

Are Young Lawyers Less Civilized?

By Marie Sarantakis, LAP Writing Committee

“Civility costs nothing, and buys everything.”

Mary Wortley Montagu

What is civility?

Civility is an art, attitude, and behavior. It is the act of being able to politely disagree during discourse and the ability to remain respectful in the midst of a tense situation. Moreover, it is resisting the impulse to react based on emotion. Consequently, those who are civil make others feel comfortable, heard, and respected. They are disciplined and keep greater end goals in sight.

Why should a lawyer be civil?

Our work, by its very nature, is adversarial. As attorneys we have an obligation to zealously represent and defend our clients’ interests. We argue for a living. Essentially, we function as middlemen between parties because we possess the specialized training and prudence to articulate well-reasoned arguments, rather than display base emotions. In order to be heard, and successfully achieve our clients’ ends, we must never compromise our composure or decency.

Civility is not a notion that is confined to collaborative lawyers, but applies with equal, if not greater, force to litigators who must necessarily remain conscientious of their courtesy to the Court, opposing parties, and their own clients. All lawyers should exercise sound moral judgment and be concerned with their professional reputation. We have been entrusted with an intrinsic duty to maintain a sense of decorum to the Court and the public-at-large when acting as officers in the administration of justice.

Are young lawyers less civil than their predecessors?

Numerous jurisdictions are recognizing and lamenting the deterioration of civility in the legal profession. Some may be tempted to attribute this decline in courtesy to the influx of newly minted Millennial attorneys to the profession. However, incivility is not a new problem nor is it unique to professionals under the age of thirty-five. Be that as it may, here are four reasons why Millennials may be at risk of being perceived as, or be vulnerable to, behaving less civilly:

Four factors affecting the perceived civility of young lawyers

(1) We Were Raised in a Different Era of Cultural Norms – Contemporary society is becoming increasingly informal. As Millennials, many of us have grown up in a world much less structured than our predecessors. It is not that we consider civility to be anachronistic or dispensable, rather we may be wrongly perceived as not paying homage

to traditions and etiquette which we don't know to exist. A Millennial may not be aware of what behaviors are expected by prior generations if they have not had much experience and/or mentorship.

(2) We Communicate Differently – Smart phones and e-mail have drastically altered the way all of us communicate. For Millennials, a text message is an acceptable and efficient way to make contact, whereas for a Baby Boomer, this may be perceived as an impersonal and water-down cop out to a real conversation. While we can debate the merits of what constitutes ideal communication, both sides can agree that there is less accountability and more room for miscommunication when we don't directly talk to and/or see the other party. Accordingly, older lawyers may find a younger lawyer's mode of delivery to be disrespectful due to its form, rather than its content or intention.

(3) We Aim to Zealously Represent Our Clients – Model Rule 2.1 demands that attorneys zealously represent their clients. This seems difficult to reconcile with behaving civilly. However, Comment 1 of Model Rule 1.3 makes it clear that, “[t]he lawyer’s duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.” Learning to delicately balance zealous representation of a client with maintaining civility and politeness towards an opponent can be a challenging task in the early stages of one’s legal career.

(4) We are Inundated with Dramatic Impressions in the Media – There is no shortage of legal dramas on television or the big screen. These sensationalized portrayals can have an influence on an impressionable student navigating what it means to be a good attorney.

These are a few of the many reasons cited in common discourse which may potentially be influencing a new lawyer’s understanding of civility. Whether these arguments have merit and to the degree that they impact on young attorney’s behavior is debatable.

Irrespective of how civil new attorney’s behave, and why this is or is not so, it is a laudable objective that all attorney’s should aim to conduct their work in a principled and upstanding manner. Accordingly, here are five ways in which an attorney can enhance his/her professionalism:

Five ways new attorneys acquire and exhibit civility

(1) Gaining Experience – A new lawyer may receive mixed messages as to how they are expected to behave and what is proper. Over time, this usually irons itself out. It becomes apparent that it is a disservice to your client and self to behave in a boorish and abrasive manner. Conversely, it becomes glaringly evident that the old adage, “*you catch more flies with honey than with vinegar*” reigns true.

(2) Being Present – We must to make an effort to be more present, both physically and mentally. Rather than sending an e-mail or text we can reach out to call or visit the other

person. Granted this is not always possible or expeditious, but we must be aware that sterile written words lacking inflection and tone will always pale in depth and connection to those which are personally spoken.

Moreover, when we are engaging with someone, we need to focus on what they are saying and feeling and not simply inwardly preparing our response. As attorneys, that may be difficult for us to do because we are taught to always be prepared and focus on our goals while cutting out outside noise.

(3) Attending Professionalism CLEs – While new attorneys need to focus their resources on learning the substantive law and procedures of their trade, it is also imperative that they learn the unwritten rules of professional conduct, which may also potentially have a significant impact on their work.

(4) Securing Mentorship –We subconsciously learn from others how to approach disputes and resolve conflicts. Our base instincts are tempted to resort to rudeness and tantrums, but as we mature, we learn that we are more likely to be heard and get our way if we behave reasonably and respectfully. We come to this realization not only through our own trial and error, but also by acting as an observer. The opportunity to witness how a seasoned practitioner handles tribulations is invaluable.

(5) Practicing Reflection – Inevitably we will all encounter, a hot-headed lawyer who sends an infuriating and accusatory e-mail, while CCing half of the western hemisphere. After reading it the scene is ripe to prepare your emotionally charged response. In such a situation, it is best to resist the temptation. Ultimately, civility is within us, but sometimes it may not be our primal response. If it is appropriate to respond, wait a few hours, and do so in a matter-of-fact but polite manner. You can best defend your reputation, and dismantle the other side’s assertions, by remaining above the fray.

At the end of the day, civility comes down to one thing, being nice. It's the right thing to do. By behaving civilly you are likely to not only gain more respect, but also lend greater credence to your voice. Civility benefits you, your clients, and the legal profession.

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