

The following is the text of the order referred to in the preceding essay. It was recently issued by Judge Derek P. Pullan of the Fourth District Court. The names of counsel have been changed.

### **THE UNCIVIL CONDUCT OF MR. JOHN DOE**

Having ruled on the merits of the motion, the Court turns to the issue of Mr. Doe's uncivil and unprofessional conduct during oral argument. During the argument, Mr. Doe stated: (1) opposing counsel had made "misrepresentations" to the Court; (2) opposing counsel had made "false" statements to the Court; (3) referring to certain facts stated by opposing counsel, "that is a lie"; and (4) the arguments of opposing counsel were "absurd," "spurious," "outrageous" and "nonsense." As to the last of these characterizations, Mr. Doe stated "there are stronger words than nonsense" that would be appropriate. Finally, Mr. Doe insinuated that opposing counsel must not be able to read, and asked rhetorically, "Does she think that I have not read [the depositions?]" Mr. Doe himself described his method of argument as "arm-waving."

To her credit, Ms. Smith exercised restraint and did not respond in kind. She simply stated for the record that she had never been called a liar in open court, had not made misrepresentations, and was offended by Mr. Doe's uncivil conduct.

A verbal reprimand of Mr. Doe at the close of the hearing was clearly justified. However, the Court determined to issue a written order instead, thereby foreclosing further uncivil conduct by Mr. Doe in subsequent hearings and before the jury.

In the courtroom, the lives, fortunes, and reputations of the litigants are at stake. Lawyers have a sworn duty to represent their clients with courage and zeal. However, the representation must be provided in a respectful and dignified manner. Indeed, civility and professionalism are "hallmarks of a learned profession dedicated to public service." Stand. Of Prof. And Civility, Preamble.

In Mr. Doe's 30-minute presentation, he repeatedly violated the Standards of Professionalism and Civility. He failed to treat opposing counsel in "a courteous and dignified manner." Stand. Of Prof. And Civility, 1. Without adequate factual basis, he attributed to her improper motives. Stand. Of Prof. And Civility, 2. He used hostile, demeaning, and humiliating rhetoric, and disparaged the integrity, intelligence, morals, and ethics of opposing counsel. *Id.* Such conduct undermines the "fundamental goal of resolving disputes rationally, peacefully, and efficiently." Stand. Of Prof. And Civility, Preamble.

Mr. Doe is a seasoned member of the bar who should need no reminder of these obligations. The rhetoric and tone of argument exhibited today will not be tolerated. The Standards of Professionalism and Civility shall govern the conduct of counsel in this case. The jury will be instructed as to counsels' duty to treat each other, the court, and witnesses with dignity and respect.

The Court orders that within 10 days of this order, Mr. Doe shall: (1) certify in writing to the Court that he has read the Standards of Professionalism and Civility, and has explained them in detail to the defendant who (based on Mr. Doe's conduct) may have uninformed expectations about how a lawyer should conduct himself in court; and (2) issue a written apology to opposing counsel.

The Court directs the clerk to send this order via facsimile to the parties, as well as by mail.

Signed this 15 day of March, 2006.

/s/ Judge Derek P. Pullan