



# Negligence Law Section

## *Negligence Law Section Quarterly*

Winter 2020

### Message from the Chair

#### **“New Professionalism Principles for Lawyers and Judges”**

Thomas R. Behm, Gruel Mills Nims & Pylman PLLC

On December 16, 2020, the Michigan Supreme Court issued Administrative Order No. 2020-23 setting forth the following twelve Professionalism Principles.

In fulfilling our professional responsibilities, we as attorneys, officers of the court, and custodians of our legal system, must remain ever-mindful of our obligations of civility in pursuit of justice, the rule of law, and the fair and peaceable resolution of disputes and controversies. In this regard, we adhere to the following principles adopted by the State Bar of Michigan and authorized by the Michigan Supreme Court.

- We show civility in our interactions with people involved in the justice system by treating them with courtesy and respect.
- We are cooperative with people involved in the justice system within the bounds of our obligations to clients.
- We do not engage in, or tolerate, conduct that may be viewed as rude, threatening or obstructive toward people involved in the justice system.
- We do not disparage or attack people involved in the justice system, or employ gratuitously hostile or demeaning words in our written and oral communications and pleadings.
- We do not act upon, or exhibit, invidious bias toward people involved in the justice system and we seek reasonably to accommodate the needs of others, including lawyers, litigants, judges, jurors, court staff, and members of the public, who may require such accommodation.
- We treat people involved in the justice system fairly and respectfully notwithstanding their differing perspectives, viewpoints, or politics.
- We act with honesty and integrity in our relations with people involved in the justice system and fully honor promises and commitments.
- We act in good faith to advance only those positions in our legal arguments that are reasonable and just under the circumstances.

- We accord professional courtesy, wherever reasonably possible, to other members of our profession.
- We act conscientiously and responsibly in taking care of the financial interests of our clients and others involved in the justice system.
- We recognize ours as a profession with its own practices and traditions, many of which have taken root over the passing of many years, and seek to accord respect and regard to these practices and traditions.
- We seek to exemplify the best of our profession in our interactions with people who are not involved in the justice system.

The Administrative Order further provides that the Principles are intended to provide general guidance in the practice of law for lawyers and judges, including within alternative dispute resolution processes. The Principles are not intended to form the basis for discipline, professional negligence, or sanctions. Similarly, the Principles are not intended to alter the Michigan Rules of Professional Conduct, the Michigan Code of Judicial Conduct, or the Michigan Court Rules.

The Administrative Order sets forth the following simple and straightforward propositions to give further detail and illustration to the Principles of Professionalism:

## **1. LAWYERS**

- We allow opposing counsel to make their arguments without distraction or interruption.
- We promptly respond to communications from clients and attorneys.
- We confer early and in good faith to discuss the possibility of settlement, although never for dilatory purposes.
- We accurately represent and characterize matters in our written and oral communications.
- We draft documents that accurately reflect parties' understandings, court's rulings, and pertinent circumstances.
- We do not engage in ex parte communications unless authorized by law.
- We only make objections reasonably grounded in rules of evidence and procedure.
- We are punctual in our professional interactions and are considerate of the schedules of judges, lawyers, parties, and witnesses.
- We act reasonably and in good faith in scheduling hearings, conferences, depositions, and other legal proceedings.
- We are respectful and considerate of personal emergencies and exigencies that may arise in the course of the scheduling process and attempt reasonably to accommodate such difficulties.
- We attempt to verify the availability of necessary participants and witnesses before court dates are set and give notice of scheduling changes and cancellations at the earliest practicable time.
- We only make good faith and reasonable requests for time extensions and we also agree to such requests if they are not prejudicial to the interests of our clients.
- We act in good faith in deciding when to file or to serve motions and pleadings.

- We only make discovery requests that are reasonable and relevant in their breadth, substance, and character.
- We respond promptly to reasonable discovery requests from opposing parties.
- We only engage in conduct during a deposition that is compatible with court rules and would be proper in the presence of a judicial officer.
- We readily stipulate to undisputed facts.
- We take care to thoroughly inform ourselves of the law that is relevant to a particular matter.

## **2. JUDGES**

- We are patient and respectful of a party's right to be heard and fully and fairly afford such opportunities as are within our reasonable discretion.
- We fully and fairly consider each party's arguments.
- We do not condone incivility by one lawyer to another or to another's clients and we call such conduct to the attention of the offending lawyer on our own initiative and in appropriate ways.
- We see as paramount our obligations to the administration of justice and the rule of law and seek to facilitate the resolution of cases and controversies before us consistent with these objectives.
- We endeavor to work with other judges to foster cooperation in our shared goal of enhancing the administration of justice and the rule of law.
- We are courteous, respectful, and civil in our opinions, mindful that we contribute in substantial ways to the public's faith in our system of justice and our rule of law.
- We are punctual in convening the business of the court and considerate of the schedules of lawyers, parties, jurors, and witnesses.
- We are respectful of the personal emergencies and exigencies that may arise in the course of litigation and attempt reasonably to accommodate such difficulties in our scheduling determinations.
- We are committed to ensuring that judicial proceedings are conducted with the dignity and decorum deserving of the administration of the law and the application of the rule of law.
- We maintain control and direction of judicial proceedings, recognizing that we have both the obligation and the authority to ensure that such proceedings are conducted in a civil and fair-minded manner.
- We do not engage in practices and procedures that unnecessarily increase litigation expenses or contribute to litigative delays.
- We recognize that a lawyer has the right and duty to present a cause fully and fairly, and to make a full and accurate record, and that a litigant has the right to a full and fair hearing.
- We undertake all reasonable efforts to decide in a prompt manner all questions presented for decision.
- We assure that reasonable accommodations are afforded to people with disabilities, including lawyers, parties, witnesses and jurors.
- We ensure that self-represented litigants have equal access to the legal system while also reasonably holding them to equivalent legal standards as litigants represented by counsel.

- We ensure that our court staff treats litigants, attorneys, and other persons interacting with the justice system with dignity, respect, and helpfulness.
- We do not conflate our own personal perspectives and attitudes with the rule of law but view ourselves as the custodians and superintendents of the rule of law.
- We are patient in our response to human foible and we are impatient in allowing uncivil behavior to take place in the legal processes over which we serve as custodian.

It is incumbent upon all of us in the legal profession to adhere to the principles set forth above and the virtues of “respect, cooperation, courtesy, fairness, honesty, good faith and integrity in our every day dealings.” In so doing, we will improve our justice system and the legal profession in our state.

Thomas R. Behm  
Gruel Mills Nims & Pylman PLLC  
616-235-5500  
trbehm@gmnp.com