

## **DIVISION CV-E TRIAL CONDUCT AND COURTROOM DECORUM POLICY**

1. A lawyer always should interact with parties, counsel, witnesses, jurors or prospective jurors, court personnel, and judges with courtesy and civility, and should avoid undignified or discourteous conduct that is degrading to the court or the proceedings.\*

2. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses or at any other time, absolutely are prohibited.\*

3. During trials and evidentiary hearings, the lawyers mutually should agree to disclose the identities of witnesses, duration of witnesses anticipated to be called that day and the following day, and the order in which they will be called to testify, including depositions to be read, and should cooperate in sharing with opposing counsel all visual aid equipment.\*

4. A lawyer should abstain from conduct calculated to detract or divert the fact finder's attention from the relevant facts or otherwise cause the fact finder to reach a decision on an impermissible basis.\*

5. A lawyer should not knowingly misstate, distort, or improperly exaggerate any fact or opinion nor permit the lawyer's silence or inaction to mislead anyone.\*

6. In appearing in his or her professional capacity before a tribunal, a lawyer should not:

a. state or allude to any matter that he or she has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence;

b. ask any question that he or she has no reasonable basis to believe is relevant to the case or that is intended to degrade a witness or other person;

c. assert a personal knowledge or opinion concerning the facts in issue, except when testifying as a witness;

d. assert a personal opinion concerning the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused, but may argue, on the lawyer's analysis of the evidence, for any position or conclusion with respect to the matters at issue.\*

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\* Guidelines for Professional Conduct by the Trial Lawyers Section of The Florida Bar.

7. A question should not be interrupted by an objection unless the question is patently objectionable or there is a reasonable ground to believe that information is being included that should not be disclosed to the jury, and an attorney should not object during opening or closing statements, or during the questioning of witnesses, for the sole purpose of disrupting opposing party's trial presentation.\*

8. When a judge already has made a ruling about the inadmissibility of certain evidence, a lawyer should not seek to circumvent the effect of that ruling and get the evidence before the jury by repeated questions relating to the evidence in question, although the lawyer may make a record for later proceedings of the ground for urging the admissibility of the evidence in question. This does not preclude efforts by the lawyer to have the evidence admitted through other, proper means.\*

9. A lawyer scrupulously should abstain from all acts, comments, and attitudes calculated to curry favor with any juror, by fawning, flattery, actual or pretended solicitude for the juror's comfort or convenience, or the like.\*

10. A lawyer never should attempt to place before a tribunal or jury evidence known to be clearly inadmissible, nor make any remarks or statements intended improperly to influence the outcome of any case.\*

11. A lawyer should accede to reasonable requests for waivers of procedural formalities when the client's legitimate interests are not affected adversely.\*

12. In regard to trial exhibits, a lawyer should make a reasonably good-faith effort to identify those exhibits that the lawyer believes will be proffered into evidence.\*

13. A lawyer should not mark on or alter exhibits, charts, graphs, and diagrams without opposing counsel's permission or leave of court.\*

14. A lawyer should stipulate all facts and principles of law which are not in dispute.\*

15. Stand when Court is opened, recessed or adjourned. Stand when addressing, or being addressed by the Court. Stand when the jury enters or retires from the courtroom. When making opening statements, closing arguments or examining witnesses, do not approach either the jury or the witness without the Court's permission. Remain at the lectern unless using exhibits or charts.

16. Address all remarks to the Court, not to opposing counsel or the opposing party.

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17. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.

18. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names unless the permission of the Court is sought in advance.

19. Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.

20. Counsel should request permission before approaching the bench, clerk, jury or witness. Any documents counsel wishes to have the Court examine should be handed to the clerk. Any paper or exhibit not previously marked for identification should first be handed to the clerk to be marked before it is tendered to a witness for his examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.

21. No exhibit, whether marked for identification or not, shall be held in any manner, or placed in any position in the courtroom, that would allow the trier of fact to see the exhibit unless it has been admitted into evidence and permission to publish the exhibit to the jury has been obtained from the Court.

22. In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Court.

23. When examining a witness, counsel shall not repeat or echo the answer given by the witness.

24. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the trier of fact.

25. In opening statements and in arguments to the trier of fact, counsel shall not express personal knowledge or opinions concerning any matter in issue.

26. All parties, attorneys and witnesses should refrain from interrupting or talking over one another.

27. Counsel shall refrain from attempting to make a re-argument after the Judge has ruled.

28. Counsel shall complete resolution negotiations and advise clients of their settlement options in advance of court hearings.

29. No tobacco use in any form is permitted. No bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court. No gum chewing is permitted.

30. Cell phones and pagers should be turned off or in a vibrate mode. Computers should be used with audio off.

31. All counsel shall provide a copy of this policy to clients prior to coming to court.

32. Pursuant to Family Law Rule of Procedure 12.407, no children are allowed in the courtroom, waiting area or adjacent hallway without prior approval of the court, unless the child(ren) is a party to the action.

33. Following the discharge of the alternate juror(s) or dismissal of the jury following a verdict, mistrial or other disposition of the case, counsel shall not be permitted to initiate contact with or initiate communication with such juror(s) or cause another to initiate contact or communication with any such juror(s) regarding the trial, including but not limited to personally and individually thanking such juror(s) for their service and/or their verdict as they exit the courtroom. Any lawyer seeking to communicate with or cause another to communicate with or interview any juror(s) to determine whether the verdict may be subject to legal challenge shall comply with the procedures detailed in Florida Rule of Civil Procedure 1.431(h) and Rule 4-3.5(d)(4) of the Rules Regulating the Florida Bar.