

**Professionalism:
A Practical Approach
“Emphasis On Depositions & Non-Verbal
Cues”**

William D. Evans, II, Co., L.P.A.
Poly-Tech Associates, Inc. President/Owner
billlevanslaw@sbcglobal.net or evans@polytechassoc.com
330-434-2344 or 330-434-4050

A Lawyer's Creed

LEADERSHIP

1. Clients
2. Opponents
3. The Court
4. Colleagues
5. The Profession
6. The Public
7. The Overall System of Justice As A Function of Society

A Lawyer's Creed

- **To our clients**, we offer loyalty, confidentiality, competence, diligence, and our best judgment. We shall represent you as we should want to be represented and be worthy of your trust. We shall counsel you with respect to alternative methods to resolve disputes. We shall endeavor to achieve your lawful objectives as expeditiously and economically as possible.

A Lawyer's Creed

- ***To the opposing parties and their counsel, we offer fairness, integrity, and civility.*** We shall not knowingly make misleading or untrue statements of fact or law. We shall endeavor to consult with and cooperate with you in scheduling meetings, depositions, and hearings. We shall avoid excessive and abusive discovery. We shall attempt to resolve differences and, if we fail, we shall strive to make our dispute a dignified one.

A Lawyer's Creed

- ***To the courts and other tribunals***, and to those who assist them, we offer respect, candor, and courtesy. Where consistent with my client's interests, we shall communicate with opposing counsel in an effort to avoid or resolve litigation. We shall attempt to agree with other counsel on a voluntary exchange of information and on a plan for discovery. We shall do honor to the search for justice.

A Lawyer's Creed

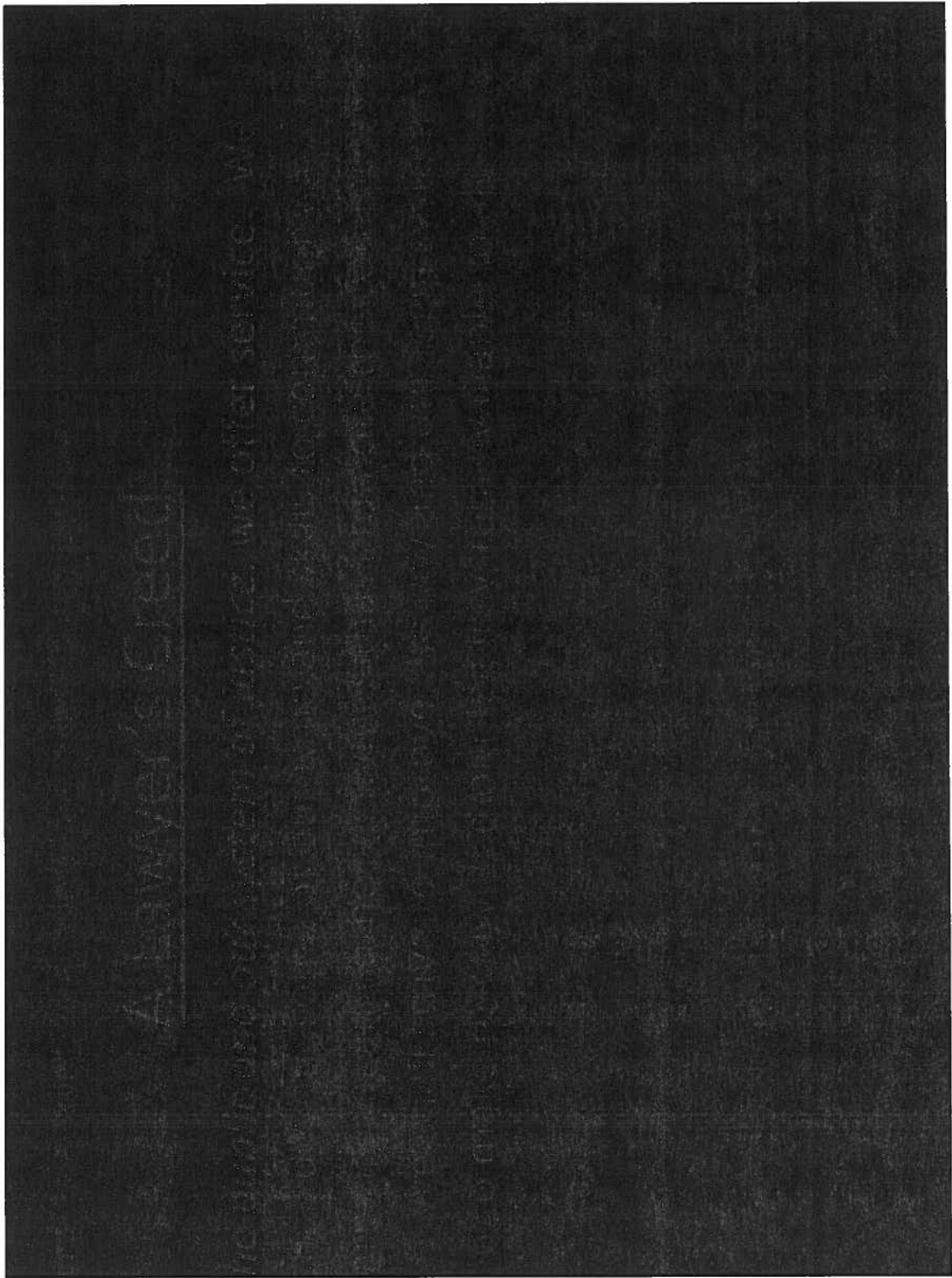
- *To our colleagues in the practice of law, we offer concern for your reputation and well-being. We shall extend to you the same courtesy, respect, candor, and dignity that we expect to be extended to us.*

A Lawyer's Creed

- ***To the profession***, we offer assistance in keeping it a calling in the spirit of public service, and in promoting its understanding and an appreciation for it by the public. **We recognize that our actions and demeanor reflect upon our system of justice and our profession, and we shall conduct ourselves accordingly.**

A Lawyer's Creed

- ***To the public and our system of justice, we offer service.*** We shall devote some of our time and skills to community, governmental and other activities that promote the common good. We shall strive to improve the law and our legal system and to make the law and our legal system available to all.



Leadership

- Three Core Leadership Competencies; as lawyers we are leaders through:
 - Vision
 - Values
 - Vulnerabilities
 - Integrity-traits and qualities
 - Leadership competencies - strengths and weaknesses
 - Branding – past, present, and future
 - Think with vision; new theories of the case
 - Be a good observer and listener – The “Non-Verbal Edge”; (clients, witnesses, co-workers, etc.)

Leadership

- Credit: Susan Brooks wrote in a recent article published in Law Practice Today
- “Leadership A Core Value” December 14, 2015.
 - “Corporate America is struggling with a very real and documented “Leadership deficit” today. Make no mistake, law firms are experiencing the same issues. But in some ways, their situation is worse because the very structure of a law firm does not nurture the leadership skills needed to effectively run a business enterprise. Traditional business structures are hierarchical in nature, and they promote and cultivate leaders by placing people in positions with increasing levels of business and managerial responsibility.”

-Susan Brooks



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Toxic Leadership

- Army's Leadership Bible 2012
 - "Toxic leadership is a combination of self-centered attitudes, motivations, and behaviors that have adverse effects on subordinates, the organization, and mission performance. This leader lacks concern for others and the climate of the organization, which leads to short and long-term negative effects. The toxic leader operates with an inflated sense of self-worth and from acute self-interest. Toxic leaders consistently use dysfunctional behaviors to deceive, intimidate, coerce, or unfairly punish others to get what they want for themselves. The negative leader completes short-term requirements by operating at the bottom of the continuum of commitment, where followers respond to the positional power of their leader to fulfill requests. This may achieve results in the short term, but ignores the other leader competency categories, i.e. leads and develops. Prolonged use of negative leadership to influence followers undermines the followers' will, initiative, and potential and destroys unit morale.

Lawyerly

Leadership

Lawyerly Leadership

Grasshopper: “How do I become a great leader like you, Master?”

Master: “Two words – Good Decisions!”

Grasshopper: “How do I learn to make good decisions, Master?”

Master: “One word – Experience!”

Grasshopper: “But, how do I get experience, Master?”

Master: “Two words – Wrong Decisions!!”

Lawyerly Leadership

- What words describe a good lawyer (leader)?*
- Principled
 - Fair
 - Consistent
 - Trustworthy
 - Mission driven
 - Equitable
 - Scrupulous
 - Wholesome
 - Accepting of blame
 - Balanced
 - Truthful
 - Honest
 - Faithful

Lawyerly Leadership

By name, who do you identify as a great lawyer (leader)?

- 1) _____
- 2) _____
- 3) _____

What qualities do each have in common?

Lawyerly Leadership

Did any of the three make a career breaking blunder?

Did any of the three leaders make a mistake while leading?

Lawyerly Leadership

Great Leaders...

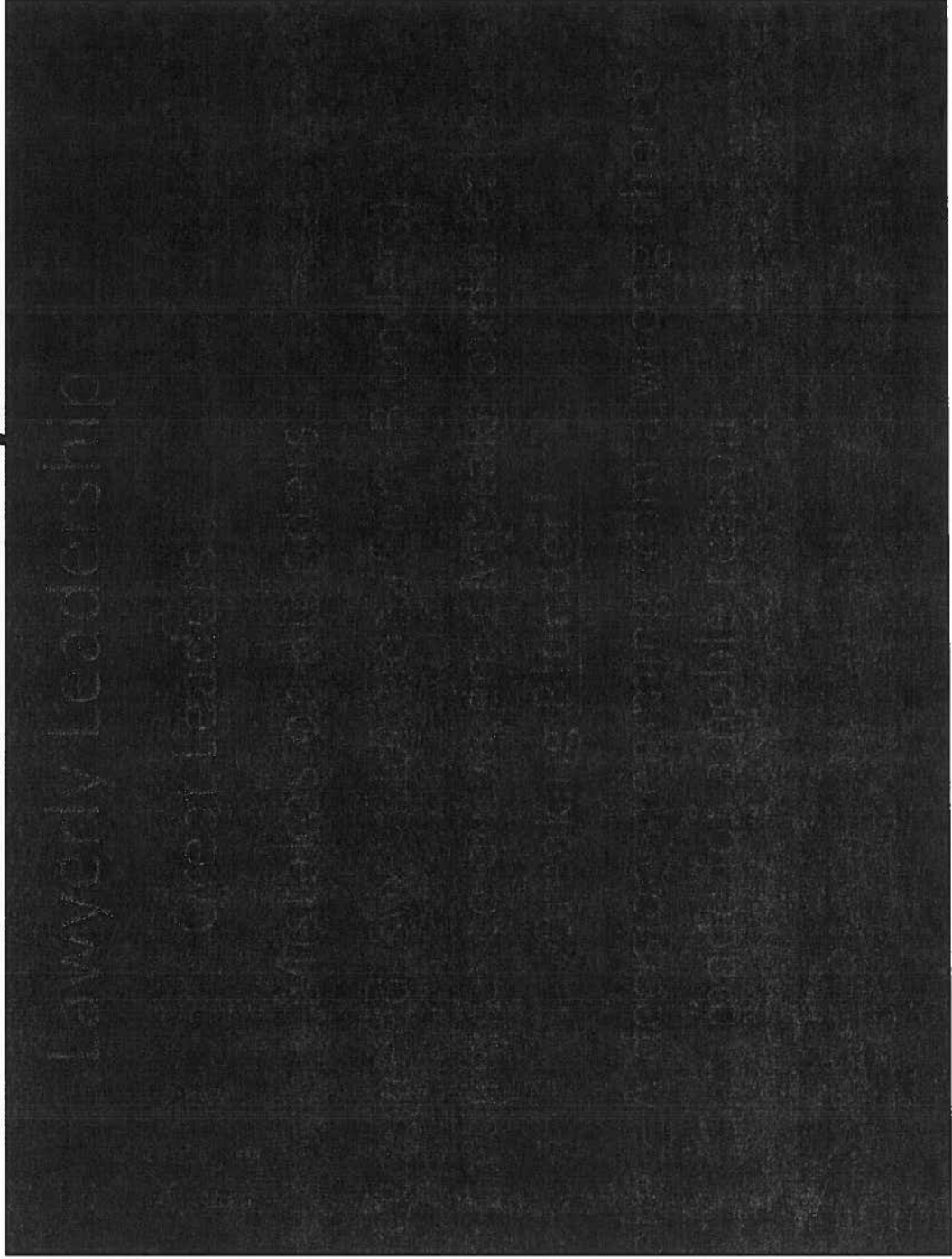
Mistakes or Blunders

Ego, greed, sex, addiction (**Core Blunders**)

There is a difference between a **Mistake** and a Career-
Breaking Blunder!

Mistake – A decision stemming from a wrong choice
made for a noble reason.

Bill Clinton Deposition



Richard Nixon



Lawyerly Leadership

Notice to the American Public

My Fellow Americans:

▪ ***“Well, I’m not a Crook”***

▪ ***“I did not have sexual relations with that woman”***

1. *Bill Clinton and Richard Nixon each made a career-breaking blunder.*
2. *They are not listed under the 15 greatest world leaders... but, were they not at least at some point, viewed as such?*
3. *But, some still view both as true leaders despite the blunders...why?*
4. *Note all 15 “Great” Life Magazine Leaders, in some respect, have made mistakes, though.*
5. *What blunders have the 15 made, that we may not ever know about?*

Lawyerly Leadership

- True Professionals:
 1. Admit mistakes quickly.
 2. Accept responsibility.
 3. Can recover from core blunders if managed properly.
 4. Avoid “Plausible Deniability” which differs from “Authentic” and Genuine Deniability.
 5. Plausible Deniability is the “Spin Doctor’s” remedy. The latter is recommended to maintain integrity and leadership... the truth will surface.
 6. Ethics cases can get worse quickly; the cover up is worse than the crime.
 7. The next clip personifies that “perception is reality.”
 8. The more a lie is perpetuated, over time it is adopted as truth.

Lawyerly Leadership – Admit you Are Wrong

1. Lawyers/Leaders are human and respected when owning up to the truth.
2. Respected even when admitting a character flaw.
3. Lies beget more lies.
4. The cover-up is always worse than the crime.

Thought to Ponder...

“Accepting responsibility generally trumps the error in judgment.”

Deposition “DOs” and Deposition “DON’Ts”

The Supreme Court of Ohio Professionalism “DOs” and “DON’Ts”: Depositions

Deposition “DON'Ts”

- *Attempt to “beat your opponent to the punch” by scheduling a deposition for a date earlier than the date requested by your opponent for deposition(s) that he or she wants to take.*
- *Coach the deponent during the deposition when he or she is being questioned by the other side.*
- *Make speaking objections or make statements that are intended to coach the deponent. Simply say “object” or “objection.”*
- *Make rude and degrading comments to, or ad hominem attacks on deponent or opposing counsel, either when asking questions or objecting to questions.*
- *Take depositions for the purpose of harassing a witness or in order to burden an opponent with increased litigation expenses.*

Deposition “DON'Ts”

- *Instruct a witness to refuse to answer a questions unless the testimony sought is deemed by you to be privileged, work product, or self-incriminating, or if you believe the examination is being conducted in a manner as to unreasonably annoy or embarrass the deponent.*
- *Overtly or covertly provide answers to questions asked of the witness.*
- *Demand conferences or breaks while a question is pending, unless the purpose is to determine whether a privilege should be asserted.*
- *Engage in conduct that would be inappropriate in the presence of a judge.*

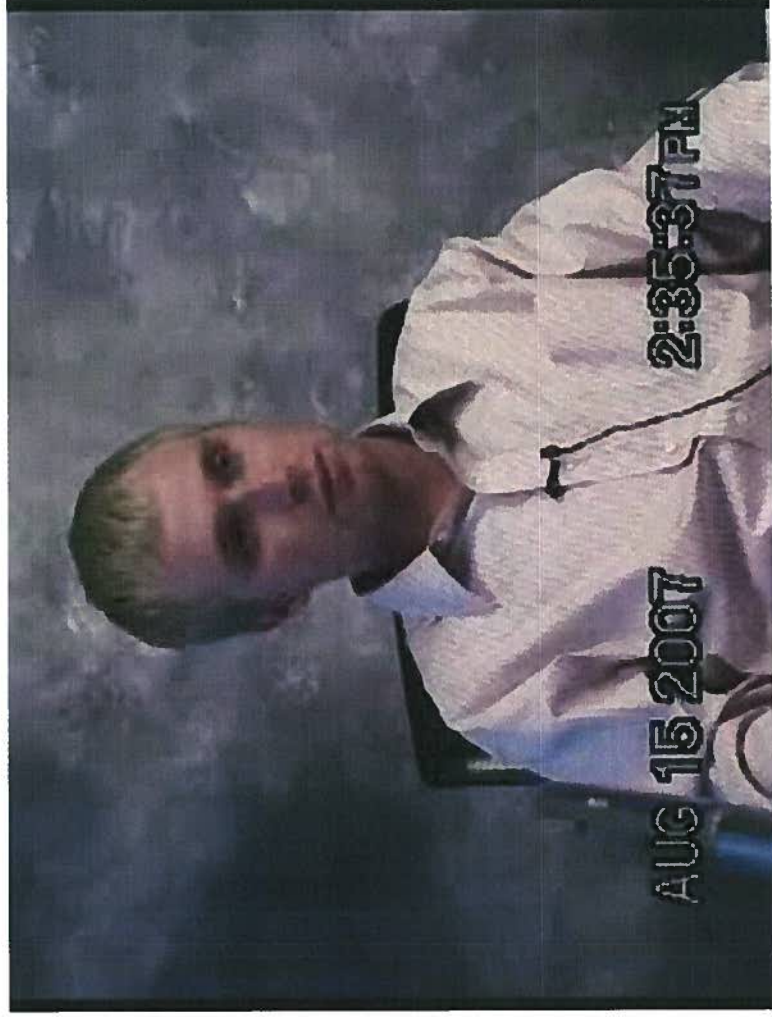
Deposition “DOs”

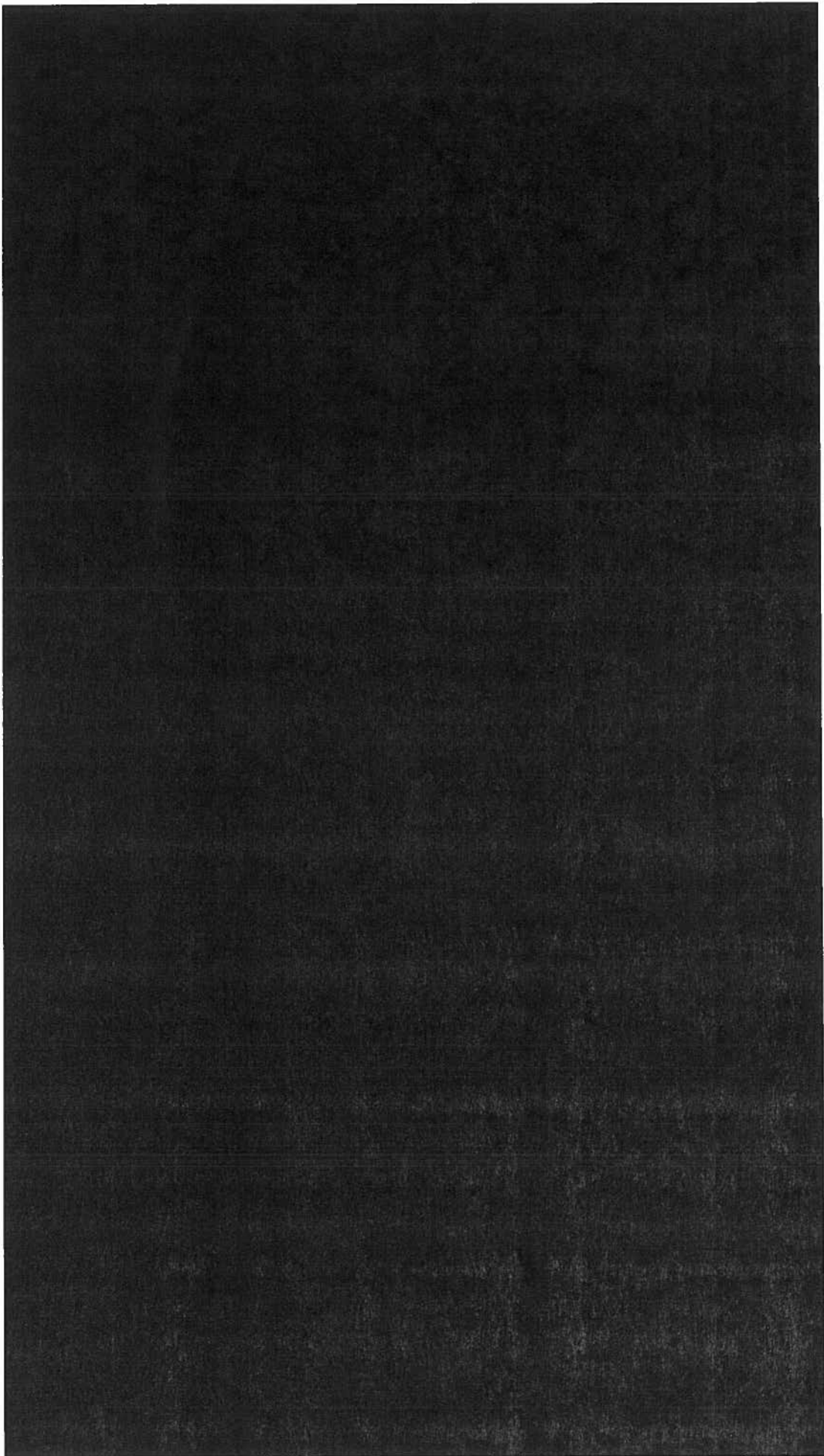
- *Review the local rules of the jurisdiction where you are practicing before you begin.*
- *Cooperate on scheduling. Rather than unilaterally sending out a notice of deposition, call opposing counsel first and cooperate in the rescheduling unless the requested postponement would be one of those rare instances that would adversely affect your clients rights.*
- *Arrive on time.*
- *Be prepared, including having multiple copies of all pertinent documents available in the deposition room, so that the deposition can proceed efficiently and expeditiously.*
- *Turn off all electronic devices for receiving calls and messages while the deposition is in progress.*
- *Attempt to agree, either before or during the deposition, to a reasonable time limit for the deposition.*

Deposition “DOs”

- *Treat other counsel and the deponent with courtesy and civility.*
- *Go “off record” and confer with opposing counsel, privately and outside the deposition room, if you are having problems with respect to objections, the tone of the questions being asked or the form of the questions.*
- *Recess the deposition and call the court for guidance if your off the record conversations with opposing counsel are not successful in solving the problem.*
- *If a witness is shown a document, make sure you have ample copies to distribute simultaneously to all counsel.*
- *If deponent asks to see a document upon which questions are being asked, provide a copy to the deponent.*
- *Inform your client in advance to the deposition (if the client plans to attend) that you will be conducting yourself at the deposition in accordance with these “dos and don’ts.”*

Courteous and Civil?







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Thank you!



IN ASSOCIATION WITH

Acknowledgements