

Civility? Really?

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Civility, across the broad arch of a career, is a successful and lucrative business model. I believe it will enhance your professional career, better serve your clients, make you more profitable, and keep you sane.

Civility is typically discussed in lofty abstract terms at collegial meetings of judges and attorneys. You'd think it was written in stone or tablet. Yet civility is much more difficult to apply in the aggressive, day-to-day jockeying of a litigation practice. We've all had that Friday afternoon call with an aggressive, uncivil, opponent whose been jacking you around in discovery for six months. Or that call from a lawyer who has denied you multiple extensions and who now wants one himself because his kid is sick. How about that senior partner who wants an associate to draft and serve 300 special interrogatories, simply to make the opponent "spend some money?"

Being civil is all the more difficult in lean economic times. After all, our clients are our customers. And we want to keep our customers happy. In addition to representing clients, we have to pay the rent, meet payroll, and keep the doors open. When a good-paying client wants us to stop being nice, start being a "bulldog," and start making the other side spend money, it's tempting to play into that client's worst instincts. Why not keep the money flowing? The reality is that attorneys, like anybody, will do what works – especially when it's lucrative. I hate to be cynical, but if being an uncivil jerk works and makes them money, that is what a great many attorneys will do. But, I think the contrary is true. Civility, though hard to apply at times, is good for business.

One can always point to a particular case or client where a more uncompromising and uncivil approach worked. After all, pre-trial litigation is really all about the imposition of risk and cost on the other side. And, like most litigators, this author cannot claim that he has not yielded to base competitive urges, including anger, at times. It would be impossible not to.

Yet, I have litigated many more cases wherein civility significantly assisted in securing a good result for the client. And the best and most successful attorneys I know after almost 30 years in the trenches are those that, calmly, professionally and with a civil approach and a good-natured slap on the back, pick your case apart and destroy your position. I believe adopting and working hard to apply a more civil, professional approach in daily litigation practice is the better and, ultimately, the more lucrative approach. Civility is good business. I'd welcome your thoughts.