THE UNIVERSITY OF TEXAS SCHOOL OF LAW
2017 Annual Labor and Employment Law Conference

COMMUNICATIONS WITH ADVERSE PARTIES

June 12-13, 2017 Austin, Texas

Littler

PRESENTED BY:

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TOPICS OF DISCUSSION

- ✓ Definition of Civility
- ✓ Texas Lawyer's Creed
- ✓ Texas Disciplinary Rules of Professional Conduct
- ✓ Inadvertent Disclosure to Opposing Counsel
- ✓ Taping Conversations with Opposing Counsel- Don't Ask/Don't Tell
- ✓ Discovery Dilemmas
- ✓ Discovery Disputes - Who Said Objections were Evil?
- ✓ Would I Lie to You?
- ✓ Electronic Communications
- ✓ Obnoxious and Abusive Behavior

DEFINITION OF CIVILITY



Attitudes that reflect civility:

- ***More than surface politeness;***
- ***A willingness to diminish rancor;***
- ***A desire to search for resolution as opposed to conflict;***

Attitudes that reflect hostility:

- ***Litigation is war;***
- ***It is in your client's interests to make the opposing party miserable;***
- ***Rejection of common courtesy;***
- ***Eagerness to file unnecessary motions without conferring with opposing counsel;***
- ***A willingness to spread alternative or revisionist facts;***

TEXAS LAWYER'S CREED

***Legal Ethics and* Texas Center for Professionalism:**

- *"I will treat adverse parties and witnesses with fairness and due consideration....I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party."*

Houston Bar Association :

- *"I will advise my client against pursuing litigation or any other course of action that is without merit and against insisting on tactics which are intended primarily to delay resolution of any matter or to harass or drain the financial resources of the opposing party."*

Dallas Bar Association:

- *"...The client has no right to demand that counsel abuse the opposing party or indulge in offensive conduct."*



TEXAS LAWYER'S CREED



- ***TEXAS CENTER FOR LEGAL ETHICS AND PROFESSIONALISM***
- ***HOUSTON BAR ASSOCIATION***
- ***DALLAS BAR ASSOCIATION***

  - **"I will agree to reasonable requests for extension of time and for waiver of procedural formalities … I will notify opposing counsel … as soon as practical when hearing, depositions, meetings … are cancelled."**

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Title search: Communications with Adverse Parties

Also available as part of the eCourse
Answer Bar: Going to Trial on an Employment Law Case

First appeared as part of the conference materials for the
24th Annual Labor and Employment Law Conference session
"Communication with Adverse Parties"