

THE SUPREME COURT of OHIO
COMMISSION ON PROFESSIONALISM

PROFESSIONALISM DOs AND DON'Ts

JUDICIAL PROFESSIONALISM

As the guardians of our legal system, judges are expected to establish and maintain the highest level of professionalism. The way in which judges manage their dockets, interact with counsel, and preside over their courtrooms sets a standard of professionalism for the attorneys who appear before them. Just as significantly, the words and actions of judges also shape the public's perception of the justice system. Being a judge requires diligence, personal integrity, and a dedication to the attainment of justice. With these principles in mind, the Supreme Court of Ohio Commission on Professionalism prepared this list of "DOs and DON'Ts" to guide judges in carrying out their responsibilities. In creating this list, the commission does not intend to regulate or to provide additional bases for discipline, but rather to help promote professionalism among Ohio's judges. The commission encourages all judges to employ these practices in their daily routines, and in so doing, make lawyers and litigants feel welcome in their courtrooms and assured that disputes will be resolved in an efficient, timely, and just manner.

JUDICIAL PROFESSIONALISM

DO | IN PRETRIAL MATTERS

- DO provide litigants, in advance of an initial pretrial hearing or case management conference, notice of specific procedures that you wish counsel to follow that may differ from those followed in other courtrooms (e.g., regarding voir dire, jury instructions, note taking by or questions from jurors, etc.).
- DO use a case management order with all pertinent deadlines for each case, including specific dates for the completion of fact and expert discovery and the filing of certain motions.
- DO be accessible to parties to resolve discovery disputes, either by telephone conference or court hearing.
- DO remember that counsels' awareness of your accessibility may have the effect of decreasing a need for your actual involvement or the likelihood of counsel filing motions to compel discovery.
- DO conduct final pretrial conferences yourself to the extent possible. If a conflict in your schedule arises, allow parties the opportunity to reschedule before delegating the responsibility to a staff attorney. Remember that the presence of the judge at the final pretrial conference often helps facilitate a settlement.

DO | IN SCHEDULING

- DO freely grant a motion to extend case deadlines if the extension will not adversely affect any date previously set or will not otherwise prejudice a party.
- DO be aware of attorneys' professional and personal schedules (including vacation time) before setting a court date or denying a timely motion for continuance.
- DO perform a proper triage in managing scheduling conflicts between cases.
- DO weigh the consequences, cost, and additional expenditure of time and resources that are likely to result from cancelling one proceeding and moving forward on another.
- DO tell attorneys that if they want to put something on the record, they will be permitted to do so, subject to the court's determination as to the appropriate time, place, and manner.
- DO treat parties, litigants, and others with respect and dignity and create an environment where all persons are treated fairly and believe that they have been fully heard.
- DO instruct the members of your staff to treat all court visitors with the same respect that they themselves would expect.
- DO be patient and temperate, especially under trying circumstances.

JUDICIAL PROFESSIONALISM

DO | IN CONDUCTING HEARINGS & TRIALS

- DO enforce standards in your courtroom consistent with Professionalism DOs and DON'Ts: Professionalism in the Courtroom and encourage attorneys to follow the other publications of the Supreme Court of Ohio Commission on Professionalism.
- DO take the bench promptly and begin hearings at the scheduled time. Alert parties of any delay or conflict with as much advance notice as possible.
- DO consider making reasonable accommodations for self-represented litigants, such as summarizing the nature of the proceedings and the presentation and admission of evidence, using commonly understood words, instead of legal jargon, briefly explaining the reasoning for rulings, and, where appropriate, referring them to available resources that may assist them.
- DO address all participants formally and consistently in court by using an appropriate title, such as Ms., Mr., Mrs., Counsel, Dr., Rev., etc.
- DO be aware of your mood and take necessary breaks to decompress so that you can render the next decision refreshed.
- DO make decisions after the conclusion of a bench trial in such a manner as will make the litigants feel that their arguments were fully considered.
- DO deliver the decision or sentence in a formal, dignified, and neutral tone.

DO | IN RULING ON MOTIONS

- DO prepare for motion hearings by reading all relevant memoranda of law in advance of the hearing.
- DO listen to and consider each party's position, and provide all parties with adequate opportunities to respond, before ruling.
- DO issue timely rulings once motions become ripe, remembering the collateral expense incurred, as well as the frustration attorneys and parties experience, when rulings are not made in a timely manner.
- DO what you believe to be the right thing and trust that, if it turns out that your ruling was wrong, the error will, in all likelihood, be corrected on review.

JUDICIAL PROFESSIONALISM

DO | IN OTHER ACTIVITIES

- DO bring to a lawyer's attention any instance of the lawyer exhibiting a lack of civility or professionalism.
- DO encourage lawyers to engage in pro bono service.
- DO consider providing law students the opportunity to intern or extern in your court, as well as participating in mentoring programs that guide new lawyers in their transition into practice.
- DO accept criticism, justified or unjustified, even though you may not, or should not, respond.
- DO remember that the public or private functions you attend may affect confidence in the judiciary.
- DO consider teaching at bar association and judicial association CLE functions, mock trials, the Law and Leadership Institute, classroom visits, and other educational activities.
- DO bear in mind that dialogue between the bench and bar promotes a strong legal community and a more effective judicial system and so participate actively in the activities and committees of your state and local bar associations, judicial conferences, and judicial associations.

JUDICIAL PROFESSIONALISM

DON'T

- DON'T hold attorneys or litigants accountable for events beyond their control.
- DON'T chastise, correct, or question attorneys in a demeaning manner, especially in front of their clients or the jury.
- DON'T take an overly familiar tone with any lawyer, litigant, or witness while in court and on the record. Recognize how your interactions may be perceived by adverse counsel, by parties, by jurors, or by spectators.
- DON'T threaten or disclose how you are leaning on a dispositive motion as a means of forcing a settlement.
- DON'T use the contempt power lightly.
- DON'T conduct a hearing, sentence a defendant, or render an important decision in a state of anger or depression.
- DON'T demean or mock a defendant at a criminal sentencing hearing or in any written opinion.
- DON'T permit profanity and expressions of vengeance from attorneys, victims, or witnesses to invade a formal sentencing proceeding.
- DON'T hesitate to ask for post-hearing briefs or proposed findings of fact or conclusions of law if you believe that these post-hearing submittals will be helpful or appropriate.
- DON'T be worried about whether you will be appealed or what a reviewing court may say.
- DON'T disparage any attorney or fellow judge in your private conversations.
- DON'T attend an event if your attendance could cause a reasonable person to question your later impartiality in a pending case.

