



**LAWYER TO LAWYER MENTORING PROGRAM**  
**WORKSHEET E**  
**INTRODUCTION TO UNWRITTEN CUSTOMS AND RULES**

Worksheet E is intended to facilitate a discussion about the unwritten rules and customs of civility and etiquette among lawyers and judges in the community.

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Discuss the following customs and unwritten rules of each of your local court(s) or at least those in which the new lawyer might practice:

- How is the judge customarily addressed in court, at formal functions and events, in social settings, or at the grocery store? Does this custom change depending upon how often you appear before the judge or the capacity in which you know the judge? For example, if you are a prosecutor and appear before the same judge/magistrate every day? Or, if you don't appear before the judge in court, but you are on a bar association taskforce with him or her resulting in frequent meetings together? Do these general guidelines also apply to magistrates?
- Discuss the appropriate demeanor with other court personnel – clerks, bailiffs, administrative assistants, court reporters, etc. . Explain the roles of each in running the court.
- What is appropriate attire for lawyers in your local court(s)? How should you advise your client to dress? Does your client's dress depend upon the type of case being litigated? What if your client does not have the proper attire to appear in court?
- Discuss the local court rules and how they impact your conduct.
- Review the Commission on Professionalism's *Professionalism Dos and Don'ts: Professionalism in the Courtroom*, as provided below. Discuss the importance of professionalism in the courtroom and highlight standards that the new lawyer must be especially sure to follow.
- Discuss the appropriate demeanor to use when addressing opposing counsel. What if you know opposing counsel well because you often oppose each other in cases? Because you went to law school together? Because you are good friends? How should you react if opposing counsel has been underhanded or dishonest during your case? What types of recourse are there? Discuss tips for keeping calm during conversations with an opposing



counsel who is acting unprofessionally, such as yelling, making personal attacks, or making threats.

- Review the Commission on Professionalism's *Professionalism Dos and Don'ts: Working with Opposing Counsel and Other Lawyers*, provided below.
- What is the appropriate demeanor with your clients - in and out of court? Discuss the importance of sensitivity towards your clients.
- Discuss the importance of associating with local counsel if you are handling a case outside your community. What are the benefits and disadvantages to doing so? How do you go about finding local counsel in another community with which to associate yourself?
- If you are acting as local counsel with an out-of-state/town lawyer, what is your relationship to each other and to the case? What do you do when the other counsel wants to completely control the litigation and your actions?



PROFESSIONALISM  
DOs & DON'Ts:

# PROFESSIONALISM IN THE COURTROOM

Issued by the Commission on Professionalism:

*To be truly professional when appearing in court, a lawyer must act in a proper manner. Such conduct goes beyond complying with the specific rules of procedure and of evidence promulgated by the Supreme Court of Ohio and with local rules issued by trial courts and individual judges. Proper conduct in the courtroom also includes adhering to common principles of civility and respect when dealing with the judge, court staff, and opposing counsel. The Supreme Court of Ohio Commission on Professionalism has prepared this list of “dos and don’ts,” to illustrate a number of principles so that lawyers appearing in Ohio courts will fully understand what is expected of them. In creating this list, the Commission does not intend to regulate or to provide additional bases for discipline, but rather to help promote professionalism among Ohio’s lawyers.*

*By following the principles of civility and respect, lawyers will enhance their professionalism, as well as the dignity of courtroom proceedings.*

## DO

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- Be prepared for your participation in any court conference or proceeding.
- Wear appropriate courtroom attire when appearing in court. If you are a male attorney, always wear a tie.
- Advise your clients on how to dress appropriately for any scheduled court appearance.
- Be on time for all court conferences and proceedings. (The best practice is to arrive at least five minutes in advance of the scheduled time.)
- If you are going to be late, call the courtroom so those who are waiting are properly informed.
- Turn your cell phone and all other electronic devices off or to silent mode before entering a courtroom.
- Be courteous when addressing the judge and opposing counsel, both in the courtroom and in chambers.
- Begin any argument on the record before the judge or jury, by saying, “May it please the court.”
- Stand whenever you address the judge in the courtroom.
- Show all exhibits to opposing counsel before showing the exhibit to a witness. (OVER)

- Ask the judge's permission before approaching a witness during trial or before publishing an exhibit to the jury during an examination.
- Speak clearly and enunciate when addressing the judge or a witness.
- Agree to stipulate to facts that are not in dispute if they will not adversely affect your client.
- Respect the private nature of a sidebar conference; avoid making statements or arguments at a level that may be overheard by the jury.
- Inform the judge in advance of any delays in the scheduling of witnesses.
- Treat court personnel with the same respect you would show the judge.
- Be accurate when setting forth pertinent facts and pertinent rules of law.
- Answer questions from the judge directly and forthrightly.
- Bring to the judge's attention any possible ethics issues as soon as you become aware of them.
- Verify immediately the availability of necessary participants and witnesses after a date for a hearing or trial has been set, so you can promptly notify the judge of any problems.
- During final argument, be circumspect when summarizing testimony that contains profane words.

## DON'T

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- Make ad hominem attacks on opposing counsel or be sarcastic in either your oral arguments or written briefs.
- Shout when making an objection in a court proceeding.
- Make any speaking objections in a jury case except for an explanatory single word or two (e.g., "hearsay," "leading," "no foundation"). DO request a side bar conference if you must expound on your objections.
- Interrupt opposing counsel or the judge, no matter how strongly you disagree with what is being said.
- Argue with the judge or react negatively after the judge has ruled on an objection or other matter.
- Tell the judge that he or she has committed a reversible error.
- Tell the judge that another judge has ruled a different way without providing a copy of the other judge's written opinion.
- Display anger in the courtroom.
- Make facial objections during testimony or during arguments by opposing counsel.
- Bring a beverage to the trial table unless it is in a non-descript glass or cup and only if you determined that the judge does not object to a beverage on the trial table.
- Lean or sit on the trial table, jury box, or any other furniture in the courtroom.
- Move freely around the courtroom once a proceeding is underway without obtaining permission from the judge.
- Celebrate or denounce a verdict as it is delivered, and also advise clients and interested spectators not to do so. DO behave civilly with opposing counsel when leaving the courtroom.



PROFESSIONALISM  
DOs & DON'Ts:

## WORKING WITH OPPOSING COUNSEL AND OTHER LAWYERS

Issued by the Commission on Professionalism:

*Under “A Lawyer’s Creed” issued by the Supreme Court of Ohio in February 1997, Ohio lawyers pledge to offer fairness, integrity, and civility to opposing parties and their counsel. The Supreme Court of Ohio Commission on Professionalism prepared this list of “dos and don’ts” to illustrate some of the ways lawyers can fulfill this pledge in their everyday communication with opposing counsel and other lawyers. In creating this list, it is not the commission’s intention to regulate or to provide additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio’s lawyers. By following these practices, lawyers will elevate the level of professionalism in their day-to-day interactions with other lawyers.*

## DO

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- Maintain a courteous and cooperative working relationship with opposing counsel and other lawyers.
- Avoid motions about minor issues that should be worked out informally.
- Wait 24 hours before deciding to respond to an intemperate, untrue, or exasperating communication from another attorney.
- Discuss discovery disputes with opposing counsel in person, by phone, or by e-mail before sending a formal letter that stakes out your position.
- Consult in advance with other attorneys to avoid scheduling conflicts.
- Cooperate with other attorneys when you have obtained permission of the court to extend deadlines imposed by a court order.
- Extend professional courtesies regarding procedural formalities and scheduling when your client will not suffer prejudice, DO be fair-minded with respect to requests for stipulations, and DO agree to stipulate to facts that are not in dispute if they will not adversely affect your client.
- Keep your word. (OVER)

- Respond in a timely fashion to communications from opposing counsel and other attorneys.
- Identify the changes you made from previous drafts when exchanging document drafts.
- Promptly notify other counsel (and, where appropriate, the court or other persons who are affected) when hearings, depositions, meetings, or conferences must be cancelled or postponed.
- Conclude a matter with a handshake or an exchange of courteous messages.
- Require that persons under your supervision conduct themselves with courtesy and civility and that they adhere to these precepts when dealing with other attorneys and their staffs.

## DON'T

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- Respond in kind when confronted with unprofessional behavior by another attorney.
- Serve papers at a time or in a manner intended to inconvenience or take advantage of opposing counsel, such as late on a Friday afternoon, on the day preceding a holiday, or when you know counsel is absent or ill.
- Be belligerent, insulting, or demeaning in your communications with other attorneys or their staff.
- Use discovery as a means of harassment.
- Publicly disparage another attorney, either during or after a case concludes.