

How Do You Define Professional Courtesy?

A March 2011 discussion on SoloSez, the email listserv for general practice, solo and small firm lawyers

A few weeks ago, I was speaking with a bigfirm colleague whose firm was a member of LexMundi - one of those membership affiliations/consortiums that pass referrals back and forth, provide CLE, etc...My colleague mentioned that one of the "benefits" of membership was that every member was required to provide 30 minutes of a phone consult gratis to any other member (can't remember how many times per year).

I was kind of taken aback because generally, I gladly give 30 minutes of time to colleagues as a professional courtesy. I also move people for admission to courts, file pro hac motions, and review pleadings or articles. For the advise and review, I don't spend hours - basically just sharing knowledge. Doesn't matter if I know the person or not - if it's an attorney, that's really enough. I've only been screwed once - I reviewed an article on marine energy for a big firm attorney and he went and poached my client (my original contact had left) and badmouthed my trade association [as an aside - he got his- the client went bust 6 months after his firm came on board & I heard that they stiffed him. Meanwhile, I still have a bunch of stock shares the client (my original contact) from when I did the work and it is actually not worthless]

Anyway - I'm curious, though - what do all of you consider within the scope of professional courtesy? And what's the philosophy behind your approach?

This is why I won't join a group like BNI. Forced referrals and "courtesy."

Like pro bono: do it because it's right and you want to. There's nothing professional or courteous about forced professional courtesy.

Leo M. Mulvihill, Jr., Pennsylvania

Answer: Treat others the way you would like to be treated.

Laying aside the moral imperative for the moment, it just makes good business sense. Sure, you'll get screwed from time to time and some people won't return the courtesy (which really isn't the point anyway), but my guess is that the good will (in the non-legal sense) you generate will pay off in the long run.

It's a shame that the basics are so rare in American business and that professional membership affiliations have to mandate professional courtesy.

People should read Carnegie's misnamed *How To Win Friends and Influence People*, which is less about friends and influence as it is about basic decency in business relations.

Michael Constanzo

This is one of the better things I have heard about professional courtesy. One of my friends and colleagues with whom I had been friends since high school was a plaintiff's lawyer. No one could intimidate him physically, he was 6'3" and over 250. He said that you should not go out of your way to p*** o** the other lawyer whom you hope will persuade his client to write a check to your client.

He died in a single engine plane crash two years ago and I still miss him and his wisdom.

Craig A. Stokes, Florida and Texas

My sense of professional courtesy is very much like your own. And it doesn't matter which jurisdiction the lawyer is in as we are all in the same profession. It's the same attitude as should exist when we fight tooth and nail in a courtroom but engage in friendly conversation once we've stepped outside the courtroom.

Having said that, professional courtesy extends the other way too --- I would not ask a colleague to do something substantial without being compensated and would expect to be treated the same way.

To me professional courtesy is a way of advancing the purposes of the profession and keeping it civil. And by my very unscientific reckoning, a colleague I have assisted in some

relatively minor way is rather more likely to call me in the future should there be something needing my particular expertise.

By the way, I find an arbitrary 30 minute limit on the extension of professional courtesy crude and symptomatic of many of the problems facing the profession today.

John Sturgeon, Germany

Isn't it simply the golden rule, treat others as you would like to be treated. I have no qualms assisting other counsel...while my time is valuable, I know that at some point I may need the same assistance, so I am happy to review docs, offer my opinion, move for admission etc...just as you said. If you were really asking "should I be horrified by the big firm colleague's statement", the answer is "yes." That sort of thinking is one of the many reasons that I am now a solo (first month up and running!) and not at a big firm anymore. I am happy to list all the other reasons, but I think that it would fill up the space on the listserv! - Karel

Karel S. Karpe, New York

I'm not too big on professional courtesy; just courtesy. I don't care much whether they are another lawyer, a nurse's aid, a janitor, a busboy, or a wino; I try to extend a measure of courtesy to everyone. For me, it is often inverse to their own level of self importance, e.g. treat a lady like a tramp and a tramp like a lady. When someone asks me for help, it is hard for me to say no. When someone wants to see if I am the right lawyer for them, it is much easier to say no. I don't think I have any regrets about helping someone. I'll keep you posted if that changes.

D.A. "Duke" Drouillard, Nebraska

I spend a whole lot of time consulting with criminal defense lawyers (and occasionally others) about their cases - especially about motions and appeals, but other things, too. Occasionally I'm asked to review a motion or brief, and I do that, too. I never charge for such things. I can't imagine charging for it. My one limitation - I only do it for lawyers who I believe actually care about doing the work and about representing the clients competently and are willing to work to do it. I do that in person, over the phone, by e-mail, and on a couple of criminal defense listservs.

There are several young (and once young) lawyers who have, in essence, kind of adopted me as a mentor. I'm a bit embarrassed about that, but it goes with the territory of wanting to encourage people who want to do the work right and, I guess, seeming approachable. (Didn't I just say that?)

Why? Because I care about criminal defense and about the quality of it. And frankly, talking about these things is interesting, sometimes fun, and I learn from it too.

I also ask others for advice from time to time (especially about some tricky and bizarre ethical issues that crop up in criminal defense from time to time).

In my experience, most criminal defense lawyers are more than willing to help out. Maybe it's professional courtesy. Maybe it's just knowing that we're all in it together.

Jeffrey M. Gamso, Ohio

Oh, yeah - and it's the right thing to do.

Jeffrey M. Gamso

"By the way, I find an arbitrary 30 minute limit on the extension of professional courtesy crude and symptomatic of many of the problems facing the profession today."

I don't disagree. But as a refugee from BigLaw, I suspect that what is really going on here is a statement that each firm is required to count a consultation of up to a 30 minutes as "billable" or "billable equivalent" time for purposes of satisfying minimum billable

hours requirements. Put another way, the attorneys at each firm cannot be "penalized" for taking away from billable time to answer inquiries from other members of the consortium.

I'm not saying it's right, I'm just saying that BigLaw tends towards a relentless focus on billable hours, so many attorneys in BigLaw will do *nothing* that is not considered billable or "billable equivalent."

Brian H. Cole, California

To follow Brian's point, I also think the policy is to protect the firms from being taken advantage of by other firms. I am sure if you called the attorneys at the big-law firms for help, they would do so. The policy is probably in place so the firms or lawyers can approach the subject of billing, if the "professional courtesy" goes too far.

I call lawyers at big-law all the time to help me out on things. I have never been refused any time or assistance.

Bridget Hust, Minnesota

It's kind of like pornography, you know it when you see it.

James P Moriarty, Iowa

Good words

Thank You

Maurleen W. Cobb