

## **RULE AT-4. STANDARDS FOR PRETRIAL CONDUCT**

(a) **Obligation to Cooperate.** Before noticing or scheduling a deposition, hearing, or other pretrial event, a lawyer should consult and work with opposing counsel to accommodate the needs and reasonable requests of all witnesses and participating lawyers. In scheduling a pretrial event, lawyers should strive to agree upon a mutually convenient time and place, seeking to minimize travel expense and to allow adequate time for preparation. If a lawyer needs to reschedule a deposition or other pretrial event, the lawyer should give prompt notice to all other counsel, explaining the conflict or other compelling reason for rescheduling.

(b) **Requests for Extensions of Time.** The court expects a lawyer to grant other lawyers' requests for reasonable extensions of time to respond to discovery, pretrial motions, and other pretrial matters. Opposing such requests wastes resources, unless the client's legitimate interests will be adversely affected.

(c) **Written Submissions.** Briefs and memoranda should not refer to or rely on facts that are not properly of record. A lawyer may, however, present historical, economic, or sociological data if the applicable rules of evidence support the data's admissibility. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless such matters are directly relevant under the controlling substantive law.

(d) **Communication with Adversaries.** A lawyer's role is to zealously advance the legitimate interests of the client, while maintaining appropriate standards of civility and decorum. In dealing with others, a lawyer should not reflect any ill feelings that the client may have toward the adversary. A lawyer should treat all other lawyers, all parties, and all witnesses courteously, not only in court, but also in other written and oral communication. A lawyer should refrain from acting upon or manifesting bias or prejudice toward any person involved in the litigation.

(e) **Discovery.** A lawyer should conduct discovery to elicit relevant facts and evidence, and not for an improper purpose, such as to harass, intimidate, or unduly burden another party or a witness. When a discovery dispute arises, opposing lawyers should attempt to resolve it by working cooperatively together. A lawyer should refrain from filing motions to compel or for sanctions unless all reasonable efforts to resolve the dispute with opposing counsel have been exhausted.

(f) **Motion Practice.** Before filing a non-dispositive motion, a lawyer should make a reasonable effort to resolve the issue without involving the court. A lawyer who has no valid objection to an opponent's proposed motion should promptly make this position known to opposing counsel. If, after opposing a motion, a lawyer determines that the opposition was mistaken, then the lawyer should promptly so advise opposing counsel and the court.

(g) **Settlement and Alternative Dispute Resolution.**

(1) A lawyer should educate the client early in the legal process about various methods of resolving disputes without trial, including mediation and neutral case evaluation. A lawyer should advise the client of the benefits of settlement, including savings to the client, greater control over the process and the result, and a more expeditious resolution of the dispute. At the earliest practicable time, a lawyer should provide the client with a realistic assessment of the potential outcome of the case so that the client may effectively assess various approaches

to resolving the dispute. As new information is obtained during the pretrial phase, the lawyer should revise the assessment as necessary. When enough is known about the case to make settlement negotiations meaningful, a lawyer should explore settlement with the client and with opposing counsel.

**(2)** A lawyer must promptly inform the court of any settlement, whether partial or entire, with any party, or the discontinuance of any issue.

**(h) Stipulations; Expediting Trial.** In civil cases, a lawyer should stipulate in advance with opposing counsel to all non-controverted facts; give opposing counsel, on reasonable request, an opportunity to inspect, in advance, all non-impeaching evidence as the law permits; and, in general, take reasonable steps to avoid delays and to expedite the trial.