The MLA Code of Professional Conduct: Lessons for Young Lawyers

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"[L]awyers who know how to think but have not learned how to behave are a menace and a liability, not an asset, to the administration of justice."[2]

In today's highly competitive law firm environment, young lawyers experience more and more pressure to maintain or increase their total billable hours, assist in maintaining relations with existing firm clients, develop new clients both inside and outside the maritime practice, and produce winning results with greater and greater efficiency.[3] Young lawyers are also generally expected to act as the firm's leading connection to new and emerging technology and are expected to maximize the information research potential of the internet and other electronic tools. Given this set of circumstances, ethical dilemmas are bound to arise. In resolving these ethical questions, young lawyers may gain considerable guidance from the Maritime Law Association's Code of Professional Conduct.[4]

This paper is not intended to be a comprehensive overview of all ethical difficulties faced by young lawyers. The intent is rather to highlight three significant ethical problems that particularly affect young lawyers in developing areas of the law.[5]

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[2] U.S. Supreme Court Chief Justice Warren E. Burger (Ret.), *Delivery of Justice* 175 (1990).

[3] Indeed, these pressures are felt by most lawyers at most firms, both young and not-so-young.

[4] Reprinted herein for ease of reference in the appendix.

[5] All examples are, to the best of the writer's knowledge, hypothetical only and most have been derived from official opinions of the New York State Bar Association's Committee on Professional Ethics.

A. Issue One: Surreptitious Use of Technology

Technology currently exists that allows the receiver of an electronic transmission to review prior versions of the document and additional authors of that document. Use of this technology would allow, for example, a lawyer who receives a draft of a contract from his opponent to also review prior drafts from the sender, regardless of who edited such drafts. The lawyer receiving such a contract could track changes in contract terms such as price, conditions, and warranties. If earlier drafts of the contract were exchanged between the sender and his client with embedded messages, these too could potentially be reviewed by the receiving lawyer.

On the other side, technology exists that would permit the sender of such a contract to embed a "bug" in the email containing the document. Through the use of this device, the lawyer sending the bugged message will be able to trace the route of the email, determine to whom the recipient forwards the email containing the contract and see any comments made in the text of the email. While anti-tracer technology exists, it does not remove the bug—it merely inactivates it solely for the user of the anti-tracer technology. If a later recipient does not use the anti-tracer technology, that later recipient's use of the contract and the email forwarding will still be traceable.

Is the use of such publicly-available technology permissible? Proponents of the use of such technology would argue that these electronic devices are not only within the public domain, but that they are also not significantly different from recording telephone conversations. The ethical question for maritime attorneys revolves initially around the seventh precept of the MLA's Code of Professional Conduct, which provides:

> I will engage in the discovery process, seeking an expeditious result ***for my client's legitimate interest***, while avoiding abuse and harassment of witnesses and parties.[6]

If one were to rely literally only on the MLA Code of Professional Conduct, the answer, though hinted at, is not necessarily clear: it could be argued that the provision applies only to discovery and not (for example) to contract negotiations. Moreover, to the extent that the use of this technology would constitute "abuse" or "harassment", the prohibition is only against abusing and harassing witnesses and parties, not opposing counsel.[7]

The inquiry under the MLA Code of Professional Conduct, though, should not end here. The MLA Code also requires compliance with "***all*** rules and codes of professional conduct",[8] and in this regard, the New York State Bar Association's Committee on Professional Ethics has determined that the use of such technology is not permitted.[9] The NYSBA concluded that the use of these electronic eavesdropping tools impermissibly allows users to access confidential communications related to another lawyer's representation of a client. The NYSBA determined that the strong public policy in favor of protecting attorney-client confidentiality is expressed in the prohibition against lawyers (1) soliciting the disclosure of unauthorized communications,[10] (2) exploiting the willingness of others to undermine the confidentiality principle,[11] and (3) making use of inadvertent disclosures of confidential communications.[12]

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[6] See Appendix (emphasis supplied).
[7] Of course, the MLA Code of Professional Conduct also requires that maritime attorneys be "civil and courteous to all colleagues". See Appendix.
[8] See Appendix at precept 2.
[9] New York State Bar Association, Committee on Professional Ethics, Opinion 749 (2001).
[10] *Dubois v. Gradco Sys., Inc.*, 136 F.R.D. 341, 347 (D.Ct. 1991)(although former employees of adverse corporate party are not within reach of the no-contact rule "it goes without saying that plaintiff's counsel must take care not to seek to induce or listen to disclosures by the former employees of any privileged attorney-client communications to which the employee was privy"); *see also* ABA Formal Op. 91-359
[11] NYSBA Op. 700; ABA Formal Op. 94-382.
[12] ABA Formal Op. 92-368.

Moreover, the use of such technology specifically for the purpose of obtaining information that may be protected by the attorney-client privilege, the work product doctrine or may otherwise be considered a "secret" of the other lawyer's client is a clear violation of the Disciplinary Rules. In *Accord MMR/Wallace Power & Indus. Inc. v. Thames Assocs.*, 764 F. Supp. 712, 178-19 (D.Ct. 1991), the court determined that the ethical rules prohibit attorneys from acquiring, inadvertently (or especially purposely) confidential information about an adversary's litigation strategy. Similarly, in *In re Wisehart,* New York's First Department suspended an attorney for two years for using documents purloined by his client from opposing counsel.[13] The interception of an adversary's communications with counsel necessarily involves dishonesty and deceit. Not only are lawyers prohibited in engaging in such wrongdoing, but we are also forbidden from helping our clients gain an advantage by any use of such devices.

Clearly, the lawyer electronically eavesdropped upon has no intent to divulge the information to the lawyer using the devices. In this regard, the requirement to refrain from using "inadvertent" or "unauthorized" disclosures trumps the competing principle of zealous representation found in Canon 7. If information is inadvertently provided to a lawyer by opposing counsel, then once the mistake is discovered, the receiving lawyer is required: (a) not to examine the materials, (b) notify the sending lawyer of the receipt, and (c) abide by the sending lawyer's instructions with regard to the disposition of the additional material.[14]

Lawyers and their clients should also be counseled that the use of electronic eavesdropping technology in emails may also be a violation of various federal and state

[13] 721 N.Y.S.2d 356, 281 A.D.2d 23 (1st Dept. 2001).
[14] ABA Formal Op. 92-368.

laws, including the Electronic Communications Privacy Act, 18 U.S.C. §§2510 *et seq.* Violations of law are *per se* unethical.[15]

The NYSBA's Committee on Professional Ethics has concluded not only that the use of such electronic eavesdropping devices is unethical, but that attorneys should exercise extreme caution in using email for confidential communications. As explained in EC 4-1:

> Both the fiduciary relationship existing between lawyer and client and the proper function of the legal system require the preservation by the lawyer of confidences and secrets of one who has employed or sought to employ the lawyer. A client must feel free to discuss anything with his or her lawyer and a lawyer must be equally free to obtain information beyond that volunteered by the client….The observance of the ethical obligation of a lawyer to hold inviolate the confidences and secrets of a client not only facilitates the full development of facts essential to proper representation of the client but also encourages non-lawyers to seek early legal assistance.

If a client cannot be assured that communications with his counsel will be protected by confidentiality, the attorney-client relationship is jeopardized. If clients insist on the use of email for communication purposes, attorneys should ensure that reasonable protections are put in place (on both sides) to attempt to safeguard the confidential nature of these communications.

B. Issue Two: The Effect of Prior Government Work Experience

Many maritime attorneys enter private practice after having worked for the government in the Coast Guard, in the Navy, or as a prosecutor. Further, the Maritime Law Association of the United States enjoys a close working relationship with the Coast Guard and other federal agencies, and many friendships, both professional and personal,

[15] DR 7-102(A)(8).

have been engendered by this relationship. Increased regulation of maritime environmental matters, though, and more frequent prosecution of mariners, marine operators, and ship owning corporations under these regulations has, with greater frequency, pitted former government attorneys now in private practice against the government and private maritime attorneys against the Coast Guard or other governmental agencies.

It is well-settled that neither an attorney nor a law firm may "serve two masters".[16] That is to say that an attorney who once worked for ABC Corp. cannot go into private practice and litigate cases against ABC Corp., because that lawyer is charged with a continuing duty to protect ABC Corp.'s confidences and interests even after leaving its employ. The lawyer may only prosecute cases against ABC Corp. if the lawyer comes to a reasonable belief that accepting such cases will not violate the duty of loyalty to ABC Corp.'s confidences and interests and then also obtains informed consent (a waiver of the conflict of interest) from ABC Corp. after full disclosure.

Does this conflict of interest prohibition extend to the government (local, state or federal) as a client? The government is not a "company" that has a responsible corporate officer who can waive objections based on conflict of interest due to prior representation by counsel. The government is the protector of the public and is entrusted with the responsibility of providing maximal protection of the public trust. Even if a former government attorney has a reasonable belief that representation of new clients against the government does not violate the duty of loyalty to protect the government's confidences, and even if that former government attorney makes full disclosure to the government of

[16] ABA Formal Op. 16 (1929).

the possible conflict of interest, does the government even have the power to waive the conflict of interest and consent?

A second problem is also encountered when an attorney leaves work for the government and enters private practice—the ability of that attorney to obtain an "inside track" to government decision makers with whom the attorney had previously worked. The ethical question here is whether the attorney's "inside track" with the government gives rise to an "appearance of impropriety" in violation of Canon 9.

The MLA Code of Professional Conduct recognizes the principal of such conflicts in precept number 5:

> I will maintain the trust of my clients by keeping them well-informed and actively involved in making decisions affecting them.[17]

But the MLA Code does not specifically address whether the government has the power to consent to waive possible conflicts of interest (the first ethical question raised). This Code does, however, address other conflicts of interest between maritime attorneys and the government (such as the potential appearance of impropriety) by providing at precept 2 a requirement to "respect the law and preserve the decorum and integrity of the judicial process".[18] In this regard, maritime attorneys have already pledged not to abuse the MLA's working relationship with agencies like the Coast Guard or to improperly take advantage of the professional and personal relationships developed between individual MLA members and the government.

[17] See Appendix.
[18] See Appendix.

For decades, the American Bar Association held that the government had no power to consent to waive a conflict of interest.[19] In a formal opinion dating to 1929, the American Bar Association determined simply that the "government cannot consent".[20] The ABA reasoned that a "[n]o question of consent can be involved as the public is concerned and it cannot consent". This concept began to be cemented throughout the 1930's in a series of decisions all citing ABA Formal Op. 16 as though it were Gospel.[21]

By the 1970's, though, the ABA began to retreat from the "government cannot consent" concept. The first softening of what seemed an axiomatic and well-entrenched position came with ABA Inf. Op. 1235 (1972), which determined that the question of the government's power to consent was not necessarily beyond question. Shortly thereafter, the ABA determined that the issue of governmental consent was actually a question of law, not of ethics:

> We give no opinion on applicable law as to the authority of a public officer or public body to give consent to the representation of parties having differing interests when one of the parties is a public or governmental body or agency.[22]

By 1983, the Model Rules were adopted, which expressly contemplate governmental consent at Rule 1.11(a). Still, however, the NYSBA clung to the principle that "when a conflict of interest affects a governmental entity, it would be unethical for the conflicted lawyer to undertake or continue the representation in question even if the governmental entity's consent has been secured in accordance with DR 5-105(C)."[23] The

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[19] Accordingly, pursuant to MLA Code of Professional Conduct precept 2, maritime attorneys who formerly worked for the government could not be engaged in defending against government prosecutions of their clients.
[20] *Id.*
[21] *See, e.g.*, ABA Formal Op. 34 (1931); ABA Formal Op. 71 (1932); ABA Formal Op. 77 (1932).
[22] ABA Inf. Op. 1433 (1978).
[23] *See* NYSBA Op. 629 (1992).

NYSBA's Committee on Professional Ethics long argued that such a blanket prohibition was justified because lawyers faced with such a conflict were in a position to use, or there was at least the suggestion that such lawyers may use, their relationship(s) with such governmental entities to gain an improper advantage for private clients or may secure consent by improper means.

The NYSBA has now had a change of heart, though, determining that the blanket prohibition was too paternalistic and now advises that the following Disciplinary Rules adequately address the issue of whether a former government attorney's "inside track" creates an appearance of impropriety in violation of Canon 9:

> **DR 9-101(C)**, which prevents lawyers from stating or implying that they have an ability to influence any tribunal, legislative body or public official impermissibly or on irrelevant grounds.
>
> **DR 8-101(A)**, which prevents a lawyer from using his or her public position to obtain or attempt to obtain a special advantage in legislative matters for the lawyer or a client.[24]
>
> **DR 1-104(A)(4)**, which prevents lawyers from engaging in conduct involving, among other things, "dishonesty", including participation in governmental corruption.

Additionally, a number of statutory provisions provide similar safeguards, and apply equally to the government official and any attorney attempting to improperly utilize a relationship (former or present) with the government.[25]

The NYSBA has also determined that obtaining consent to represent interests contrary to the government by an attorney formerly employed by the government or with

[24] See also EC 8-8 in this regard.

[25] *See*, *e.g.*, NY Penal Law §§100.00 (criminal solicitation), 105.00 (conspiracy), 195.00 (official misconduct), 195.20 (defrauding the government) and 200 (bribery and unlawful gratuities).

a close relationship to a government agency does not necessarily involve Canon 9, which requires attorneys to avoid the appearance of impropriety.[26]

The NYSBA Committee on Professional Ethics has now concluded that an attorney faced with a conflict of interest where one of the affected entities is a governmental agency may continue to represent his new client, so long as there is compliance with DR 5-105(C),[27] full disclosure, and consent.[28]

C. Issue Three: Proper Use of Discovery

The phase of litigation most susceptible to uncivil conduct is discovery. In particular, "[d]epositions have often become theaters for posturing and maneuvering rather than efficient vehicles for the discovery of relevant facts or the perpetuation of testimony."[29] Uncivil conduct during depositions has become well-known outside legal circles. In the book Reckless Disregard, author Renata Adler reviewed deposition conduct in the *Sharon v. Time, Inc.* litigation and concluded:

> It is not altogether unusual (in fact, it seems to be one distinct style in the contemporary practice of law) to proceed as rudely and ferociously as possible. It may even be a standard technique for lawyers in that style to interrupt (particularly when opposing counsel is a young, relatively inexperienced attorney) by every possible means (including the use of speeches, hints to the witness and every variant of bellicose incivility, interspersed with utterly frivolous objections) the whole rhythm of a deposition—especially when there are certain substantial matters, embarrassing to the client and the client's witness, that might, in an ordinary, courteous, orderly deposition come to light.[30]

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[26] NYSBA Op. 629 (1992); NYSBA Op. 431 (1976).
[27] The test that it is "obvious" that the attorney can adequately represent each client and that it is not improper to obtain consent is to be applied.
[28] NYSBA Op. 629 (1992).
[29] NYSBA Federal Bar Council Committee on Second Circuit Courts, *A Report On the Conduct of Depositions*, 131 F.R.D. 613 (1990).
[30] Renata Adler, Reckless Disregard 158 (Alfred A. Knopf publ. 1986).

Uncivil tactics by an attorney in discovery, particularly in depositions, has even led to the dismissal of a personal injury complaint in New York's First Department.[31] In that case, the court established the standard that "Discovery abuse, here in the form of extreme incivility by an attorney with respect to an adversary, prior to and during a deposition is not to be tolerated."[32]

Sadly, a recent report of the NYSBA indicates that the trend in increased uncivil discovery tactics is worsening. In a deposition in one matter, Plaintiff's counsel directed the following comments to opposing counsel:

> I don't have to talk to you, little lady.
> * * *
> Tell that little mouse over there to pipe down.
> * * *
> Be quiet, little girl.
> * * *
> Go away, little girl.[33]

The Court found these comments to be a "paradigm of rudeness, and condescend, disparage, and degrade a colleague upon the basis that she is female" and held that "given the rules applicable to professional conduct, any reasonable attorney must be held to be well aware of the need for civility, to avoid abusive and discriminatory conduct, to conduct proper depositions, to eschew obstructionist tactics, and to generally abide by the

[31] *Corsini v. U-Haul Int'l Inc.*, 212 A.D.2d 288, 630 N.Y.S.2d 45 (1st Dept. 1995). In this case, plaintiff's counsel stated during a deposition that defense counsel was "scummy and so slimy", a "slimebag", a "scared little man" and "practice[d] in the lowest level of the profession" and "in the sewer". The Court held that Plaintiff's counsel "frustrated the deposition" and that the behavior "was so lacking in professionalism and civility that dismissal is the only appropriate remedy". The Complaint was dismissed pursuant to NY CPLR §3126, which provides a variety of penalties for the refusal to disclose or comply with an order to disclose.

[32] *Id.* The court noted that in this case, the plaintiff, an attorney appearing *pro se*, was in a different position from a plaintiff represented by counsel who should not be punished for the misconduct of an attorney.

[33] *Principe v. Assay Partners, HRO Int'l, Ltd.*, 154 Misc.2d 702, 704, 586 N.Y.S.2d 182, 184 (Sup.Ct. N.Y. County 1992).

norms of accepted practice."[34] The court sanctioned the offending attorney and directed payment of monetary sanctions to both the client's security fund and to the affected attorney.[35]

A disciplinary proceeding in another matter resulted in the suspension of an attorney from the practice of law for six months after finding that "[t]he evidence as to the first two charges demonstrates that, during the course of [a deposition], the respondent made abusive, obscene and insulting statements, in the presence of witnesses, to and concerning his opposing counsel and also struck him."[36]

Disciplinary proceedings were also brought against an attorney who was "unduly intimidating and abusive" to opposing counsel, where the court found that he had "directed vulgar, obscene and sexist epithets toward her anatomy and gender" during the course of a deposition.[37]

The problem of uncivil behavior is not limited to state court practice. The official Advisory Committee Notes to Rule 26 for the 1983 amendments observes:

> the spirit of the rules is violated when advocates attempt to use discovery tools as tactical weapons rather than to expose the facts and illuminate the issues by overuse of discovery or unnecessary use of defensive weapons or evasive responses. All of this results in excessively costly and time-consuming activities that are disproportionate to the nature of the case, the amount involved, or the issue or values at stake.[38]

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[34] *Id.*
[35] Sanctions were imposed pursuant to 22 N.Y.C.R.R. Part 130-1.1.
[36] *Matter of Simon*, 32 A.D. 362, 363, 302 N.Y.S.2d 159, 160 (1st Dept. 1969).
[37] *Matter of Schiff*, 190 A.D.2d 293, 599 N.Y.S.2d 242 (1st Dept. 1993). In this matter, the Court declined to impose a more severe sanction than public censure in light of the attorney's apology to the target of his insults, his relative youth (28 years old), his inexperience, monetary sanctions already imposed on him by the trial judge, and his having been fired from the firm with which he was employed at the time. The court warned, though, that "a repetition of such conduct will almost certainly warrant a suspension from practice."
[38] Advisory Committee Note to F.R.C.P. 26.

The 1993 Advisory Committee Notes to Rule 30(d)(1) observed further that "[d]epositions frequently have been unduly prolonged, if not unfairly frustrated, by lengthy objections and colloquy, often suggesting how the deponent should respond."[39] As a result, Rule 30(d)(1) now authorizes a court to impose the cost resulting from such obstructive tactics "on the person engaged in such obstruction."[40] The federal courts have a variety of means to impose sanctions for uncivil discovery tactics, including Federal Rules 16, 26, 30 and 37, 28 U.S.C. §1927,[41] as well as the court's inherent powers.[42]

In *Castello v. St. Paul Fire & Marine Ins. Co.*, the court dismissed the plaintiff's case with prejudice, holding that the actions of plaintiff and his counsel were "the most outrageous example of evasion and obfuscation that I have seen in years" and "a deliberate frustration of defendants' attempt to secure discovery."[43]

Unique Concepts, Inc. v. Brown provided a situation in which plaintiff's counsel commandeered a defendant's deposition by making speeches, issuing *ad hominem* attacks against the defendant's counsel in which opposing counsel's skill was questioned, and engaged in other unscrupulous behavior. Of a 147 page transcript, 91%—132 pages—contained such remarks. Plaintiff's counsel was sanctioned under 28 U.S.C. §1927, the court reasoning that the attorney's bad faith conduct had resulted in excessive costs and unreasonable and vexatious multiplication of the proceedings.[44]

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[39] Advisory Committee Note to F.R.C.P. 30(d)(1).
[40] F.R.C.P. 30(d)(1).
[41] *See Hall v. Clifton Precision*, 150 F.R.D. 525 (E.D.Pa. 1993).
[42] *See, e.g., Chambers v. NASCO*, 111 S.Ct. 2123 (1991).
[43] 938 F.2d 776 (7th Cir. 1991). In this case, Plaintiff's counsel threatened defense counsel during a deposition as follows: "you can write your threatening letters to me. But, you step outside this room and touch the telephone, and I'll take care of that in the way one does who has possessory rights." *Id.*
[44] *Unique Concepts, Inc. v. Brown*, 115 F.R.D. 292 (S.D.N.Y. 1987).

The federal bench is frustrated by the lack of civility between counsel in discovery situations, as is evidenced by the court's comments in *Gulf Oil/Cities Service Tender Offer Litigation*:

> The antics at the deposition on both sides were juvenile and unprofessional….[T]he expansion of this tiff into formal motion papers that, for the most part, involve extended ad hominem attacks by one attorney on another, together with long and entirely irrelevant excursions into the misdeeds of counsel in depositions that are not even at issue on this motion is inexcusable….Regrettably, both sides are substantially guilty of this type of abuse, and accordingly an order directing either party or counsel to reimburse the other side for its motion expenses would be unjustified. Nonetheless, counsel for the plaintiff class and for Chevron are admonished that displays of the sort reflected both in the deposition and in the motion papers—which involve a waste of both clients' money and the Court's time are unacceptable, and if they recur in the future they may well trigger monetary sanctions.[45]

There are no geographic limits to uncivil conduct during depositions. In a reported case in Delaware, during a deposition an attorney berated opposing counsel saying, "Don't 'Joe' me, asshole….You could gag a maggot off a meat wagon….Come on. Quit talking. Ask the question. Nobody wants to socialize with you….You don't know what you're doing. Obviously someone wrote out a long outline of stuff for you to ask. You have no concept of what you're doing."[46] Cases in other states have been as egregious or worse, resulting in serious penalties for offending lawyers.[47]

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[45] *Gulf Oil/Cities Service Tender Offer Litigation*, 1990 U.S.Dist. LEXIS 9082 (S.D.N.Y. 1990).
[46] *Paramount Communications, Inc. v. QVC Network, Inc.*, 637 A.2d 34 (Del. 1994).
[47] *See Sabado v. Moraga*, 189 Cal.App.3d 1, 234 Cal. Rptr. 249 (Ct.App., 3d Dist. 1987)(involving a non-party attorney compelling a witness not to testify at a deposition resulting in monetary sanctions against the attorney); *Matter of Clure*, 652 N.E.2d 863 (Ind. 1995)(involving assault and battery by one attorney against another during a deposition resulting in a 60-day suspension from the practice of law plus costs); *In re Williams*, 414 N.W.2d 394 (Minn. 1987)(racial slur by defendant's counsel violated the Code of Professional Conduct, resulting in a six-month suspension from the practice of law).

The Maritime Law Association's Code of Professional Conduct deals with this topic squarely. The Code provides quite clearly:

> 2. I will comply with all rules and codes of professional conduct, and respect the law and preserve the decorum and integrity of the judicial process.
> 3. I will be civil and courteous to all colleagues, parties, witnesses and the courts, recognizing that effective representation is undermined by antagonistic behavior.
> 4. I will keep my word in the conduct of my legal practice and treat my colleagues, parties, witnesses and the courts with respect and dignity.
> 7. I will engage in the discovery process, seeking an expeditious result for my client's legitimate interest, while avoiding abuse and harassment of witnesses and parties.[48]

The maritime bar has a history and reputation, from a time long preceding the MLA's Code of Professional Conduct, of already living up to such standards, and as a consequence, the maritime bar enjoys a privileged status and distinguished reputation with the Courts. Indeed, in researching the decisions on this subject, the author was able to discover only one instance in the last ten years when maritime counsel was sanctioned by a court for discovery abuses.[49]

CONCLUSION

More and more bar associations are beginning to adopt guidelines similar to those enumerated in the MLA Code of Professional Conduct.[50] Thankfully for those of us privileged to practice maritime law, our code was adopted, not out of any need to restrain

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[48] See Appendix.

[49] In light of the fact that the sanctions against the attorney in question were not severe, the discovery abuse appears to have been a mere error in judgment, was minor at that, and appears to have been cured, together with the fact that it is not clear whether the matter was appealed (and if so whether that appeal is on-going), the author feels it is inappropriate to single out the sanctioned attorney or the case in question herein.

[50] *See, e.g.,* ABA Creed and Pledge of Professionalism; Professional Creed of the American Inns of Court; Proposed Code of Litigation Conduct by the Committee on Federal Courts of the Association of the Bar of the City of New York; Colorado Bar Association's Lawyer's Principles of Professionalism; Denver Bar Association's Standards of Professionalism; Kentucky Bar Association's Code of Professional Courtesy; Standards of Practice for the Northern District of Texas. *See also* "Reviewing Civility", 28 Valparaiso Univ. L.Rev. 537 n. 49.

outrageous behavior, but rather to memorialize the rules of conduct that have been a hallmark of the profession for generations. The collegiality and professionalism of the maritime practice has earned the maritime bar the highest regard of government, of the judiciary, and most importantly *of each other* that we all treasure so dearly. In this regard, and in our dealings with attorneys outside our close-knit community, we should keep in mind the final precept of our Code, to "instill in others the tenets of this Code of Professional Conduct".[51]

[51] See Appendix.

APPENDIX

MARITIME LAW ASSOCIATION
CODE OF PROFESSIONAL CONDUCT

This Code of Professional Conduct was prepared by the Committee on Professional Relations chaired by Ben L. Reynolds of Houston, and approved by the Board of Directors at its meeting on May 1, 1997. It was approved by the Membership at the October 31, 1997 meeting. Maritime lawyers generally enjoy a good reputation for professional conduct, and this Code should help us maintain the high standards to which we all aspire.

1. I will provide the highest level of competency and efficiency in the performance of all legal services.

2. I will comply with all rules and codes of professional conduct, and respect the law and preserve the decorum and integrity of the judicial process.

3. I will be civil and courteous to all colleagues, parties, witnesses and the courts, recognizing that effective representation is undermined by antagonistic behavior.

4. I will keep my word in the conduct of my legal practice and treat my colleagues, parties, witnesses and the courts with respect and dignity.

5. I will maintain the trust of my clients by keeping them well-informed and actively involved in making decisions affecting them.

6. I will resolve all disputes expeditiously and not engage in any course of conduct which unnecessarily increases cost or delays litigation.

7. I will engage in the discovery process, seeking an expeditious result for my client's legitimate interest, while avoiding abuse and harassment of witnesses and parties.

8. I will contribute time and resources to *pro bono* activities.

9. I will not mislead or make any misrepresentation to the court.

10. I will exemplify and instill in others the tenets of this Code of Professional Conduct.