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There's No Place Like Home:

Creating a Workplace Culture Where People Thrive

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Your Presenter

Fran Griesing has over 40 years of experience representing clients in business transactions, commercial litigation, employment matters, and alternate dispute resolution. Fran serves as arbitrator and mediator in employment and business disputes and has extensive experience conducting proceedings remotely. She served as Chair of Litigation for City of Philadelphia Law Department Under Mayor Edward G. Rendell, former Governor or Pennsylvania. A highly-sought speaker and writer, she has taught at the college, law school and graduate level. Fran received many awards for professional accomplishment and civic engagement.



She is an honors graduate of Binghamton University and the University of Pennsylvania Law School and admitted to practice in Arizona, New York Pennsylvania and Utah and before the United States Supreme Court.

Scope of Program

- Consider unprofessionalism, incivility and bullying in legal workplaces, whether the problem is getting better or worse.
- Discuss distinction between conduct in your work environment compared to interactions with those outside your firm.
- Survey common experiences lawyers report in their dealings with clients, colleagues, adversaries, and even judicial officers.
- Discuss impact of bias based on gender, age, race, ethnicity, LGBTQ+ identity, disability, and targets of incivility and bullying.
- Understand professionalism, civility, bullying and impact on organizational culture and wellness issues at work.
- Review effective responses to improper behavior to enhance professionalism and civility for individuals and legal workplaces.

Case Study – Do You Know This Person?

- Law firm and clients tolerate bullying and harassment by Rainmaker because successful trial lawyer who runs roughshod over opposing counsel.
  - Berates support staff in front of others insulting their intelligence.
  - Bullies and harasses junior lawyers threatening to destroy their careers, if they are unwilling or unable to work round the clock, interrupts vacations, and demands associates come into work sick.
  - Encourages others post negative comments on social media about team
  - Discriminates in assignments against certain groups complaining about “DEI hires”.
  - Accuses “working mothers” of “lacking commitment”.
  - Belittles older lawyers as “over the hill” and “senile”.
  - Undermines anyone who challenges this behavior.

Why is this important for us?

- **Who: Everyone is affected by incivility and bullying**.

  Not just a school yard issue. At work it affects targets/observers, leads to stress, poor performance, absenteeism, turnover. Offenders can face disciplinary action, court sanctions, liability, termination, reputational harm, and financial loss.

- **What:**

  Incivility may not be as severe. Bullying due to **real or perceived imbalance of power is unwanted, aggressive behavior, usually repeated**. Can involve verbal, physical or social attacks. Impact on legal workplace culture.

- **Takeaway:**

  If targets, observers and others do not demand conduct stops and firms do not impose meaningful consequences, the conduct will inflict serious harm on individuals and organizations. **Anyone can be an offender, target or observer/witness** regardless of identity, group affiliation, traits, but certain historically marginalized groups complain of more targeting.

How does incivility compare to bullying?

- It's a matter of degree of severity; incivility can become bullying.
- Merriam-Webster Dictionary definition:
  - Incivility-The quality or state of being uncivil; a rude or discourteous act
- Examples in the legal workplace
  - **Written and Communications**
    - Nasty comments or public criticism
    - Gossip, insults appearance, competence
    - Losing temper, raising voice, using profanity
  - **Physical Social Exclusion**
    - Shunning from social events or communal interaction
    - Being ignored at meetings or not invited at all
  - **Unwelcome Physical Contact** is not merely incivility; it is harassment, bullying, assault.

A Local Perspective

- Some places have reputations of particularly aggressive lawyering and animus towards opposing counsel.
- Cultural norms within a legal community may vary as well as the applicable rules of professional conduct, standards of professionalism and civility, and court expectations.
- The diversity within a community may impact perception of lawyer conduct and/or acceptance of people from different backgrounds, opinions, appearance.
- In smaller, close-knit legal communities like Utah there may be fewer instances reported of unprofessionalism, incivility and bullying
  - Participants likely to encounter one another again
  - Reputation spreads quickly

Developing Standards Over Time

- **In 1887**, Alabama adopted first state **Code of Professional Ethics,** pre-cursor to ABA Model Rules of Professional Conduct, on which Utah RCP are based.
- **Civility rules** emerged from states and courts as adjunct to rules of professional responsibility, without the same disciplinary consequences.
- **In 1989**, Texas adopted the **Texas Lawyer's Creed -** first state to have a formal code specifically addressing civility and professionalism for lawyers.
- Several states **including Utah** require swearing to abide by Standards of Professionalism and Civility as part of admission to practice.
- **In 2025**, California implemented **annual affirmation** of its civility oath.

Primary Focus Has Been Outside Legal Workplace

- Rules of professional conduct, civility codes, court standards focus on obligations to clients, adversaries, courts, public.
- Most address dealing with opposing parties/counsel in litigation.
- Some rules/codes address professionalism expectations in dealing with counsel in transactional practice.
- One area that is often **overlooked** is professionalism and civility working with **our own colleagues, lawyers and others on the team**.
- Although there have been ABA studies focusing on these issues as to specific affinity groups, **everyone is vulnerable**.

Different views on whether things are worse now

- This is not a discussion about politics, but the change in tenor of dialogue by public officials impacts everyone and legitimizes bullying and harassment.
  - If leaders use profanity, name-calling, insults and threats what does that teach others?
  - If rainmakers are tolerated despite bad behavior what does that teach new lawyers?
- The influence of media portraying lawyers as untrustworthy or abusive creates a model that some may mistake as effective advocacy.
  - *Perry Mason* or To *Kill a Mockingbird*
  - *Better Call Saul*, *LA Law* or *The Good Wife*
- Impact of remote and impersonal, indirect contact with others especially adversaries makes it easier to misbehave when not in person. That also impacted us when we no longer were in the office as much due to Covid.
- Speed of communication - less time to reflect and pause before responding.

Who is a likely target of misconduct?

- The misconduct can be directed at or performed by lawyers, clients, witnesses, judges or others involved in the legal process.
  - Judges called out for harassment, retaliation, abusive conduct towards clerks and staff.
  - Legal Accountability Project
- Based on IBA and ABA studies, certain groups appear more likely than others to be targeted for bullying and harassment based on various factors.
- These tend to reflect perception by bully that target is a member of a historically marginalized group with less power than the bully.
  - Gender or gender identity
  - LGBTQ+
  - Age – junior and inexperienced or too old and out of date
  - Race, ethnicity, religion
  - Appearance (weight, hairstyle, tattoos, jewelry, headgear, clothing)
  - Disability

What the numbers show about bullying and bias

- **IBA Report May 2019** – *Us Too? Bullying and Sexual Harassment the Legal Profession* https://www.ibanet.org/MediaHandler?id=4c00afd9-53e7-4ad6-8db0-c663c2f23f45
- Key highlights
  - Included lawyers and others working in legal jobs
  - Covered **7,000 participants across 135 countries**
  - About **1/3 of male** respondents, **½ of female** respondents, and **almost ¾ of non-binary** respondents reported they had been **bullied at work**
  - **40% of women** and **32% of men** said they observed others being **bullied at work in legal settings**
  - **Over ½ of women said they did not report** workplace bullying; of those women who reported it, **less than 3%** said the workplace response was "excellent", **over 72%** said the response was "negligible" or "insufficient".
- **IBA Update April 2022** - Beyond Us Too? Regulatory Responses to Bullying and Sexual Harassment in the Legal Profession https://www.ibanet.org/document?id=Regulatory-Responses-to-Bullying-and-Sexual-Harassment
  - Increase in civility and codes of conduct in addition to rules of professional conduct
  - Increased CLE and related programs on professionalism, civility and mandatory course requirements
  - Heightened focus on tackling these issues
  - Regulatory response is not universal

How are things closer to home compared to IBA?

- **Illinois Report *Bullying in the Legal Profession* – December 2024** *https://civility.wpenginepowered.com/wp-content/uploads/2024/10/2Civility_BullyingReport_Full_FN.pdf*
- Almost **25% of 6,000 responding,** experienced **workplace bullying** during a **one-year** period during 2022-2023. **(There are 55,000+ Illinois lawyers)**
- Bullying highest among **attorneys aged 25 to 35, female attorneys, and attorneys with disabilities.**
- **24%** said they were **bullied at work** during the one-year survey period.
- **18%** said they **observed lawyers being bullied at work** during that period.
- **31%** said they were **bullied by a lawyer in their organization** who was in a **more senior or high-level position.**
- **22%** of high-level receiving reports, committed to take appropriate action in response to lawyer complaints of bullying.
- **ABA 2025 resolution urged legal organizations to study/address bullying**

ABA Study on Women Lawyers & Mental Health

- ***Mental Well-Being in the Legal Profession: The Unique Challenges of Women Lawyers and a Path Forward***
  - ABA Commission on Women in the Profession, released August 2026
  - Survey of almost 3,000 women lawyers
  - Women reported higher stress levels than men in multiple areas
  - Factors leading to workplace stress & burnout –
    - Sleep issues
    - Lack of exercise,
    - Financial worry,
    - Family/caregiver responsibilities,
    - Health challenges,
    - Workplace demands,
    - Gender bias, etc.

Nationwide Study on Lawyer Mental Health & Well-Being

- ***When Demands Equal Distress: An Updated Understanding of Lawyer Mental Health and Well-being***
  - ABA Commission on Lawyer Assistance Programs & Krill Strategies
  - Published in *Journal of Affective Disorders*
  - Released September 2026 updating a 10 year old study
  - Survey included almost **37,00 licensed lawyers** from 28 jurisdictions
  - Met standards moderate-extremely severe symptoms in these areas:
    - Depression 21.7%
    - Anxiety 20.4%
    - Stress 18.9%
  - Burnout – 47.4% high burnout, including 15.6% severe burnout
  - Risky alcohol use 41.8%, including 26.3% hazardous drinking
  - Work-family conflict 35.9% high or very high conflict professional/personal lives

Rainmaker Treating Others Badly

- **Criticizing** team members publicly, insulting their intelligence, work ethic, etc.
  - Rather than give constructive feedback privately
  - Create culture where don't ask questions, fear being "stupid"
  - Violates policy against posting about colleagues on social media
- **Threatening** associates with career consequences if they do not meet unreasonable demands
  - Told they cannot leave for a family emergency or health situation (when spouse goes into labor)
  - Sending emails, messages late at night and on weekends, holidays for routine matters that are not time sensitive.
- **Refusing** to work with certain diverse colleagues, assuming they are less qualified
  - Being more critical of work product of people in certain groups
- **Targeting** women or parents generally for lack of commitment
  - Declining to give desirable assignments to someone because you assume they cannot travel as parents.
- **Assuming** colleagues are "over the hill", less tech savvy or out of sync due to age

Utah Rules of Professional Conduct

- **Preamble: A Lawyer's Responsibilities**
- Client-Lawyer Relationship – 1.1- 1.18
- Counselor - 2.2, 2.3-2.4
- Advocate – 3.1 – 3.9
- **Transactions with Persons Other than Clients – 4.1 - 4.4**
- Law Firms and Associations – 5.1- 5.7
- Public Service – 6.1 – 6.5
- Information about Legal Services – 7.1, 7.6
- Maintaining the Integrity of the Profession 8.1 - 8.5
  - **8.4 Misconduct, Utah does not have ABA Model Rule 8.4 (g)**

Utah RPC 8.4 Misconduct

- **It is professional misconduct for a lawyer to:**
- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that a lawyer may participate in lawful investigatory activities employing deception for the purpose of detecting ongoing violations of law;
- **(d) engage in conduct that is prejudicial to the administration of justice;**
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

ABA Model Rule 8.4(g); Not a Utah Rule

- **Maintaining The Integrity Of The Profession**

  It is **professional misconduct** for a lawyer to:

  (g) engage in conduct that the lawyer knows or reasonably should know is **harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law**. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

- **Comment**

  [3] **Discrimination and harassment by lawyers** in violation of paragraph (g) **undermine confidence in the legal profession and the legal system**. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and anti-harassment statutes and case law may guide application of paragraph (g).

How Utah Rules Address Discrimination/Harassment

- **Rule 8.4 It is professional misconduct for a lawyer to:**
- **(d) engage in conduct that is prejudicial to the administration of justice;**

- Comments to Rule 8.4:
- [3] A lawyer who, **in the course of representing a client**, knowingly manifests by words or conduct **bias or prejudice** based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, **violates paragraph (d) when such actions are prejudicial to the administration of justice**. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.
- Is showing bias towards a colleague while handling client work a violation because it is in the course of representing a client?

Utah Rule 8.3 Reporting Professional Misconduct

- **Do we have a duty to report the Rainmaker's conduct?**
- (a) A lawyer who knows that another legal professional **has committed a violation of the applicable Rules of Professional Conduct** that raises a **substantial question as to that legal professional's honesty, trustworthiness or fitness as a legal professional** in other respects **shall inform** the appropriate professional authority.

- Comment [3] . . . This Rule **limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent**. A measure of judgment is, therefore, required in complying with the provisions of this Rule. The term **"substantial"** refers to the **seriousness of the possible offense** and not the quantum of evidence of which the lawyer is aware. . . .

Additional Utah RCP to Consider

Preamble: A Lawyer's Responsibilities

- [5] "A lawyer's conduct **should** conform to the **requirements of the law**, **both in professional service to clients and in business and personal affairs**." A lawyer should **not use law procedures to harass or intimidate.**

Rule 4.4 Respect for Rights of Third persons (Persons other than Clients, but **does this include co-workers?)**

(a) In representing a client, lawyer "shall not use means that have no substantial purpose other that **to embarrass, delay, or burden a third person**."

Rule 5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers

(a) "reasonable efforts to ensure that the firm has … measures giving reasonable assurance that all lawyers in the firm conform to [RPC}.

Rule 5.3 Responsibilities Regarding Nonlawyer Assistance

(a) ensure team conduct complies with ethical rules

Standards of Professionalism & Civility

- Focuses principally on how lawyers treat other counsel, adverse parties and the court in disputes.
- Emphasis on collegiality with opposing counsel as to scheduling, threatening sanctions, discovery, motion practice or in transactional practice.
- Importance of ensuring clients understand these standards and do not expect inconsistent conduct from counsel.
- Respecting lawyer-client relationships by avoiding *ex parte* communications with a represented party.
- Balance zealous advocacy with temperate conduct and communications.

Utah Standards of Professionalism and Civility-Preamble

- **A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity** in the fullest sense of those terms. In fulfilling a duty to represent a client vigorously as lawyers, we must be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner. We must remain committed to the rule of law as the **foundation for a just and peaceful society**.
- **Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently**. Such conduct tends to delay and often to deny justice.
- **Lawyers should exhibit courtesy, candor and cooperation in dealing with the public and participating in the legal system**. The following standards are designed to **encourage lawyers to meet their obligations to each other, to litigants and to the system of justice,** and thereby achieve the **twin goals of civility and professionalism**, both of which are **hallmarks of a learned profession dedicated to public service**.

Utah Standards of Professionalism and Civility-Preamble

- We expect **judges and lawyers will make mutual and firm commitments to these standards**. Adherence is expected as part of a **commitment by all participants** to improve the administration of justice throughout this State. We further expect lawyers to educate their clients regarding these standards and judges to reinforce this whenever clients are present in the courtroom by making it clear that such **tactics may hurt the client's case.**

- Although for ease of usage the term "court" is used throughout, **these standards should be followed by all judges and lawyers in all interactions with each other and in any proceedings in this State**. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards. **Nothing in these standards supersedes or detracts from existing disciplinary codes or standards of conduct.**

Case Study – Do You Know This Person?

- Partner makes unwelcome or unflattering comments about colleagues' appearance (weight, hairstyle, clothing).
- Tells an associate they are more likely to make partner if they are "friendlier" to Rainmaker who is on Executive Committee.
- Remarks that associate is "cute" and "does not look smart".
- Comments that a colleague Rainmaker thinks is gay, is not "manly enough".
- Shuns partner who observed behavior and reported concerns to the management team. Firm does not stop retaliation.
- Associate reports inappropriate comments, solicitation; HR agrees to "take care of it" and nothing happens until complainant hires counsel.

Rules of Professional Conduct Implicated

- Violations of federal and state law regarding discrimination and harassment.
- RPC – Utah does not have Rule 8.4(g).
  - Preamble not a rule (conduct **should** conform … in business **and personal affairs**." A lawyer should not **use law procedures to harass or intimidate**).
  - Does this violate 8.4(d) "conduct … prejudicial to the administration of justice"?
- Comments to Rule 8.4:
- [3] A lawyer who, **in the course of representing a client**, knowingly manifests by words or conduct **bias or prejudice** based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, **violates paragraph (d) when such actions are prejudicial to the administration of justice**. …
- RCP 4.4 Respect for Rights of Third persons (Does this include co-workers?)
  - In **representing a client**, lawyer "shall not use means other than **to embarrass, delay, or burden a third person**."
- RCP 5.1-5.3 – duties of those in authority to ensure compliance with RCP.

Professionalism/Civility Implicated

- **A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity.**
- **Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive** impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently.
- **Lawyers should exhibit courtesy, candor and cooperation in dealing with the public and participating in the legal system**. The following standards are designed to **encourage lawyers to meet their obligations to each other,** to litigants and to the system of justice, … achieve the **twin goals of civility and professionalism …**
- We expect **judges and lawyers will make mutual and firm commitments to these standards**. Adherence is expected as part of a **commitment by all participants** to improve the **administration of justice** throughout this State.
- Although for ease of usage the term "court" is used throughout, **these standards should be followed by all judges and lawyers in all interactions with each other** and in any proceedings in this State.
- Do we need more than the RCP and Standards of Professionalism/Civility?

Utah Public Employees Healthy Workplace Act

- **67-26-201 State policy on abusive conduct.**
- It is the policy of the state to provide and maintain a work environment free from abusive conduct.
- **67-26-301 Abusive conduct training.**
- (1)(a) … provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.
- (b) The training … shall include information on: Utah Code Page 4 (i) **what constitutes abusive conduct** and the **ramifications of abusive conduct**; (ii) **resources available** to employees who are subject to abusive conduct; and (iii) the **abusive conduct complaint process** described in Section 67-26-202.
- **67-26-102 Definitions.**
- (1)(a) **"Abusive conduct"** means **verbal, nonverbal, or physical conduct** of an employee to another employee of the same employer that, based on the **severity, nature, or frequency** of the conduct, a **reasonable person would determine:**
  - (i) is intended to **cause intimidation, humiliation, or unwarranted distress**;
  - (ii) results in **substantial physical harm or substantial psychological harm** as a result of intimidation, humiliation, or unwarranted distress; or
  - (iii) **exploits** an employee's known **physical or psychological disability**.
- (b) "Abusive conduct" **does not mean a single act unless** the act is an **especially severe and egregious act …**

Utah Public Employees Healthy Workplace Act Part 1

- **67-26-102 Definitions.**

- (1)(a) **"Abusive conduct"** means **verbal, nonverbal, or physical conduct** of an employee to another employee of the same employer that, based on the **severity, nature, or frequency** of the conduct, a **reasonable person would determine:**
  - (i) is intended to **cause intimidation, humiliation, or unwarranted distress**;
  - (ii) results in **substantial physical harm or substantial psychological harm** as a result of intimidation, humiliation, or unwarranted distress; or
  - (iii) **exploits** an employee's known **physical or psychological disability**.
- (b) "Abusive conduct" **does not mean a single act unless** the act is an **especially severe and egregious** act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).

Utah Courts Respect in the Workplace

- The Utah Judiciary's HR - Respect in the Workplace
- Guiding Principles
- Reporting Discrimination, Including Harassment & Retaliation
- Reporting Abusive Conduct
- Workplace Harassment Prevention
- Retaliation Prohibited
- Utah Judiciary Human Resource Policies

Addressing Abusive Conduct in Legal Workplaces

- Legal workplaces need written policies specify clear conduct standards, reporting, investigation, and non-retaliation. Update as needed.
- All must receive, sign and acknowledge policies.
- Conduct regular training on policies, reporting and consequences.
- Investigate promptly; no retaliation against complainants/witnesses.
- Be prepared to sever ties with a persistent bully; enforce regardless of aggressor's financial clout or Rainmaker status.
- Ensure team follows Professional Conduct and Professionalism & Civility standards.
- Firms, supervisors and individuals face consequences (training, probation, suspension, financial, fines, reprimands)
- Clients need to be willing to stand up for good behavior as bullies can hurt their reputation as well.

Additional Resources for Affinity Groups

- Native Bar Association/ABA Women in Profession Native Women in the Law
  https://www.americanbar.org/content/dam/aba/administrative/women/2023/native-women-report-2023.pdf
- ABA Women in Profession on Careers of Parents and Child Caregivers
  https://www.americanbar.org/content/dam/aba/administrative/women/2023/parenthood-report-2023.pdf
- ABA Women in the Profession Report on Women of Color in the Profession
  https://www.americanbar.org/content/dam/aba/administrative/women/2020-and-earlier/leftoutleftbehind-int-f-web-061020-003.pdf
- Burton Blatt Institute/ABA Study and LGBTQ+ inclusion in legal profession
  https://www.americanbar.org/groups/diversity/disabilityrights/initiatives_awards/aba-bbi/
- ABA article on Accessibility for lawyers with disabilities
  https://link.springer.com/article/10.1007/s10926-020-09938-3
- ABA article on Mental Wellbeing for Women in the Law
  https://www.americanbar.org/groups/diversity/women/initiatives_awards/mental-wellbeing-study/?login

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We get it done right.

Thank you.

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