

BY MICHAEL R. FITZPATRICK

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**Michael R. Fitzpatrick**, Drake 1984, retired court of appeals judge and circuit court judge, serves as a mediator and arbitrator through Fitzpatrick ADR. He also serves as a reserve judge, is an elected member of the American Law Institute contributing to the Restatement Third of Torts, and continues on the faculty of the Wisconsin Judicial College. Judge Fitzpatrick was elected by Wisconsin's judges to two terms on the Civil Jury Instruction Committee and the Judicial Council. He twice served on the State Bar of Wisconsin's Professional Ethics Committee while in private practice as a trial lawyer.

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## Civility: The Pathway to a Successful Professional Life

Speaking and behaving politely, in the office or courtroom or any other setting, is a foundation for professional success for lawyers and judges.

A primary focus of Dean Dietrich's term as State Bar of Wisconsin president is the call for civility in our profession. I was a member of a panel discussion at the State Bar's recent Annual Meeting & Conference, and among the topics emphasized was the following: Civility is the pathway to a successful professional life.

**Civility is your contribution to our profession.** The practice of law is one of the three ancient learned professions (along with medicine and the clergy). Lawyers are vital to free societies and preserve the rule of law so that justice is available to all. Clients hold their lawyers in high esteem and bring their most important problems to their lawyers. Calls for civility in SCR chapter 20 and elsewhere are not empty bromides. Clients deserve nothing less than vigorous representation that is always dignified and polite. You honor our learned profession, and your clients, through courteous and respectful advocacy.

**Civility is an important facet of effective advocacy.** From my years as a judge, I can assure you that the most effective lawyers are invariably polite and express themselves, in writing and in person, in measured tones. Uncivil advocacy undercuts the persuasive force of an argument and demeans the lawyer and their client. Overstatement pushes the audience away. It is best to lay out the facts and let the judge reach their own conclusion. In a similar vein, in a jury trial a lawyer should avoid the perception that they are bullying a witness. Jurors will almost always empathize with the witness, and the offending lawyer's actions will engender a negative impression of the lawyer and their client.

**Civility is good for your practice.** When I was in private practice, counsel who were previously adverse were often the best sources of client referrals to me. In making a referral, a lawyer wants their client, friend, or relative to have an effective advocate who is reputable and respectful. A lawyer's reputation is built with each case and each client, and this reputation follows the lawyer throughout their career.

**Civility is an essential part of a judge's service.** It is my firm belief that Wisconsin judges do their utmost to preside in a civil manner at all times. Of course, there is the need to control a court, and there may be frustrations with a few litigants and a few lawyers. Nonetheless, I emphasize the following principles when I teach at the Wisconsin Judicial College: words are powerful; a judge sets the tone in their court through their demeanor; and a judge should not allow frustration to overcome judicial restraint and neutrality. Wisconsin judges strive daily to preside in a patient, dignified, and courteous fashion to ensure that all are reasonably heard in an environment that fosters justice.

I hope that you find civility, and success, in your professional life. **WL**

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