

Civility for Paralegals

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by Greg Wayment

The purposes of this article are to examine some of the civility issues affecting the legal community, re-affirm the Paralegal Division's support of the Utah Standards of Professionalism and Civility ("The Standards"), and provide some helpful tips on what paralegals can do to be a positive force for improvement.

The lack of civility in the legal profession is not just the current hot topic. Rather, incivility has long plagued the profession. For example, the following excerpts are from actual correspondence between attorneys:

As usual, I disagree with virtually every aspect of your letter. Your efforts to "spin" the results of that hearing in your favor are pure fantasy. That may work with your client, but you're wasting your time with me.

Your letter games are nothing more than a waste of time and an effort to create a false trail by one whom I consider to have no integrity at this point. You and your client are certainly a good match for one another.

In short, I disagree with every one of your lame excuses for not exchanging all of your initial disclosures when they were due.

Of course, these memorable quotes are printed here for anecdotal purposes, but statements similar to these ranging from cranky to downright malicious can probably be found in correspondence files in every firm. This is the very reason that this issue of The Utah Bar Journal has been dedicated to the seemingly worn-out and yet ever-present issue of civility in the profession of law.

In October of 2003, the Utah Supreme Court approved The Standards. Clearly, the above statements ignore many of the admonitions set forth in The Standards, especially the following:

Lawyers shall not, without an adequate factual basis, attribute to other counsel or the court improper motives, purpose, or conduct. Lawyers should avoid hostile, demeaning, or humiliating words in written and oral communication with adversaries. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary.¹

In response to the adoption of The Standards, in the May 2004 Utah Bar Journal, then-chair of the Paralegal Division Sanda R. Kirkham affirmed the Paralegal Division's position on The Standards in an article entitled "Paralegal Division: We Have Signed On." Ms. Kirkham wrote:

The Paralegal Division of the Utah State Bar agrees with these standards and hereby adopts and promotes them. We believe that these new standards are applicable to paralegals, in that we are held to the same standards of professional conduct as the attorneys in the State of Utah. We feel that we have a professional duty to uphold these standards. We support and encourage our supervising attorneys to do the same. We embrace this opportunity to show our professionalism to all attorneys, judges, and fellow paralegals throughout the state.

At this time, we make a firm commitment to [the Utah Supreme Court] and to the Utah State Bar to pursue, both individually and as a Division, to adhere to each of the twenty Utah Standards of Professionalism and Civility. We will strive to conduct ourselves with personal courtesy and professional integrity to reinforce our ethical obligation to maintain and foster these standards. We are committed to fulfill this duty to all attorneys, to all clients, and to the Court acting with utmost respect, courtesy and cooperation.²

In my career as a paralegal, I have yet to experience behavior from a paralegal on the other side of a lawsuit that stands out as being particularly rude or difficult. I think paralegals are less likely to be adversarial with each other because the very nature of our job is cooperative. We are given specific tasks that need to be done and we can work together to that end. I have not seen paralegals become embroiled in the competitiveness that comes with many lawsuits. Actually, it has been my experience that working with co-counsel's staff at times requires more delicacy than working with the staff of an adversarial law firm, as jealousies, concern over "territory", and misunderstandings seem to occur more frequently in that context. I also believe paralegals are likely to have conflicts with personalities within their own firms and must work to keep that atmosphere supportive and civil.

Before moving back home to Salt Lake City, I was an intern at a large insurance defense firm in Denver. The pervasive attitude of the firm, both internally and in interactions with other firms and parties, was one of thinly-veiled hostility and disrespect. Attorneys and staff generally did not respect any of the opposing parties and many of their counsel. The lawyers did not respect the paralegals and support staff, and the paralegals and support staff did not respect the lawyers. Paralegals could often be found huddled in corners criticizing or gossiping about the attorneys. The effects of this hostile atmosphere were apparent and immediate. In the short period of time I was at the firm, I witnessed heated firings (including one nurse paralegal who

threw her office furniture across the room), low productivity, and other serious ethical issues. The morale stunk.

The effects of incivility in the workplace are significant. According to Christine Porath, an assistant professor of management and organizational behavior at the University of Southern California's Marshall School of Business who has researched the subject for nearly a decade, "Rudeness does more than rankle. There are high costs associated with workplace incivility."

Among her findings, one in eight workers who feel disrespected will ultimately leave an unpleasant workplace; half of the employees who experience incivility will lose time fretting about future interactions, one-fourth will deliberately reduce their work efforts, and a few will retaliate by stealing or sabotaging equipment.³

So what can we do? Here are a few ideas:

- * **Learn The Standards.** Insure that other paralegals and staff members at your firm are aware of The Standards.

- * **Reinforce The Standards.** Just as the bar requires CLE credits in ethics, the bar could require CLE credits in civility, or it could include a required civility component within the ethics requirement.

- * **Work together.** If you're not a member of the Paralegal Division of the Utah State Bar, join. If you are a member, support the Division. The Division brings paralegals together to serve the community and promote the profession. The Paralegal Division can continue to have an influence by stressing the importance of civility in the profession. This year, at the Annual Paralegal Division Seminar, there were great seminars on this topic from Marco Kunz, with the Salt Lake City Attorney's Office, and Billy Walker, with the Bar's Office of Professional Conduct.

- * **Encourage others to join the effort.** Encourage local paralegal programs to include courses stressing the importance of professionalism and civility. All paralegal courses in Utah should present The Standards to their students.

- * **Take the high road when writing letters and e-mail.** E-mail in particular has the potential to create misunderstandings and conflict, because it is often treated informally, written in haste, and without proofreading by the author or review by any others in the office. Not only should e-mails transmitted to colleagues and adversaries display the same respect and formality as letters, but it is a reality that anything written in an e-mail may end up as an exhibit to a motion or other paper filed in court, potentially harming both the client's case and the reputation of the author.

* Finally, disregard uncivil acts or attitudes, and do not take them personally. Retaliating with an uncivil attitude will simply create more incivility.

A final argument for civility is that you never know when you will be working with, for, or against another firm or attorney. Utah has a relatively small legal community filled with many great and interesting people. I am proud to be a part of this profession. As a paralegal, you will never be disadvantaged by being civil.

1. Utah Standards of Prof. & Civility 3

2. Sanda R. Kirkham, We Have Signed On, 17 Utah Bar J. 4 (May 2004), www.utahbar.org/barjournal/archives/000020.html.

3. Kathryn Harris, Rude Awakening: Companies Discover The Hidden Costs Of Incivility, http://www.marshall.usc.edu/media/mag_f_05/rudeAwakening.pdf.