil conduct.
- Long hours, high pressure, and a demanding workload can lead to burnout. That burnout can result in irritability, reduced patience, and a decreased ability to interact civilly.



Expectations as a Legal Professional

- In some legal settings, aggressive tactics and a "win at all costs" attitude may undermine civility.
- Occasionally, clients expect their lawyers to be aggressive advocates, pressuring them to adopt a combative stance.
- As a result, lawyers may feel compelled to sacrifice civility to meet client demands and achieve favorable outcomes.

What Do Uncivil Lawyer's Do?

- Harm Client's Case
- Increase Fees
- Make the Practice of Law Unpleasant





Harmful Behavior for the Client

- In a close case, civility may tip the scales toward a lawyer with a reputation for integrity, causing the uncivil lawyer's client to lose the case.
- By abandoning civility, a lawyer is likely to lose the trust of the court.
- Judge A. Benjamin Goldgar of the U.S. Bankruptcy Court of Northern Illinois, stated that he has stopped reading briefs with uncivil language—briefs that, instead of aiding the court, "serve as some kind of weird outlet for lawyers with a lot of pent-up hostility."

Increased Fees

- Even if obnoxious or rude behavior toward opposing counsel does not prejudice the client's case, it is likely to increase the cost of litigation.
- When lawyers refuse to answer discovery based on hyper-technical objections and then refuse to meet and confer in good faith, they necessitate costly correspondence and motion practice.
- Furthermore, when lawyers generally act obnoxiously toward each other, they make it difficult to communicate and resolve what would otherwise be easily resolvable differences. All of this increases the cost of litigation for both sides.





Make the Practice of Law Unpleasant

- Lacking civility in the practice of law can make it uncomfortable for both the client and the attorney.
- More civility and greater professionalism can only enhance the satisfaction lawyers find in practice, increase the effectiveness of our system of justice, and improve the public's perception of lawyers. —Justice Sandra Day O'Connor
- Practicing law is simply more enjoyable and less stressful when we have even a modicum of good rapport with opposing counsel.

Rudeness in Court or During a Negotiation

- There are many instances where a lawyer exceeds being a zealous advocate and becomes rude and out of order.
- One example is an attorney who was sanctioned in late 2022, when the presiding judge, Stephanie Haines, found that the behavior exhibited during a deposition involved "numerous, vicious personal attacks" against two opposing lawyers, alternating between being rude, demeaning, and obnoxious.
- Share examples



How Should a Lawyer Promote Civility?

- Lead by Example
- Mentorship
- Encourage Others
- Coopertition

Lead by Example

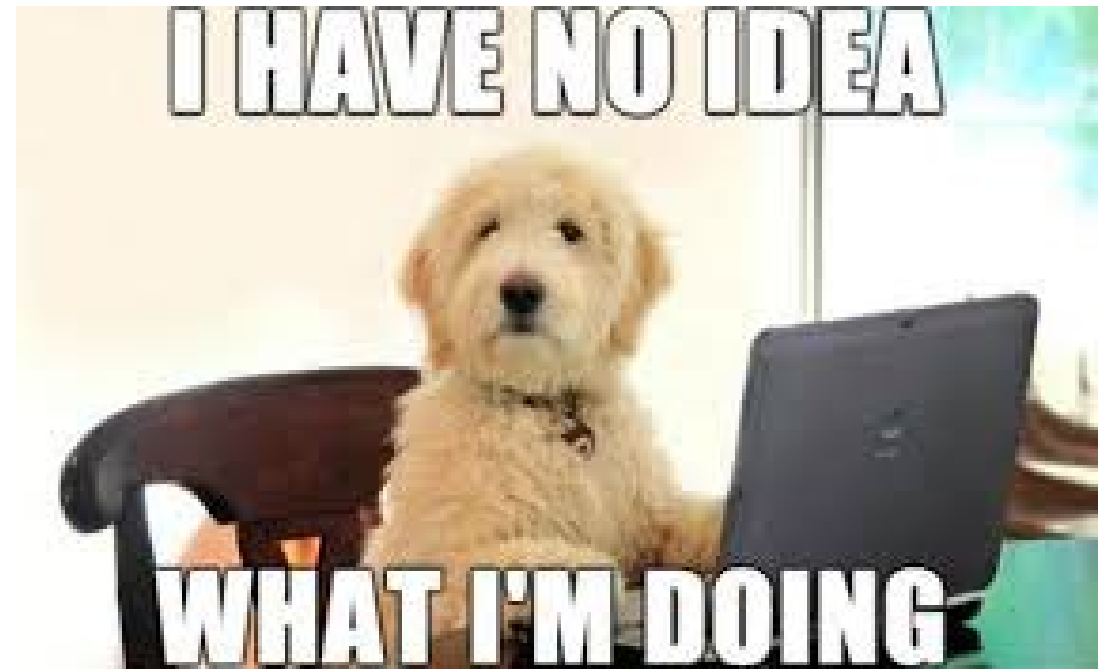
We can all improve our profession together, so let's model civil behavior for others to follow.

Try to demonstrate respect, patience, and kindness in all professional interactions, setting a positive example for peers.

Use respectful language, remain polite, and avoid mirroring uncivil behavior.

Mentorship

- Take it upon yourselves, as established professionals, to exhibit civility to those around you.
- Younger or less experienced lawyers may need strong role models or mentors to maintain civility.
- Without proper guidance, they may adopt aggressive or uncivil behaviors observed in others.



Encourage Others



Do what you to promote a work culture that values and rewards civility.



Recognize and celebrate civil behavior within your firm or organization and address uncivil conduct promptly and effectively.



We can all improve our profession together, so let's model civil behavior for others to follow.

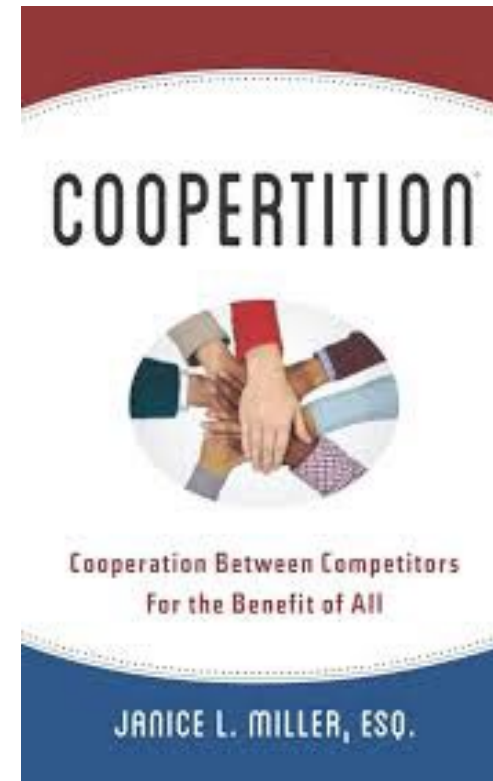


Try to demonstrate respect, patience, and kindness in all professional interactions, setting a positive example for peers.

Coopertition®...

Cooperation Between Competitors for the Benefit of All

- My book, *Coopertition, Cooperation Between Competitors for the Benefit of All*, focuses on the benefits that come from fostering meaningful relationships with all those you may come across in your business ventures.
- There are immense benefits that you will gain in both your professional and personal life by leading with a coopertition mindset.



How will being more civil assist me?

Being a more civil lawyer can assist you by fostering positive relationships with clients, opposing counsel, and the court, leading to smoother legal proceedings, and better outcomes for your clients.



Furthermore, you will garner a more respected reputation within the legal community, ultimately enhancing your career prospects and ability to effectively represent your clients.

TEAMWORK



Improved Legal Environment:

- In today's contentious legal environment, civility can sometimes feel like a relic of a distant era. Upholding civility is not just a matter of professional courtesy; it's a personal investment in a successful and fulfilling legal career.
- Civility fosters respect, facilitates effective communication, and paves the way for constructive resolutions.
- A more civil legal environment could be the catalyst for a more harmonious and productive legal profession.

Preservation of Justice:

- Legal civility is directly linked to improving access to justice for all individuals. When legal professionals prioritize respectful behavior, it creates an environment where clients feel heard, valued, and understood.
- Civility in legal proceedings ensures that all parties have an equal opportunity to present their arguments and have their voices heard.
- By treating opposing parties with dignity and respect, lawyers contribute to a fair and balanced judicial process, which is vital for upholding the principles of justice.





Long-Term Professional Success

Promoting civility is not just about avoiding negativity—it's about actively building a workplace culture where everyone feels valued, heard, and respected.

Organizations that commit to civility invest in their long-term success, creating stronger teams and sustainable growth.



State Bar Civility Requirement... But Wait There's More!

The State Bar of California has recently announced some updates to the MCLE requirements. Depending on the compliance group one is in, there will be three new course requirements in the topics of:

- Technology in the Practice of Law
- Competence (Prevention and Detection Competence & Wellness Competence)
- Civility in the Legal Profession



Civility in the Legal Profession Requirement

- The courses that will satisfy the civility in the legal profession requirement cover the critical relationship between civility and bias.
- The courses take a deep dive on addressing the issues of incivility that can be directed at opposing parties, opposing counsel, your own party, your staff, and the judiciary.
- There are currently 14 California-Approved Civility in the Legal Profession CLE Programs.

What Else Can Be Done?



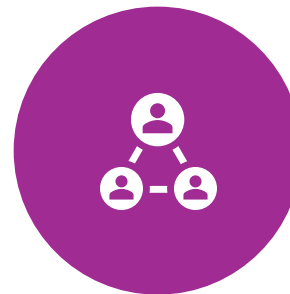
As current legal professionals, make a commitment to act with civility, uphold ethical standards, and foster respect in all interactions.



Remember to stay calm under pressure, treat all with respect, and be sure to lead by example.



Upholding civility in all aspects of your practice benefits your clients and colleagues and contributes to a more just and honorable legal profession.



Embrace civility as a core value, and watch as it transforms your interactions, reduces stress, and paves the way for a more fulfilling and successful career.

Closing Quote from Justice Richman on Civility

We close this discussion with a reminder to counsel—all counsel, regardless of practice, regardless of age—that zealous advocacy does not equate with ‘attack dog’ or ‘scorched earth’; nor does it mean lack of civility. Zeal and vigor in the representation of clients are commendable. So are civility, courtesy, and cooperation. They are not mutually exclusive.

Questions?



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- California-approved Civility in the Legal Profession CLE Programs https://www.pli.edu/credit/CACivility?tCode=RHQ4_CACIV