

*Denton County Customs and  
Practices for Lawyers*

*Preamble*

The Denton County Bar Association is committed to preventing the infiltration into the practice of law in our county the abusive tactics that have surfaced elsewhere. We believe such tactics are a disservice to the public, harmful to our clients, and demeaning to our profession.

In order to accomplish this goal, we have memorialized the following "Denton County Customs and Practices for Lawyers." We have not tried to be exhaustive nor to spell out too many details. We believe the accomplishment of our goals depends upon the good faith of those practicing law in Denton County, not upon a set of rigid rules. These customs and practices have come into being and survived because Denton County practitioners have accepted their spirit as well as their letter. They should not be treated as a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

A copy of these "Denton County Customs and Practices for Lawyers" shall be provided to every lawyer and judge located in Denton County, to each new lawyer coming to Denton County, and we agree to provide a copy, as soon as practical, to all opposing counsel who have occasion to practice in Denton County.

Our intent is that everyone practicing law in Denton County know these customs and practices and live up to them both in letter and spirit.

Response to the failure by an opponent to abide by these customs and practices should seek to avoid a retaliatory escalation of hostility; lawyers should not engage in unprofessional conduct in retaliation against other unprofessional conduct.

Customs and practices can and do change. They are not written in stone. This written memorial can change as well.

*I. Our Legal System*

*A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.*

A. RESPECT AND DIGNITY. We uphold the respect and dignity of each member of the bar because we revere the law, the legal system and our profession.

B. HONESTY. Our word is our bond.

C. PRO BONO. We dedicate and commit ourselves to an adequate and effective pro bono program.

D. EDUCATION. We are obligated to educate our clients, the public, and other lawyers regarding the spirit and letter of these customs and practices.

E. APPEARANCE OF IMPROPRIETY. We always conduct ourselves in such a manner as to avoid even the appearance of impropriety.

F. REPORTING. We report to appropriate authorities fraudulent, deceptive or otherwise illegal conduct by a participant in a proceeding before any tribunal unless constrained by an obligation to preserve the confidences and secrets of a client.

*II. Lawyer to Client*

*A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate legal means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, and not be influenced by mere self-interest.*

A. ADVICE TO CLIENTS

1. We advise our clients of the contents of these customs and practices when undertaking representation.

2. We advise our clients regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

B. INDEPENDENT JUDGMENT

1. We are always conscious of our duty to the judicial system.

2. We are loyal and committed to our clients' lawful objectives, but we do not permit that loyalty and commitment to interfere with our duty to provide objective and independent advice.

3. We reserve the absolute right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect our clients' lawful objectives. A client has no right to instruct us to refuse reasonable requests made by other counsel.

4. A client has no right to demand that we engage in abusive or offensive conduct.

5. We neither encourage nor cause clients or anyone under our control to do anything that would be unethical or improper if done by us.

C. PROPER CONDUCT ON BEHALF OF CLIENTS

1. We affirm that among parties and their lawyers civility and courtesy are expected and are not a sign of weakness.

2. We treat adverse parties and witnesses with fairness and due consideration.

3. We endeavor to achieve our clients' lawful objectives in business transactions and in litigation as expeditiously and economically as possible.

4. We do not pursue litigation (or any other course of action) that is without merit and do not engage in tactics that are intended primarily to delay resolution of a matter or to harass or drain the financial resources of the opposing party.

*III. Lawyer to Lawyer*

*A lawyer owes to opposing counsel, in the conduct of business transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel.*

A. COURTESY AND PUNCTUALITY

1. We are courteous, civil, and prompt in oral and written communications and punctual in honoring scheduled appearances.
2. We disagree without being disagreeable. We recognize that effective representation does not require antagonistic or obnoxious behavior.
3. We do not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations or acrimony toward opposing counsel, parties and witnesses. We are not influenced by any ill feeling between clients. We abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.
4. We do not ask a witness a question solely for the purpose of harassing or embarrassing the witness.

#### B. DRAFTING

1. We do not quarrel over matters of form or style, but concentrate on matters of substance.
2. We try to achieve the common goal in the preparation of agreements. We do not include terms neither desired nor insisted upon by any party.
3. When we purport to identify for other counsel or parties changes we make in documents submitted for their review, we identify all such changes accurately.

#### C. SCHEDULING, EXTENSIONS, CANCELLATIONS

1. We do not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement. If we are unable to contact the other lawyer, we send written correspondence suggesting a time or times that will become operative unless an informal objection is directed to us within a set reasonable time.
2. We endeavor in good faith to honor previously scheduled trial settings, vacations, seminars or other functions that produce good faith calendar conflicts on the part of opposing counsel. We do not seek accommodation from another member of the Bar for the scheduling of any court setting or discovery unless a legitimate need exists. We do not misrepresent conflicts, nor do we ask for accommodation for the purpose of tactical advantage or undue delay.
3. We agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of our clients will not be adversely affected.
4. We notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are canceled.

#### D. DISCOVERY

1. We make reasonable efforts to conduct all discovery by agreement.
2. We refrain from excessive and abusive discovery.
3. We comply with all reasonable discovery requests. We do not resist discovery requests that are not objectionable. We do not make objections nor give instruction to a witness for the purpose of delaying or obstructing the discovery process. We encourage witnesses to respond to all deposition questions that are reasonably understandable. We do not encourage or cause our witnesses to quibble about words where their meaning is reasonably clear within the context in which the words are used.
4. We do not seek Court intervention to obtain discovery that is clearly improper and not discoverable.

E. SANCTIONS. We do not seek sanctions or disqualification unless it is necessary for protection of our clients' lawful objectives or is fully justified by the circumstances.

#### F. OPPORTUNITY TO RESPOND

1. We do not serve motions, pleadings or briefs in any manner that unfairly limits another party's opportunity to respond. We furnish opposing counsel copies of all submissions to the Court either contemporaneously or as soon as practical.
2. We do not take advantage, by causing any default or dismissal to be rendered, when we know the identity of an opposing counsel, without first making a good faith attempt to inquire about that counsel's intention to proceed.

G. ORDERS. We submit orders to the Court. We deliver copies to opposing counsel before or contemporaneously with submission to the Court. We promptly approve the form of orders that accurately reflect the substance of the rulings of the Court.

H. UNNECESSARY POSTURING. We avoid argument or posturing through unnecessarily sending copies of correspondence to the Court.

I. STIPULATIONS. We readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

J. REQUESTS DURING TRIAL. During trial we honor reasonable requests of opposing counsel that do not prejudice the rights of our clients or sacrifice tactical advantage.

### IV. Lawyer and Judge

*Lawyers and judges owe each other respect, diligence, candor, punctuality and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.*

#### A. CONDUCT OF COUNSEL

1. We always recognize that the position of the judge is the symbol of both the judicial system and administration of justice. We refrain from conduct that degrades that symbol.
2. We conduct ourselves in Court in a professional manner and demonstrate our respect for the Court and the law.
3. We respect the rulings of the Court.
4. We treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
5. We do not misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
6. We do not engage in ex parte communications with the Court, the Court's clerks or briefing attorneys, or any other Court personnel. We do not condone or lend ourselves to private influencing by another, of a judge, hearing officer or their personnel on behalf of ourselves or our clients.

B. CONDUCT OF COURT. We give the issues in controversy deliberate, impartial and studied analysis and consideration.

#### C. COOPERATION BETWEEN COURT AND COUNSEL

1. We are considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.
2. We are punctual.