



# **Peacemaking Attorneys: Nice Guys Don't Have to Finish Last**

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**By Laurie Anne Stewart, Esq.<sup>1</sup>  
Peacemaker Ministries  
P.O. Box 170333  
Anaheim, CA 92817  
(800) 711-7118  
[laurie@peacemakerministries.org](mailto:laurie@peacemakerministries.org)  
[www.peacemakerministries.org](http://www.peacemakerministries.org)**

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<sup>1</sup> Laurie Anne Stewart is a Southern California-based attorney and mediator with over 20 years of litigation experience in various civil matters in California and Iowa, including defending religious liberty for Alliance Defending Freedom. In 2006, she received the C. William Carlson Award from the Pacific Justice Institute for her "exceptional level of integrity and commitment." Laurie has almost 15 years of experience as a mediator. In Iowa, she served as President of the Iowa Association of Mediators and the Iowa Supreme Court Family Law Task Force ADR Work Group. She is the CEO/President of Peacemaker Ministries, a Peacemaker Fellow, and a Certified Christian Conciliator. Laurie teaches classes and seminars on conflict resolution to law schools, universities, churches, and other groups worldwide.

Presentation Description: Peacemaking attorneys can bring civility back to the legal profession. Rooted in the timeless wisdom of Matthew 5:9, this presentation explores the profound impact that peacemaking attorneys can have on both the legal landscape and the lives they touch. Discover how peacemaking goes beyond resolving disputes—it becomes a conduit for problem-solving, workplace improvement, friendship restoration, marriage preservation, and even Gospel sharing. In the legal profession, where conflict is ubiquitous, peacemaking becomes a powerful platform to live out the teachings of Jesus Christ.

## I. INTRODUCTION

- A. Starting in 2025, the minimum continuing legal education (MCLE) requirement for active licensed attorneys in California will change. Most relevant for this presentation is that all active California State Bar licensees must complete and report **one hour of training on civility** in the legal profession.<sup>2</sup>
- B. This new MCLE requirement for one hour on civility in the legal profession is the result of recommendations in a 2021 California Civility Task Force Report, “Beyond the Oath: Recommendations for Improving Civility” (“2021 Report”).<sup>3</sup> The 2021 Report discussed multiple actions taken by California appellate courts in recent years to address the ongoing issue of incivility in the legal profession.

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<sup>2</sup> In 2024, Rules of the State Bar required active State Bar licensees to complete and report 25 MCLE hours every three years, including 4 hours in ethics, 2 hours in bias (incl. 1 hour in implicit bias), and 1 hour in competence. Starting in 2025, active State Bar licensees will still need to complete and report 25 MCLE hours every three years, including 4 hours in ethics and 2 hours in bias. However, the competence credit requirement increases from 1 to 2 hours. Additionally, 1 hour in technology and 1 hour in Civility will be required. <https://www.calbar.ca.gov/Attorneys/MCLE-CLE/Requirements>

<sup>3</sup> “Beyond the Oath: Recommendations for Improving Civility,” Initial Report of the California Civility Task Force - A joint project of the California Lawyers Association and the California Judges Association, Sept. 2021. California Judges Association website, accessed April 1, 2024, <https://caljudges.org/docs/PDF/California%20Civility%20Task%20Force%20Report%2009.10.21.pdf>.

## II. THE INCIVILITY PROBLEM

- A. Examples of incivility in the legal profession:
1. Name-calling, ad hominem attacks, disrespectful communication
  2. Belittling, demeaning, or condescending
  3. Verbal or physical threats
  4. Bullying, intimidation tactics (“Rambo lawyer” or “Cowboy lawyer”)
  5. Outbursts of anger
  6. Physical violence
  7. Excessive discovery
  8. Frivolous court filings
- B. Consequences of incivility in the legal profession
1. Waste of time, money, and mental energy
  2. Civility and physical/emotional/spiritual well-being are linked. Substance abuse and mental health issues (e.g., depressive episodes, severe anxiety, misplaced aggression, and inability to sleep) are routine responses by lawyers who are victimized by the bad behavior of others.<sup>4</sup>
- C. For years, Courts have been trying to correct this issue of incivility in the legal profession.
- D. In 1989, a California Court of Appeal admonished legal counsel for bringing a malicious prosecution case, which the Court described as simply the result of “a fit of pique [e.g., wound to pride] between counsel in the underlying action.”<sup>5</sup> The Court chided California attorneys:

We conclude by reminding members of the Bar that their responsibilities as officers of the court include professional courtesy to the court and to opposing counsel. All too often today we see signs that the practice of law is becoming more like a business and less like a

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<sup>4</sup> “Beyond the Oath,” at p. 6.

<sup>5</sup> *Lossing v. Sup. Ct.* (1989) 207 Cal.App.3d 635, 641.

profession. We decry any such change, but the profession itself must chart its own course. The legal profession has already suffered a loss of stature and of public respect. This is more easily understood when the public perspective of the profession is shaped by cases such as this where lawyers await the slightest provocation to turn upon each other. Lawyers and judges should work to improve and enhance the rule of law, not allow a return to the law of the jungle.<sup>6</sup>

- E. In 1995, Chief Justice Warren Burger of the United States Supreme Court announced the need for civility and encouraged attorneys to be peacemakers. He declared: “Lawyers, as officers of the court, should be problem-solvers, harmonizers, and peacemakers -- the healers, not the promoters, of conflict.”<sup>7</sup> He supported this proclamation with an inspirational quote from Abraham Lincoln: “As a peace-maker the lawyer has a superior opportunity of being a good man. There will still be business enough.”<sup>8</sup>
- F. To promote civility in the legal profession, the California Supreme Court adopted the California Rules of Court, Rule 9.7, in 2014. This rule added new language to the attorney oath of admission: “As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy, and integrity.”<sup>9</sup>
- G. Sadly, incivility continued. Attorneys sworn in before 2014 never took the oath, and attorneys who took the new oath seem to ignore it.<sup>10</sup>
- H. The 2021 Report described the incivility problem in the legal profession this way:

In an era marked by coarseness and political division, the legal profession suffers from a scourge of incivility. Discourtesy, hostility, intemperance, and other unprofessional conduct prolong litigation, making it more expensive for the litigants and the court system. Moreover, incivility among lawyers extends beyond litigation, interfering with, if not derailing, transactions of every kind. It can create toxic

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<sup>6</sup> *Id.*

<sup>7</sup> Chief Justice Warren E. Burger, “The Decline of Professionalism,” (1995) 63 *Fordham L. Rev.* 949, 953.

<sup>8</sup> *Id.*, quoting Abraham Lincoln, Notes for a Law Lecture (July 1, 1850), in *The Life and Writings of Abraham Lincoln*, 327-28 (Phillip Van Doren Stern ed., 1940).

<sup>9</sup> “Beyond the Oath,” at p. 2.

<sup>10</sup> *Id.*

workplaces. And unfortunately, young lawyers, women lawyers, lawyers of color, and lawyers from other marginalized groups are disproportionately on the receiving end.<sup>11</sup>

- I. More recently—in 2021—another California Appellate Court scolded: “The timbre of our time has become unfortunately aggressive and disrespectful. Language addressed to opposing counsel and courts has lurched off the path of discourse and into the ditch of abuse. This isn’t who we are.”<sup>12</sup>
- J. The legal profession needs civility. Attorneys should model this. Chief Justice Burger urged: “[T]he necessity for civility is relevant to lawyers because they are the living exemplars—and thus teachers—every day in every case and in every court and their worst conduct will be emulated perhaps more readily than their best.”<sup>13</sup>
- K. As lawyers should be “living exemplars” of civility, Christian lawyers should be leading the way because they are already called to be peacemakers by Jesus Christ.

### III. THE PEACEMAKER SOLUTION

#### A. Overview

- 1. Christians should be peacemakers, living exemplars of civility. Jesus said, “Blessed are the peacemakers for they will be called children of God.” (Matt. 5:9)
- 2. Therefore, Christian attorneys should lead the way toward more civility in the legal profession and our communities.
- 3. Chief Justice Warren Burger and Abraham Lincoln affirmed the importance of peacemaking attorneys.

#### B. Tension

- 1. Tension is the state of being stretched or strained.

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<sup>11</sup> *Id.*

<sup>12</sup> *In re Mahoney* (2021) 65 Cal.App.5th 376.

<sup>13</sup> *Lasalle v. Vogel*, (2019) 36 Cal.App.5th 127, 141, quoting Chief Justice Warren E. Burger, “The Necessity for Civility” (Address to the American Law Institute), 52 F.R.D. 211.

2. Problems create tension.
  3. Healthy tension draws people together. “As iron sharpens iron, so one person sharpens another.” (Proverbs 27:17)
  4. Unhealthy tension pulls people apart.
  5. Lawyers are problem solvers. People come to lawyers for help with their legal problems. Lawyers give advice about legal matters, prepare contracts and other legal instruments, and represent people in court.<sup>14</sup>
- C. Summary of the Path of a Peacemaking Attorney
1. Discover Perspectives – Learn the Art of Listening Well (James 1:19-20)
  2. Look Up – Share and Affirm Core Biblical Values (Col. 3:1-4)
  3. Look In – Examine Ourselves Before Others (Lam. 3:40)
  4. Step Out – Make and Implement a Plan (Prov. 16:3)
  5. What If? – What If It Doesn’t Turn Out Well? (Eph. 4:32)
- D. Benefits of Civility and Peacemaking Attorneys
1. Improves attitudes
  2. Enhances communication
  3. Increases problem-solving
  4. Enriches workplace environments
  5. Restores friendships
  6. Preserves marriages
  7. Eliminates unnecessary conflict in the resolution of legal disputes
  8. Alternatives to litigation may serve the client’s best interests. “A lawyer should consider the possibility of settlement or alternative dispute resolution in every case and, when appropriate, bring such alternatives to the client’s attention.”<sup>15</sup>

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<sup>14</sup> LAWYER, Black’s Law Dictionary (11th ed. 2019).

<sup>15</sup> <https://abtl.org/losangeles/civility-guidelines/>, accessed April 24, 2024.

9. “Civility allows for zealous representation, reduces clients’ costs, better advances clients’ interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution.”<sup>16</sup>
10. Conflict provides opportunities to share the Gospel—it is a powerful platform for living out the teachings of Jesus Christ.

#### **IV. CONCLUSION**

In the enduring wisdom of Matthew 5:9, Jesus calls His children “peacemakers.” Therefore, Christian attorneys should learn to be peacemaking attorneys, consistent with zealously representing clients within the bounds of the law. Peacemaking and zealous representation should be seen as complimentary, not a contradiction. Peacemaking attorneys can lead the way forward to reintroduce civility in the legal profession. Beyond mere dispute resolution, their practice serves as a transformative force, fostering problem-solving, enhancing workplaces, restoring friendships, preserving marriages, and facilitating sharing Gospel values. In a field marked by pervasive conflict, peacemaking emerges as a compelling means to embody the teachings of Jesus Christ within the legal sphere. “Nice guys” can finish first and do so with their character, conviction, and testimony intact. Peacemaking, an adjunct of civility, should not merely be a policy but a way of life for Christian attorneys.

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<sup>16</sup> [https://www.occourts.org/system/files?file=civility\\_guidelines.pdf](https://www.occourts.org/system/files?file=civility_guidelines.pdf), accessed April 24, 2024.