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Spring Convention registration inside.

The Standards of Professionalism and Civility Grow Teeth. Let's Eat.

by Keith A. Call

In the May/June 2014 issue of this column, I wrote that the Utah Standards of Professionalism and Civility (Civility Standards) are not a basis for disciplinary action.

Check that.

Rule Change (or Clarification)

Effective as of November 1, 2015, the Utah Supreme Court added a new comment to Utah Rule of Professional Conduct

8.4(d). Rule 8.4(d) states, "It is professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice."

The new comment 3a states:

"The Standards of Professionalism and Civility approved by the Utah Supreme Court are intended to improve the administration

of justice. An egregious violation or pattern of repeated violations of the Standards of Professionalism and Civility may support a finding that the lawyer has violated paragraph (d)."

Utah lawyers are now on notice that the Office of Professional Conduct can prosecute violations of the Civility Standards. I applaud this notice as an important step toward encouraging professionalism and civility among lawyers and society.

These newly discovered teeth are only baby teeth, however. To warrant discipline, the violation must be "egregious" or there must be a "pattern of repeated violations." Given the core challenge in walking the "zealous vs. civil" line, prosecuting

violations of the Civility Standards under Rule 8(d) will be difficult, and likely rare. The most effective enforcement tool will remain self-policing.

Let's Eat

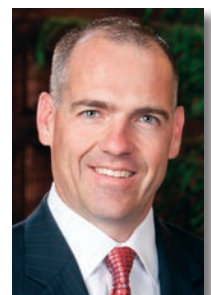
A friend and colleague recently related a time when her opposing counsel's primary goal seemed to be making her life miserable. Rather than reciprocating, she picked up the phone and invited the lawyer to lunch. Her opponent accepted. At

lunch, they focused their discussion on outside interests and ended up becoming friends. After lunch, they were able to work more productively toward resolving the case. See Heather Thuet, *Message from the Chair*, Newsletter of the Litigation Section of the Utah State Bar, Nov. 2015,

available at http://litigation.utahbar.org/advocate/2015_november_advocate.html.

What a courageous response to conduct that felt uncivil!

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Let's Play

Collegiality, professionalism, and civility will also increase when we play and socialize together. My partner and I recently concluded a particularly difficult case, hard fought on both sides. While I went back to work on the next case, my partner enjoyed playing golf with our former adversary. That's another great example I admire.

My friend and Chair of the Litigation Section of the Bar, Heather Thuet, has recently launched an initiative aimed at increasing collegial relationships among the Bar. Dubbed *Healthy Lifestyles for Litigators and Developing Collegial Relationships*, the program will include "Tuesdays @ 2" yoga and fun hosted at the Zimmerman Jones Booher law firm; a Zen in Zion retreat; a Rafting, Reception, and Bike event in Moab; a Bike and CLE event in Cache County; a Ski and CLE event; a

Wine, Shakespeare, and CLE event in Cedar City; and continuing Golf and CLE events.

I commend these and many other efforts by the Litigation Section and other members of the Bar to build collegiality. Practicing law is not just about computers, paper, and swordsmanship. It is about humans. Our clients are humans. Our adversaries and their clients are humans. We are working to solve human problems. And all of us are imperfect. We should all seek to treat and judge others according to their best character traits and actions, not their worst.

Take some time to make friends and build relationships with other lawyers. Get to know their "best" selves. You will be happier, the rigorous practice of law will become more fulfilling, and you will be a better lawyer.



It's criminal
for one firm to have so much talent.

Mary Corporon and Patricia Kuendig,
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