I can still recall the “twinkle” of excitement in the eyes of our then Pennsylvania Chief Justice John P. Flaherty as he reviewed the final draft of the Code of Civility with us as officers of the Pennsylvania Conference of State Trial Judges. Chief Justice Flaherty was so delighted to have directed the development and completion of the Code of Civility for Pennsylvania judges and lawyers in 2001. “The ideals of fairness, civility and justice should guide our actions,” he said. “It is absolutely critical for judges and lawyers to work collaboratively to ensure the successful implementation of this code to enhance the dignity of the profession of law, thus furthering public trust and confidence in the system. I would like to express appreciation to the Pennsylvania Conference of State Trial Judges for its assistance in developing these guidelines.” Indeed, this Code of Civility was one of Chief Justice Flaherty’s most rewarding accomplishments during his impressive tenure as chief justice.

The principles in the Pennsylvania Code of Civility aim to promote utmost professional integrity and personal courtesy among judges and lawyers. Such civility principles are consistent with the broadest definition of the concept of civility. Civility has its roots in the French and Latin as “relating to citizens.” So civility, in essence, is interpreted as being a good citizen, that is, “exhibiting good behavior for the good of a community.” To the ancient Greeks, the state was held together by the concept of civility, which was valued as being both a private virtue as well as a public necessity. This balance between the private and public evolved the concept of civility into “a behavioral code of decency or respect that is the hallmark of living as citizens in the same state.” Consistent with being good citizens, judges and lawyers learn to value integrity and courtesy as indispensable tools for their toolboxes for administering justice as well as for the practice of law in Pennsylvania. In the Pennsylvania Code of Civility, judges are encouraged to abide by 15 principles specifically addressing the conduct that judges owe to lawyers and other
members of the legal profession. For example, judges should use professional titles of lawyers, and judges as well as lawyers are expected to be punctual for court proceedings. When judges schedule hearings and trials, judges should be courteous to lawyers by considering the lawyers' availability as well as the court's schedule.

Many of the principles set forth in the Code of Civility are the result of reasonable and rational approaches to resolving disputes between the litigants efficiently and effectively. For instance, judges should ensure disputes are promptly and efficiently resolved. When rendering decisions, judges should give deliberate, informed, and impartial analyses for issues in controversy and provide the reasons for the decisions when appropriate. Moreover, judges are encouraged to be involved with assisting jurors to ensure efficient and expedient processing of cases. Judges should afford courtesy and respect to other judges or colleagues. Judges are advised of their responsibilities to maintain control of their proceedings and to ensure those proceedings are directed in a civil manner. Judges are specifically informed of their obligations to demonstrate respect, courtesy, and patience to all parties, including the lawyers who appear before the court, and to do so with civility.

Lawyers should be permitted to present their arguments and be able to make complete and accurate records of their arguments before the court. Judges have the responsibility to inform their staff members about appropriate dress code and how to behave properly and with civility toward lawyers, parties, and witnesses. Judges are cautioned never to act upon or display racial, gender, or any other bias or prejudice toward any parties in the legal system. And judges must never use unpleasant or degrading words in their written opinions or verbal communications with lawyers and others before the court.

On the other hand, 17 other principles in the Code of Civility detail lawyers' duties, such as the duty to refrain from making baseless allegations and personal attacks. Lawyers also are urged to protect judges from unfair comments and criticism. The Pennsylvania Code of Civility also offers lawyers specific guidance when appearing before judges in court, such as advising lawyers to be courteous to the court as well as court personnel. Also, the Code of Civility provides specific advice to lawyers to address each judge as "Your Honor" or "the Court" and to begin legal arguments with "May it please the court." Lawyers appearing before the court are expected to identify themselves as well as their firms and the names of the clients they represent. Furthermore, lawyers appearing before the court are cautioned to direct their arguments to the court, not to the opposing counsel, and lawyers should not embarrass or personally criticize opposing counsel or the court.

Incivility places lawyers in a bad light in the eyes of many, including judges and jurors. Judges do not appreciate being the referee between counsel entrenched in squabbling with each other or with the court. Once judges have quelled the unsavory exchanges between the lawyers, then judges must consciously avoid having any personal feelings about such disrespectful behavior spilling over to their decision making. As Jayne R. Reardon, executive director of the Illinois Supreme Court Commission on Professionalism, observed: "If there is a close call on a motion or other issue, and the judge has a choice between ruling in favor of the client whose lawyer was civil and professional or in favor of the client whose lawyer has been a troublemaker, the Judges-Are-Human rule may well control." Moreover, jurors are negatively influenced by discourteous behavior of trial counsel. I know from the feedback I have received from post-verdict discussions with jurors in cases I have presided over that they view impoliteness in the courtroom with disdain and indicate improper behavior by lawyers may adversely affect the jurors' decision-making process against the clients of the lawyers.

Civility has been described "as a set of core obligations that deal with what may be described as common sense or manners." Codes of civility differ from ethical codes; codes of civility are not envisioned by bar associations to serve as grounds to discipline or disbar lawyers. Rather, codes of civility are aspirational and are viewed as offering guidance to lawyers as to expected behavioral norms before the court and with opposing counsel to avoid discipline under the ethics rules. Codes of civility differ from the intent of both professionalism and ethics by aiming to ensure the image of the court process is preserved and held in high esteem by the public. Interestingly, the principles set forth in codes of civility also have been viewed as being in tension with ethical obligations of lawyers to be zealous advocates for their clients. Judges have the "unenviable" position of deciding whether such behavior by a lawyer is merely zealousness or blatant incivility.

Some experts theorize that certain situations may place pressure on lawyers to act in a manner inconsistent with civility. Lawyers engaged in voluminous discovery paperwork as well as lawyers in large firms pressured to charge billable hours can be overly stressed. These high-pressure situations can breed irrational treatment and incivility of others. Clients often have unrealistic expectations of how their lawyers should behave based on television or movies. Even lawyers may believe that to attract more clients, lawyers have to behave similar to performances portrayed in the media. Lawyers instead should resist emulating such behavior because lawyers should realize that such performances are merely for entertainment value, not for proper legal representation of clients before the courts.

Lawyers and judges should recognize that benefits are conferred on those lawyers and judges demonstrating civility. In fact, research indicates (1) lawyers who are civil to each other and the court benefit in achieving better outcomes; (2) lawyers have better reputations when they are civil to each other and the court; (3) lawyers who are courteous to each other and the court
have better job satisfaction; and (4) incivility can possibly invite disciplinary charges to be filed. Although the American Bar Association's Model Rules of Professional Conduct do not specifically address civility, incivility may implicate the competence provisions in Model Rule 1.1 or, more often, Rule 8.4(d), which prohibits "conduct that is prejudicial to the administration of justice." The quest and need for civility continue, for the "lack of civility has been blamed on everything from an increase in the cost of litigation to the cause of the public's lost faith in the legal profession." As aptly stated by ABA President Stephen N. Zack in 2011: "As lawyers, we must honor civility... Words matter. How we treat others matters." Codes of civility assist lawyers and judges to know what is meant by their duties to act and behave as "civil" lawyers and "civil" judges.

Judges and lawyers have important roles before the court wherein civility is a shared responsibility in preserving the dignity and respect of our rule of law. Long live civility as a vital conduit in promoting more "civil" lawyers and "civil" judges to improve the public's perceptions of Pennsylvania's fair and impartial courts. Thank you, Chief Justice Flaherty, for your wisdom and valuable foresight in developing our Code of Civility to promote the public's trust in those who serve and appear before the courts in Pennsylvania.

**Code of Civility of Pennsylvania**

§ 99.1. Preamble.
The hallmark of an enlightened and effective system of justice is the adherence to standards of professional responsibility and civility. Judges and lawyers must always be mindful of the appearance of justice as well as its dispensation. The following principles are designed to assist judges and lawyers in how to conduct themselves in a manner that preserves the dignity and honor of the judiciary and the legal profession. These principles are intended to encourage lawyers, judges and court personnel to practice civility and decorum and to confirm the legal profession's status as an honorable and respected profession where courtesy and civility are observed as a matter of course.

The conduct of lawyers and judges should be characterized at all times by professional integrity and personal courtesy in the fullest sense of those terms. Integrity and courtesy are indispensable to the practice of law and the orderly administration of justice by our courts. Uncivil or obstructive conduct impedes the fundamental goal of resolving disputes in a rational, peaceful and efficient manner.

The following principles are designed to encourage judges and lawyers to meet their obligations toward each other and the judicial system in general. It is expected that judges and lawyers will make a voluntary and mutual commitment to adhere to these principles. These principles are not intended to supersede or alter existing disciplinary codes or standards of conduct.

§ 99.2. A Judge's Duties to Lawyers and Other Judges.

1. A judge must maintain control of the proceedings and has an obligation to ensure that proceedings are conducted in a civil manner.
2. A judge should show respect, courtesy and patience to the lawyers, parties and all participants in the legal process by treating all with civility.
3. A judge should ensure that court-supervised personnel dress and conduct themselves appropriately and act civilly toward lawyers, parties and witnesses.
4. A judge should refrain from acting upon or manifesting racial, gender or consistent with the efficient conduct of litigation.
5. A judge should ensure that disputes are resolved in a prompt and efficient manner and give all issues in controversy deliberate, informed and impartial analysis and explain, when appropriate, the reasons for the decision of the court.
6. A judge should allow the lawyers to present proper arguments and to make a complete and accurate record.
7. A judge should not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which he or she represents.

§ 99.3. The Lawyer's Duties to the Court and to Other Lawyers.

1. A lawyer should act in a manner consistent with the fair, efficient and humane system of justice and treat all participants in the legal process in a civil, professional and courteous manner at all times.
2. A lawyer should speak and write in a civil and respectful manner in all communications with the court and court personnel.
3. A lawyer should not engage in any conduct that diminishes the dignity or decorum of the courtroom.
4. A lawyer should advise clients and witnesses of the proper dress and conduct expected of them when appearing in court and should, to the best of his or her ability, prevent clients and
witnesses from creating disorder and disruption in the courtroom.
5. A lawyer should abstain from making disparaging personal remarks or engaging in acrimonious speech or conduct toward opposing counsel or any participants in the legal process and shall treat everyone involved with fair consideration.
6. A lawyer should not bring the profession into disrepute by making unfounded accusations of impropriety or personal attacks upon counsel and, absent good cause, should not attribute improper motive or conduct to other counsel.
7. A lawyer should refrain from acting upon or manifesting racial, gender or other bias or prejudice toward any participant in the legal process.
8. A lawyer should not misrepresent, mischaracterize, misquote or miscite facts or authorities in any oral or written communication to the court.
9. A lawyer should be punctual and prepared for all court appearances.
10. A lawyer should avoid ex parte communications with the court, including the judge’s staff, on pending matters in person, by telephone or in letters and other forms of written communication unless authorized. Communication with the judge on any matter pending before the judge, without notice to opposing counsel, is strictly prohibited.
11. A lawyer should be considerate of the time constraints and pressures on the court in the court’s effort to administer justice and make every effort to comply with schedules set by the court.
12. A lawyer, when in the courtroom, should make all remarks only to the judge and never to opposing counsel. When in the courtroom a lawyer should refer to opposing counsel by surname preceded by the preferred title (Mr., Mrs., Ms. or Miss) or the professional title of attorney or counselor.
13. A lawyer should show respect for the court by proper demeanor and decorum. In the courtroom a lawyer should address the judge as “Your Honor” or “the Court” or by other formal designation. A lawyer should begin an argument by saying “May it please the court” and identify himself/herself, the firm and the client.
14. A lawyer should deliver to all counsel involved in a proceeding any written communication that a lawyer sends to the court. Said copies should be delivered at substantially the same time and by the same means as the written communication to the court.
15. A lawyer should attempt to verify the availability of necessary participants and witnesses before hearing and trial dates are set or, if that is not feasible, immediately after such dates have been set and promptly notify the court of any anticipated problems.
16. A lawyer should understand that court personnel are an integral part of the justice system and should treat them with courtesy and respect at all times.
17. A lawyer should strive to protect the dignity and independence of the judiciary, particularly from unjust criticism and attack.

Endnotes
3. Id. at 36.
4. Id.
5. Id. at 42.
6. Id.
8. Id. at 143.
9. Reardon, supra note 2, at 46.
10. Campbell, supra note 7, at 99.
12. Id. at 146.