

Preamble

This statement has been approved by the Judges of the courts of record in Macon and by the Macon Bar Association. All attorneys within the circuit are encouraged to mail a signed copy of this commitment to opposing counsel in all cases pending within this circuit. The standards are voluntary and are not to be cited as legal authority in any disciplinary proceeding or civil or criminal action. The standards are designed to promote an awareness of and commitment to professionalism by the members of the Bar who practice in this circuit.

Walker Johnson, Tommy Day Wilcox, Bryant Culpepper, Martha C. Christian, S. Phillip Brown

Judges, Bibb Superior Court

J. Taylor Phillips

Judge, State Court of Bibb County

William J. Self, II

Judge, Probate Court of Bibb County

Mary M. Katz

President, Macon Bar Association

To opposing parties and their counsel, we offer fairness, integrity, and civility, and we will strive to make our dispute a dignified one.

Assurances of Professionalism to Opposing Counsel

A. Dealing with opposing lawyers in general.

1. We will maintain open and respectful communication with opposing lawyers, and we will strive to avoid creating unnecessary animosity or contentiousness. We will not make allegations against another lawyer unless clearly relevant to the case and well founded.

2. We will respect the schedule of opposing lawyers and be truthful about our own schedule.

3. We will discuss any issue that develops with opposing lawyers in a good faith attempt to resolve it without protracted negotiation or unnecessary litigation, but if it is necessary to litigate an issue, we will strive to present issues efficiently and to avoid needless litigation.

4. We will make representations on behalf of our clients in good faith and honesty.

5. We will require those under our control to comply with these guidelines and encourage others to do likewise.

B. Guidelines for handling specific situations.

1. Continuances and Extensions of Time

a. We will consent to the *first* request for a reasonable extension of time to respond to a litigation deadline unless time is truly of the essence.

b. With later requests for extensions of time, we will continue to give consideration to an opponent's schedule, but we will balance that consideration against the reasonableness of the length of extension requested, the opponent's willingness to consent to reciprocal extensions, the time actually needed for the task, and whether it is likely a court would grant the extension if asked to do so.

c. We will inform our clients that the decision whether to consent to extensions of time belongs to the lawyer and not to the client, except where the rights of the client would be clearly jeopardized.

d. We will not seek extensions or continuances for the purpose of delay or harassment.

e. We will not attach unfair and extraneous conditions to extensions. We may impose conditions to preserve rights that an extension might otherwise jeopardize and seek reciprocal scheduling concessions. We will not, by consenting to extensions, seek to preclude an opponent's substantive rights.

2. Service of Papers

a. We will not use the timing or manner of service of papers to disadvantage an opponent. Accordingly, we will strive not to serve papers so close to a court appearance as to inhibit the ability of opposing lawyers to prepare for the appearance or to respond to the papers, and if we must do so, we will consent to giving

opposing parties a fair opportunity to respond. We will not serve papers so as to take advantage of a lawyer's absence from the office or to inconvenience a lawyer or his/her client, such as serving documents requiring prompt reply on Friday afternoon or the day before a secular or religious holiday.

b. We will serve opposing counsel personally or by facsimile transmission when it appears likely that service by mail will prejudice the opposing party.

3. Representations to a Court, Including Briefs, Memoranda, Affidavits and Declarations

a. In written briefs or memoranda of points and authorities, we will not cite, rely on, or allude to facts that are not properly part of the record or subject to judicial notice.

b. In our written submissions and our oral presentations to the Court, we will not disparage the intelligence, ethics, morals, integrity or personal behavior of another lawyer or his/her client, unless such matters are directly and necessarily in issue and legitimately material and relevant to that issue.

4. Communications with Lawyers

a. We will at all times strive to be civil and courteous in communicating with other lawyers, whether in writing or orally.

b. We will not use letters to ascribe to another lawyer a position he or she has not taken or to create a false record of events that have not occurred.

c. Unless specifically permitted or invited by the court, we will not send copies of letters between counsel to the court.

5. Depositions

a. We will take depositions only where they are legitimately needed for purposes of the case in which the deposition is taken. We will not take depositions as a means of harassment or disadvantaging an opposing party, for the purpose of generating expenses or fees, or solely to obtain information for use in other pending or anticipated litigation.

b. In scheduling depositions, we will make reasonable efforts to accommodate

The firms listed below have participated in drafting these guidelines, have committed to observe them, and encourage all lawyers and firms to do likewise: *Chambless, Higdon & Carson; Jones, Cork & Miller; O'Neal, Brown & Sizemore; Reynolds & McArthur; Sell & Melton; Westmoreland, Patterson & Moseley.*

the schedules of opposing counsel and of the deponent(s), unless doing so would prejudice our client's rights. Accordingly, before issuing a notice of deposition, we will attempt to contact all counsel of record and to agree on a schedule for all depositions. We will endeavor in good faith to abide by any agreement reached.

c. We will not attempt to delay a deposition for dilatory purposes.

d. We will not engage in any conduct during a deposition that would be inappropriate in the presence of a judicial officer.

e. We will not intentionally harass a deponent and we will endeavor to refrain from repetitive or argumentative questions. We will not inquire into a deponent's personal affairs where such inquiry is irrelevant to the subject matter of the deposition. We recognize that it is "the right of a witness to be examined only as to relevant matter and to be protected from improper questions and from harsh or insulting demeanor." OCGA § 24-9-62.

f. In defending a deposition we will seek to limit objections to those that are well founded and necessary for the protection of a client's interest. While a question is pending, we will not, through objections or otherwise, coach the deponent or suggest answers.

g. We will not make self-serving speeches during depositions.

6. Interrogatories

a. We will not file interrogatories for the purpose of harassment or to impose undue burden or expense.

b. We will not read interrogatories in an artificial manner in an attempt to assure that answers are not truly responsive.

c. We will not object to interrogatories unless the objection is based on our good faith belief in its merit and not for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, we will answer the unobjectionable portion.

7. Document Requests

a. We will limit our requests for production of documents to documents that we actually and reasonably believe are

needed for the prosecution or defense of an action. We will not make requests for production to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding. We will not make requests for document production that are so broad as to encompass documents clearly not relevant to the subject matter of the case or so vague that opposing counsel can be reasonably expected to speculate about what is to be produced.

b. In responding to document requests, we will not strain to interpret the request in an artificially restrictive manner in order to avoid disclosure. We will withhold documents on the grounds of privilege only where we have a good faith basis for asserting privilege. We will not intentionally produce documents in a disorganized or unintelligible fashion in an attempt to hide or obscure the existence of particular documents.

c. We will not delay document production to prevent opposing lawyers from inspecting documents prior to scheduled depositions or for any other tactical reason.

8. Motion Practice

a. Absent justification to do otherwise, before filing or serving a motion, we will engage the opposing lawyer(s) in more than a mere pro forma discussion of its purpose in an effort to resolve the issue.

b. We will respond in good faith to any request for an assent to a motion.

9. Emergency and Ex Parte Communications with the Court

a. We will not engage in ex parte communication on the substance of a pending case with a judge (or his or her law clerk) before whom such case is pending.

b. Except in bona fide emergency situations where our client would otherwise be seriously prejudiced, we will make diligent efforts to notify the opposing party or a lawyer known to represent or likely to represent the opposing party before making any ex parte application or communication with the Court, and we will make reasonable efforts to accommodate the schedule of such lawyer to permit the opposing party to be represented on the application.

c. In case of an emergency or expe-

dated hearing or order, if we know or can reasonably identify the opposing lawyer, we will immediately notify that lawyer by telephone or by facsimile of the hearing or order. If we receive notice of any temporary restraining order or similar order, we will immediately notify our client of such an order and that the client is bound by it even before formal service is made.

10. Settlement and Alternative Dispute Resolution

a. We will raise and explore with our client the issue of settlement in every case as soon as enough is known about the case to make that discussion meaningful.

b. We will not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

c. In every case we will consider, and discuss with our client, whether the client's interest could be adequately served and the controversy more expeditiously and economically disposed of by arbitration, mediation or other forms of alternative dispute resolution.

11. Trials and Hearings

a. We will be punctual and prepared for any court appearance.

b. We will always deal with parties, other lawyers, witnesses, jurors or prospective jurors, court personnel and the judge with courtesy and civility.

These are the assurances of professionalism that we, on behalf of our firm, make to you.

We encourage you to make the same assurances to us by signing a copy of this document and returning the same to us, but our assurance to you is not dependent on your doing so.
