

Best Practices For Effective (Virtual) Advocacy and Tips for the Young Lawyer



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As jury awards have been in a notable upward trend so has the evolution of aggressive attorneys. This change in culture and the now common-place shield of virtual platforms has cultivated an almost accepted practice of bullying opposing counsel. This is not limited to just one side. Not only are highly experienced attorneys getting bullied, but young lawyers, in particular, are absorbing the brunt of this trend in incivility are being virtually silenced and shamed for their youth and/or gender.

This presentation will provide the tools for young (and experienced) attorneys on how to recognize escalating situations and how to handle aggressive or out of control depositions and not be embarrassed by the transcript. Presenters include David Ottenwess and Sarah Cherry of Ottenwess Law and Jodi Munn Schebel of Bowman and Brooke. The panel will also include Macomb County Circuit Court Judge Honorable Julie Gatti.



PANEL MEMBERS



David is the Founding Partner of Ottenwess Law and has been litigating for 35 years. He has defended highly contentious cases with some of the most notoriously aggressive attorneys in the state of Michigan. Although this panel is not long enough for all of his war stories, he has tried and tested tools that can be implemented by both young and experienced attorneys.



Sarah is a Partner at Ottenwess Law whose practice focuses primarily on medical malpractice defense, professional liability, and executive employment matters. As a young(er) female attorney, she has been bullied by aggressive opposing counsel over the years and has some (not so secret) tactics that young attorneys can implement to find their voice and shut down the bullies.



PANEL MEMBERS



Judge Gatti was elected to the Macomb County Circuit Court bench and began her term in January 2019. She was previously in private practice as a Divorce and Family Law attorney for 22 years. Judge Gatti will provide input from the bench and her advice for attorneys in situations involving aggressive attorneys both during litigation and oral argument. Judge Gatti will also provide some anecdotes on how she handles aggressive counsel in her courtroom.



Jodi is the Managing Partner at Bowman and Brooke and focuses her practice on automobile product liability defense litigation. Jodi will walk us through how she masterfully handles aggressive attorneys and will indulge us in a story about the time she had an opposing counsel sanctioned for his poor behavior.



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AGENDA

- Change in culture and the evolution of aggressive attorneys
- How to recognize escalating situations
- How to handle aggressive situations
- What if you are the aggressive attorney
- The Court's Perspective
- Remedies and Relief
- Q & A



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Amendments To The Michigan Court Rules Related To Virtual Proceedings

MCR 2.408 - Use of Videoconferencing Technology in Civil Cases

Subject to a determination by the court that the use of videoconferencing technology is inappropriate for a particular case under an analysis as contained in MCR 2.407(C), the use of videoconferencing technology shall be presumed for: (1) civil pretrials; (2) early scheduling conferences under MCR 2.401(B); (3) motions filed pursuant to MCR 2.119 regarding discovery; (4) adjournments; (5) modifications to scheduling orders; (6) motions in limine; (7) postjudgment collection or discovery matters; (8) testimonial proofs for hearings under MCR 3.210(A)(4); (9) motions to correct, strike, or amend pleadings; and (10) motions pursuant to MCR 2.116.



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Lawyer's Oath

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged...



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Change In Culture And The Evolution Of Aggressive Attorneys

- Virtual advocacy and online bravado
- Result driven pressures
- COVID and related fatigue
- Political and social cultural changes
- Movement away from civility and decorum



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How To Recognize Escalating Situations

Insulting you or your
methods

Attempts to give you
instruction

Gas lighting

Obstructing your
deposition or overly
leading the expert



Bullying And Insulting Opposing Counsel

8 [REDACTED] Where did you get that understanding of
9 what this case is about if you did not read the
10 complaint and other than your conversation with
11 [REDACTED]

12 A. I got it, I think, from my mom.

13 Q. Okay. Tell me about that conversation.

14 A. She told me that she was seeking out legal, I don't
15 know, calling a lawyer to see -- to present her case,
16 because that's what she felt.

17 Q. Did you review any of your mother's medical records?

18 A. I was at an appointment with her once where I saw the
19 scan.

20 Q. Which scan?

21 A. The one of her spine.

22 MS. CHERRY: [REDACTED]

23 [REDACTED] What? Sarah, Sarah, you can't
24 treat -- I know you're a young lawyer and I know you
25 think you have to do -- be on the muscle with every

1 witness, but this is a daughter who's lost her mother,
2 who has no medical training in the fields at issue,
3 and you are berating her as you would an expert
4 adversarial witness. It's improper in every way.

5 [REDACTED] And until you get some experience, you're
6 just going to have to learn for yourself how to do
7 this. So please go ahead and finish your questioning,
8 which is ridiculous, but go ahead.



Example Of Expert and Attorney Joining Forces to Intimidate and Obfuscate

1 [REDACTED] Okay. Okay. Sarah, one more --

2 BY MS. CHERRY:

3 Q. Dr. [REDACTED]

4 [REDACTED] Now you're harassing me. I'm
5 entitled to protect my witness from obtrusive questions
6 that are not relevant or admissible, especially when
7 it's already been asked and answered. So we're going to
8 cancel the deposition very shortly unless you move on
9 from this line of questioning, which is inappropriate,
10 and not relevant to his opinions which have already
11 been asked and answered.

12 Again, not liking the answer to the
13 question, doesn't mean it's not responsive to the
14 question. There's a huge difference.

16 Q. You believe you've been through it, but it doesn't
17 really answer --

18 A. I know I said it. I know I said it.

19 [REDACTED] He's already answered what he
20 answered, Sarah. He's already answered the question.
21 You may not like the answer, but it's his answer. Now
22 you're harassing the witness.

23 MS. CHERRY: Okay [REDACTED] you are an officer
24 of the court. I don't think it makes sense for you to
25 participate in your expert's theatrics.



Example of Expert and Attorney Joining Forces to Intimidate and Obfuscate and Making a Record

23 Q. Doctor, I'm not here to argue with you. I'm here to ask
24 you questions about your opinions as it relates to the
25 standard of care as it relates to the radiologists in
1 this case.
2 A. That's what you --
3 Q. Let me finish my question.
4 A. You have been harassing me throughout this whole
5 deposition. So to ask me questions again, and get the
6 same answers one more time is not fair. It's
7 unprofessional, and represents harassment, and I know
8 what I'm talking about because I've done hundreds and
9 hundreds of these depositions. I'm glad you're smiling.
10 Q. Dr. [REDACTED] no, this is -- I'm going to ask that this
11 deposition be recorded video. [REDACTED] are you able to
12 do that, please?
13 STENOGRAPHER: Can we go off the record?
14 MS. CHERRY: Go off the record.
15 (Off the record at 11:28 a.m.)
16 (Back on the record at 11:33 a.m.)
17 [REDACTED]: I just want to object to
18 Ms. Cherry's request that the deposition from this
19 point forward be recorded, as the deposition started at
20 10:00 a.m. It's now after 11:30 a.m. There's been an
21 hour and a half worth of testimony that was not
22 recorded, and now we're going to into a recorded
23 situation where the deposition has not been noticed as
24 such. Nor has there been any indication on behalf of
25 any party of the appropriateness of recording the

1 deposition. Nor is there any case law in the State of
2 Michigan that allows a deposition to be recorded after
3 it's already been commenced. Go ahead.
4 STENOGRAPHER: I can't hear you.
5 MS. CHERRY: I will also state an objection
6 on the record to Dr. [REDACTED] unnecessary and
7 inaccurate speech that I am harassing him, because I
8 have asked him questions over and over, which is
9 untrue, and this record will speak for itself.
10 I have asked that this deposition be
11 recorded in the event I am being accused later of
12 harassing this witness, especially since I have not
13 asked Dr. [REDACTED] the specifics of each of the reports
14 that he is testifying that each of these radiologists
15 breached the standard of care, and I am entitled to do
16 so.
17 Mr. [REDACTED] and myself held a discussion off
18 the record related to this recording the deposition,
19 and our positions on the matter.
20 Now, I will continue to ask questions, and
21 for the first time asking his opinions about each
22 specific image and report that he disagrees with.



How To Handle Aggressive Situations

Stay calm

Do not engage or exchange insults

Make a clean record

Take a break

Support each other

Call the Judge (only when necessary)

Terminate the deposition



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When they go low, we go high.



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Making A Record – End of the Deposition

1 **A. Yes. They do.**
2 Q. Is there a questionnaire that he filled out in your copy of
3 the records?
4 **A. I would have to look at that. Okay. I'm looking at it now.**
5 Q. Is it handwritten?
6 **A. Yes. It is.**
7 ██████████ Okay. Well, I've never received that
8 so, you know, I don't know why we weren't given a complete
9 copy of the record. Those phone calls that you mentioned
10 earlier that were texted me were not provided to us. I
11 don't have any handwritten history and I'm not going to
12 continue with this deposition working from an incomplete
13 copy of a record.
14 I'm going to terminate the deposition, instruct
15 you to send ██████████ the complete copy and we'll
16 resume after I get the complete copy of the record. This is
17 ridiculous.
18 ██████████ Hold on a second.
19 ██████████ I'm not going to listen to this. I'm
20 done. I'm terminating the deposition.
21 ██████████ Hold on a second. I don't know what
22 was requested or what was produced. We have a complete copy
23 of the MIU chart here. The one page or the patient
24 questionnaire which counsel just referenced is one page. I
25 have it here.

1 I'm willing to text it if he claims he doesn't
2 have it, to him or ██████████ We have a complete copy of
3 the record here. This is my second time producing Doctor
4 ██████████ for deposition.
5 The first time ██████████ refused to proceed with
6 this deposition because Doctor ██████████ didn't remove his mask.
7 We had to go to court. The judge entered an order stating
8 that Doctor ██████████ deposition was going to continue and that
9 he was allowed to wear a mask of course as is counsel.
10 So I object to reproducing Doctor ██████████ for a
11 deposition a third time. I see he apparently has now signed
12 off from the deposition. ██████████ you're there. I am
13 not agreeing to produce Doctor ██████████ again for deposition.
14 If you want to finish his deposition I'd agree to
15 that. We have his entire chart here and to the best of my
16 knowledge it was produced before the deposition but I don't
17 know exactly what was requested and what was produced but we
18 have it all here right now.
19 Did you get all that, ██████████ Sorry. It was long.
20 THE REPORTER: Yes.
21 ██████████ do you want to continue with
22 the dep?
23 ██████████ We'll just let it go the way it is.
24 ██████████ Do you want me to text you his --
25 ██████████ No. Why don't you send it to me,
1 though, and we'll just let it go at that.
2 ██████████ Before we go I just want to confirm
3 with Paul that we're ending this dep?
4 ██████████ Yeah. We're going to do that.



Making a Record – During the Deposition

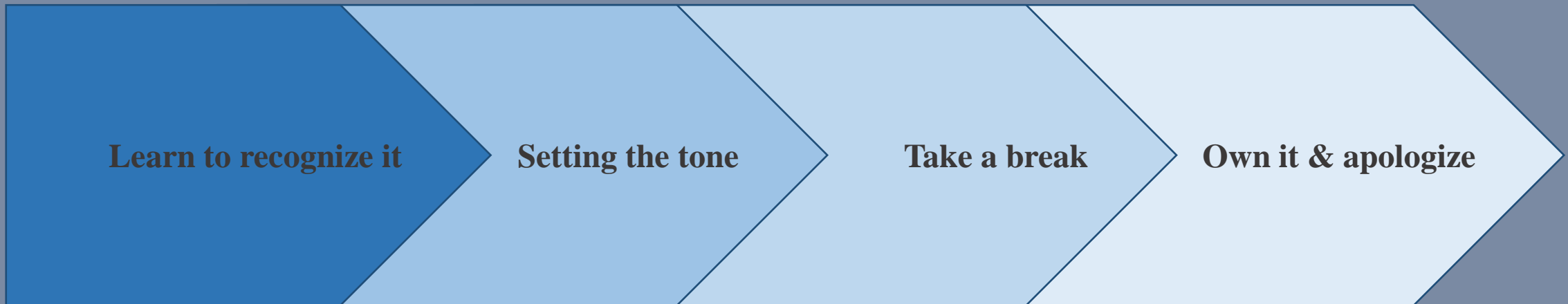
1 [REDACTED] Well, I'm sorry, counsel.
2 You're asking a question. She's given you an answer.
3 Now you're becoming argumentative with her. So please
4 ask your question. She's here to answer your questions
5 under oath. And if you don't like the answers --
6 MS. CHERRY: [REDACTED] there's no reason for
7 a speech.
8 [REDACTED] No, no.
9 MS. CHERRY: I'm not raising my voice, and
10 you are.
11 [REDACTED] No, no, you are. You did this
12 with her mother, and you're doing it now with her. And
13 I don't appreciate it, because it seems like you're
14 attacking my clients, and I will not allow that to
15 happen.
16 MS. CHERRY: Okay. [REDACTED] there's no reason
17 for grandstanding. You're trying to make a statement on
18 the record to make it look like I'm attacking your
19 client.
20 [REDACTED] You are attacking her.
21 MS. CHERRY: Please let me finish. I let
22 you finish your statement.
23 [REDACTED] You are attacking her.
24 MS. CHERRY: You're trying to make it look
25 on the record like I'm attacking your client and her

1 daughter, which I'm not doing, and I did not raise my
2 voice to them.
3 [REDACTED] Yes, you did, counsel. Yes, you
4 did.
5 MS. CHERRY: Hold on a second. You're going
6 to let me finish, or I will start raising my voice.
7 [REDACTED] You may. You have every right
8 to terminate the deposition and go in front of the
9 court if you like.
10 MS. CHERRY: If you would like to terminate
11 this deposition, that's your choice, but I'm not. I'm
12 asking her appropriate questions. And what happened in
13 her mother's deposition is on the record, and it speaks
14 for itself. And I'm not going to go there, because it's
15 highly inappropriate for you to even bring it up in
16 this deposition.
17 [REDACTED] No, I think it is totally
18 appropriate, because you're doing the same thing with
19 her.
20 MS. CHERRY: Excuse me. Excuse me. Let me,
21 let me --
22 [REDACTED] That you did with her mother.
23 MS. CHERRY: Let me finish.
24 [REDACTED] Counsel.
25 MS. CHERRY: I am asking appropriate

1 questions, and I'm not raising my voice, but you are
2 now raising your voice.
3 [REDACTED] I am --
4 MS. CHERRY: I will continue this
5 deposition. I'm not going to go through all these
6 statements and grandstanding from you. I can either
7 finish the deposition, or I can cancel and have you pay
8 for costs. Or if you want to get the court involved,
9 we can do that, too.
10 [REDACTED] Counsel, are you done, because
11 here's what I'd like to say. You asked her a question.
12 MS. CHERRY: Okay. And it speaks for itself
13 on the record, and I would like to continue without you
14 wasting my time.
15 [REDACTED] Well, let me finish. Let me
16 finish my response to your statement.
17 MS. CHERRY: Sure. You're grandstanding
18 your story for the record that is inaccurate.
19 [REDACTED] No. This is all on the record.
20 I want you to know that when you asked her a question,
21 and she gave you the answer, for some reason you didn't
22 like her answer, so now you're saying do you realize
23 that you're under oath. Of course she knows that she's
24 under oath. She's answering all of your questions under
25 oath, so you don't have to remind her about that. If



What If You Are The Aggressive Attorney?



Aggressive Attorneys

7 Q Have you reviewed ACR Practice Guidelines for
8 Communication of Diagnostic Imaging Findings 2010
9 version?

10 A Yes, as well as a revised 2020 version.

11 Q Okay. In terms of those ACR Practice Guidelines
12 for Communication of Diagnostic Imaging Findings,
13 is that a reliable source of information with
14 respect to the issues of communication with
15 respect to diagnostic imaging findings?

16 A Yes.

17 MR. OTTENWESS: Before you -- before you
18 answer, Doctor, let me place an objection as to
19 any reference to guidelines, the relevance of said
20 guidelines and the fact that he has now reviewed
21 guidelines that he claimed in his earlier
22 deposition he never did review guidelines and
23 never gave them any much credibility. So on that
24 basis. Also on the basis that the guidelines
25 themselves indicate that they should not be used

1 for a legal basis. And also the -- I'll just
2 leave it at that for now.

3 BY [REDACTED]

4 Q Doctor, with respect to the Practice Guidelines
5 for the Communication of Diagnostic Imaging
6 Findings, are those a reliable authority with
7 respect to the issues of communication in terms of
8 communicating findings on the part of a
9 radiologist?

10 MR. OTTENWESS: And hold it, Doctor.

11 Let me object to the foundation. And again, the
12 improper use of a writing in terms of what
13 apparently you're going to use as evidence. So I
14 object to it on those grounds, as well.

15 Go ahead, Doctor.

16 THE WITNESS: The word authority is a
17 strong word. So the word guideline is, you know,
18 is maybe more appropriate.

19 As I said in the earlier deposition, I
20 hadn't reviewed it at the time because it was
21 common practice and common sense and just the way
22 to do, you know, medicine in general, the way
23 you're trained. Those guidelines just formalize
24 what is common in the training and practice of
25 radiology.

1 The reason I reviewed the guidelines was
2 because it was brought up in the deposition. So
3 in reading it I just familiarized myself to see if
4 there was anything different than the way I would
5 normally practice radiology or the way I was
6 trained to practice radiology.

7 MR. OTTENWESS: I move to strike as
8 inappropriate.

9 But go ahead.

10 BY [REDACTED]

11 Q Okay, Doctor, so the American College of Radiology
12 is what?

13 A It's a -- I don't know what they're -- how they're
14 incorporated, but it's a body that accredits --
15 gives accreditation, excuse me, to facilities and
16 equipment to make sure that the equipment is of
17 diagnostic quality. It also is a group that
18 generates journals, teaching articles, as well as
19 some conferences. And I'm not quite sure if it's
20 a political lobby or if it's -- what other
21 functions it has.

22 Q I understand.

23 So the American College of Radiology is
24 a professional organization that encompasses
25 radiologists and other practitioners, yes?



Aggressive Attorneys

1 A Correct.
2 Q And so the College of Radiology is an authority
3 with respect to various aspects of radiology, yes?
4 MR. OTTENWESS: No. Object to
5 foundation. He's not even a member of the ACR.
6 [REDACTED] Mr. Ottenwess, it's a
7 speaking objection. We've let you do that so far,
8 but just let him answer the question. Your
9 objection is noted.
10 MR. OTTENWESS: Speaking objection?
11 This is -- this is a legitimate objection. He's
12 not a member of --
13 [REDACTED] Mr. Ottenwess, you're
14 giving a speaking objection --
15 MR. OTTENWESS: Will you please stop
16 cutting me off.
17 [REDACTED] You've made your objection,
18 Mr. Ottenwess. You know you're not supposed to
19 make speaking objections, Mr. Ottenwess.
20 MR. OTTENWESS: Stop cutting me off.
21 [REDACTED] Play by the rules.
22 MR. OTTENWESS: Stop it, please. Will
23 you stop interrupting --
24 [REDACTED] Play by the rules,
25 Mr. Ottenwess.

1 [REDACTED] [REDACTED], can we go off the
2 record for a moment?
3 [REDACTED], let's go off the record.
4 [REDACTED], let's go off the record for a moment.
5 [REDACTED] No. We're not --
6 MR. OTTENWESS: We're staying on the
7 record. We're staying on the record.
8 [REDACTED] Because we can't continue --
9 we can't continue --
10 MR. OTTENWESS: We can -- we can't if
11 [REDACTED] keeps talking over me --
12 [REDACTED] -- there's constant
13 objections. We're in a video deposition --
14 THE COURT REPORTER: I'm not getting it
15 all.
16 [REDACTED] And we can't continue in an
17 orderly fashion with Mr. Ottenwess making speaking
18 objections after every question and before every
19 answer is given. We just can't do that. It just
20 isn't --
21 MR. OTTENWESS: First of all --
22 [REDACTED] The rules provide --
23 MR. OTTENWESS: You're not supposed to
24 be talking, [REDACTED]
25 [REDACTED] Nonspeaking objections.

1 MR. OTTENWESS: Let's get the judge.
2 [REDACTED] Yeah. Let's get the judge is
3 right. Let's get the judge.
4 MR. OTTENWESS: You're not even supposed
5 to be talking, [REDACTED]
6 [REDACTED] Let's get the judge. Because
7 you are intentionally interfering with this
8 deposition.
9 MR. OTTENWESS: No, I'm not.
10 [REDACTED] You have to stop that.
11 [REDACTED] Okay. Wait. Wait. Time
12 out. Time out. Let's just keep going on.
13 MR. OTTENWESS: Right. I'm --
14 [REDACTED] I will deal with
15 Mr. Ottenwess.
16 MR. OTTENWESS: No. I'm going to place
17 my objection.
18 [REDACTED] He's intentionally interfering
19 with the flow of your deposition --
20 MR. OTTENWESS: Please stop talking,
21 Mr. [REDACTED]
22 [REDACTED] -- with speaking objections.
23 All right.
24 MR. OTTENWESS: Get the judge on the
25 phone.



Aggressive Attorneys

25 MR. OTTENWESS: Okay. The judge is not
1 available, and I'm going to make this record here.
2 [REDACTED] Oh, boy.
3 MR. OTTENWESS: [REDACTED]
4 is the only one that can speak with respect to the
5 deposition of this witness. He can make the
6 objections, he can do the direct, he can do
7 redirect. [REDACTED] is not allowed to be speaking
8 and interrupting and interrupting the flow of the
9 deposition, which he apparently is accusing me of
10 doing.
11 If this continues, I will simply ask
12 that the deposition be terminated until we can do
13 it under the direction of the Court.
14 [REDACTED] All right. Let me just say in
15 response, I haven't interrupted at all. We
16 stopped the questioning and I asked you to behave.
17 You did not behave, instead you chose to insult me
18 with a personal attack which was not necessary.
19 So with that having been said,
20 [REDACTED] has been asking the questions. You've
21 been making longwinded, speaking objections which
22 is improper. Your objections are either pursuant
23 to the rules of evidence or form and foundation
24 and that's it. Not long, speaking objections
25 interfering with the flow of this deposition.

1 It's a video deposition and you're doing this
2 purposely. I'm asking you not to do that and not
3 to insult me any further and to behave yourself.
4 MR. OTTENWESS: [REDACTED] if --
5 [REDACTED] Now go ahead, [REDACTED]
6 MR. OTTENWESS: [REDACTED] if you keep
7 your mouth shut, if you keep your mouth shut we'll
8 be able to get through today.
9 [REDACTED] I'm not going to take any
10 directions from you --
11 [REDACTED] Excuse me. Excuse me.
12 MR. OTTENWESS: Nor am I from you.
13 [REDACTED] Excuse me.
14 [REDACTED] But you can keep your
15 insulting comments to yourself. And if you
16 want --
17 MR. OTTENWESS: Why are you still
18 talking?
19 [REDACTED] So [REDACTED] can continue his
20 examination.
21 [REDACTED] Wait, [REDACTED]
22 Mr. Ottenwess -- Mr. Ottenwess, if you ever make
23 another statement like keep your mouth shut, I
24 will file a grievance against you.
25 [REDACTED] Well, he's already --

1 [REDACTED] Just beware.
2 [REDACTED] He's already made a personal
3 attack on me.
4 MR. OTTENWESS: What are you -- what are
5 you guys talking about? Can we get on with this
6 dep?
7 [REDACTED] You've already made a
8 grievable offense by making a personal attack --
9 MR. OTTENWESS: [Inaudible]
10 [REDACTED] I believe that's true.
11 Mr. Ottenwess, I think -- I think, Mr. Ottenwess,
12 that you better be very careful from here on out.



Remedies and Relief

- Terminate the deposition
- Call the Judge during the deposition to address the aggressive behavior
- File a motion for sanctions (MCR 2.306)
- Call opposing counsel to discuss the aggressive behavior, insults, or obfuscating tactics



Lifelines in an aggressive deposition



- Make a record
- Call a “friend”
- Call the Court



MCR 2.306(D)

Motion to Terminate or Limit Examination; Sanctions; Asserting Privilege.

(1) Motion. At any time during the taking of the deposition, on motion of a party or of the deponent and on a showing that the examination is being conducted in bad faith or in a manner unreasonably to annoy, embarrass, or oppress the deponent or party, or that the matter inquired about is privileged, a court in which the action is pending or the court in the county or district where the deposition is being taken may order the person conducting the examination to cease taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in MCR 2.302(C). If the order entered terminates the examination, it may resume only on order of the court in which the action is pending.

(2) Sanctions. On motion, the court may impose an appropriate sanction- including the reasonable expenses and attorney fees incurred by any party- on a person who impedes, delays, or frustrates the fair examination of the deponent or otherwise violates this rule.

(3) Suspending Deposition. On demand of the objecting party or deponent, the taking of the deposition must be suspended for the time necessary to move for an order. MCR 2.313(A)(5) applies to the award of expenses incurred in relation to the motion.



The Court's Perspective

- Attorneys to always act professional
- Attorneys together through the entire case and likely on future cases
- Impact on jurors
- Basis for sanction motions



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AO No. 2020-23 — Administrative Order Regarding Professionalism Principles for Lawyers and Judges

PREFACE

Rule 1 of the Rules Concerning the State Bar provides, in part, that the “State Bar of Michigan shall . . . aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this State.” To achieve these goals, the State Bar of Michigan, acting in accord with the Michigan Supreme Court, has established twelve principles of professionalism (“Principles”) as guidance to attorneys and judges concerning appropriate standards of personal conduct in the practice of law. These Principles are not intended to form the basis for discipline, professional negligence, or sanctions; or to alter the Michigan Rules of Professional Conduct, the Michigan Code of Judicial Conduct, or the Michigan Court Rules; or to recast the Lawyer’s Oath, although many of the Principles are derived from these sources. Rather, the Principles are meant only to be remindful that members of our profession must never lose sight of the foundational principles of personal conduct that have always guided us in even our most ordinary and routine professional dealings. Together and individually, we must exhibit the highest levels of professional conduct in order to maintain and preserve, and to advance, our profession and to ensure that we each become exemplars of all that is best in this profession. If by the statement of these Principles the Michigan Supreme Court or the State Bar of Michigan runs the risk of being viewed as repetitive of existing strictures and standards, we view our obligation as the superintending authorities of the legal profession in our state to accept that risk rather than allowing these Principles ever to wither or to be treated as mere cant.



AO No. 2020-23 — Administrative Order Regarding Professionalism Principles for Lawyers and Judges

PRINCIPLES OF PROFESSIONALISM

In fulfilling our professional responsibilities, we as attorneys, officers of the court, and custodians of our legal system, must remain ever-mindful of our obligations of civility in pursuit of justice, the rule of law, and the fair and peaceable resolution of disputes and controversies. In this regard, we adhere to the following principles adopted by the State Bar of Michigan and authorized by the Michigan Supreme Court.

- * We show civility in our interactions with people involved in the justice system by treating them with courtesy and respect.
- * We are cooperative with people involved in the justice system within the bounds of our obligations to clients.
- * We do not engage in, or tolerate, conduct that may be viewed as rude, threatening or obstructive toward people involved in the justice system.
- * We do not disparage or attack people involved in the justice system, or employ gratuitously hostile or demeaning words in our written and oral legal communications and pleadings.
- * We do not act upon, or exhibit, invidious bias toward people involved in the justice system and we seek reasonably to accommodate the needs of others, including lawyers, litigants, judges, jurors, court staff, and members of the public, who may require such accommodation.



AO No. 2020-23 — Administrative Order Regarding Professionalism Principles for Lawyers and Judges

PRINCIPLES OF PROFESSIONALISM (continued)

- * We treat people involved in the justice system fairly and respectfully notwithstanding their differing perspectives, viewpoints, or politics.
- * We act with honesty and integrity in our relations with people involved in the justice system and fully honor promises and commitments.
- * We act in good faith to advance only those positions in our legal arguments that are reasonable and just under the circumstances.
- * We accord professional courtesy, wherever reasonably possible, to other members of our profession.
- * We act conscientiously and responsibly in taking care of the financial interests of our clients and others involved in the justice system.
- * We recognize ours as a profession with its own practices and traditions, many of which have taken root over the passing of many years, and seek to accord respect and regard to these practices and traditions.
- * We seek to exemplify the best of our profession in our interactions with people who are not involved in the justice system.



Michigan Rules of Professional Conduct

MRPC 3.4

A lawyer shall not:

(a) **unlawfully obstruct another party's access to evidence**; unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value; or counsel or assist another person to do any such act;



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QUESTIONS?



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