

ADMINISTRATIVE DIRECTIVE NUMBER 147

This 19th day of June, 2003,

IT APPEARS THAT:

(1) One of the key elements of professionalism is civility in dealing with all persons, including courts, counsel, clients, witnesses, jurors and staff. It is the obligation of all lawyers and judges to speak and act with civility even in the heat of litigation, negotiation or office practice;

(2) Delaware is very fortunate in many ways, including the fact that judges and lawyers speak and act with civility as a general matter, but not invariably. Out-of-state counsel are often imbued by their local counsel and Delaware judges with the responsibility to act in that same tradition. To that end, the pro hac vice rules of our courts require not only that a lawyer admitted pro hac vice shall be bound by the Delaware Lawyers Rules of Professional Conduct but also that they have reviewed the Statement of Principles of Lawyer Conduct (see, e.g., Supreme Court Rule 71(b)(ii) and Chancery Rule 170(c)(ii)).

(3) The Statement of Principles of Lawyer Conduct that is incorporated into the pro hac vice rules is the statement adopted by the Delaware State Bar Association (DSBA) on November 15, 1991. The Statement of Principles is well crafted, but in light of the passage of time and changes in the practice of law, it should be updated in so far as it applies to Delaware lawyers, and by extension to attorneys admitted pro hac vice.

(4) The Statement of Principles of Lawyer Conduct does not include any reference to the conduct of judges. There should be a separate but companion Statement of Principles or a Civility Code for judges as well as lawyers.

(5) The Delaware Supreme Court has adopted a new set of Delaware Lawyers Rules of Professional Conduct effective July 1, 2003. These new rules should be consulted, as relevant, in connection with the development of any new Statement of Principles or Civility Code for Delaware lawyers or judges.

(6) A number of other jurisdictions have updated their civility codes for both lawyers and judges, and these should be reviewed so that we may learn from these other jurisdictions.

NOW, THEREFORE, IT IS DIRECTED, with the unanimous approval of the members of the Supreme Court, pursuant to Delaware Constitution, art. IV, §13(1), that:

(A) With the concurrence of the DSBA, a joint Bar/Bench committee is hereby established for the purpose of updating the DSBA Statement of Principles of Lawyer Conduct of November 15, 1991, and to establish a separate but companion Statement of Principles or Civility Code applicable to judges in all Delaware Courts.

(B) There shall be fourteen members of the committee, of which seven members shall be lawyers appointed by the President of the DSBA, and seven judges appointed by the Chief Justice. The members are:

Lawyers

P. Clarkson Collins, Jr., Esq.,
Co-Chair
Chipman Loyd Flowers, Jr., Esq.
James D. Griffin, Esq.
Josy W. Ingersoll, Esq.
Noel E. Primos, Esq.
Harvey Rubenstein, Esq.
The Honorable Joseph T. Walsh

Judges

Justice Randy J. Holland
Co-Chair
Chief Judge Sue L. Robinson
Vice Chancellor Stephen P. Lamb
Judge James T. Vaughn, Jr.
Chief Judge Alex J. Smalls
Judge Barbara D. Crowell
Magistrate Bonita Lee

The staff liaison to the committee shall be Gayle P. Lafferty, Esquire, Chief Staff Attorney of the Supreme Court and Counsel to the Chief Justice.

(C) The committee shall report and present to the Delaware Supreme Court and the Executive Committee of the DSBA a draft set of Principles or a Civility Code on or before October 1, 2003.

(D) Thereafter, the DSBA Executive Committee and the Supreme Court will consider the joint adoption of the report and recommendations of the committee or any modifications thereto.

Chief Justice

cc: The Honorable Ruth Ann Minner
The Honorable Randy J. Holland
The Honorable Carolyn Berger
The Honorable Myron T. Steele
The Honorable Jack B. Jacobs
Members of the Judicial Conference Budget Director

The Honorable M. Jane Brady
The Honorable Lawrence M. Sullivan
Court Administrators
Clerk of the Supreme Court
Counsel to the Governor
Chair of Senate Judiciary Committee
Chair of House Judiciary Committee