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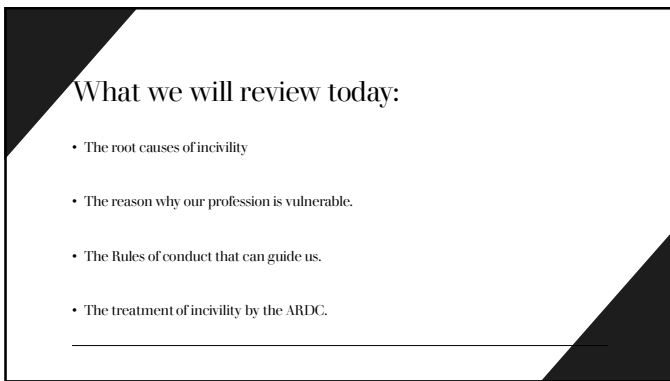
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**WE ARE:**

- HUMANS
  
- LAWYERS

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**Basic Human Nature**

- We avoid conflict.
- Encounters with others not like ourselves brings conflict.
- Humans have a long history of intolerance and disrespect for others who are different.

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**Where has our human nature led us?**

- Wars
- Inquisitions
- Slavery
- The Holocaust
- Countless Human Rights violations

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AGE OLD QUESTION:

NATURE  
 Implicit Bias  
 v.  
 NURTURE

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Historically, we are slow to address our issues:

- Abolition of Slavery – 15<sup>th</sup> Amendment (1865) – even after the emancipation proclamation in 1863!
- Equal Protection – 14<sup>th</sup> Amendment (1868)- submitted to congress in 1866.
- The Woman’s Right to Vote–19<sup>th</sup> Amendment (1920)
- Broad legislation supporting the rights of the LGBTQ+ community– 2022.

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Increases in Diversity in the Legal Profession:

- Minorities make up 14.1% of the lawyers in America.
- 4.7% of lawyers are African Americans.
- 4.8% of lawyers are Hispanic.
- Female make up 38.5% of lawyers.

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We have the challenge to view diversity as a positive force that we need!

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Diversity experienced in the law:

- Lawyers are naturally exposed to all types of people with all types of ethnic, political, sexual backgrounds.
- Lawyers are in positions of power.
- Lawyers are, by nature, competitive.

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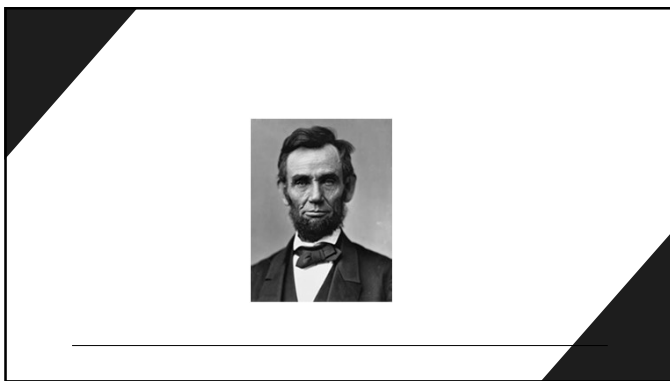
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**Forms of incivility:**

- Not holding a door for someone.
- Not returning calls.
- Showing up late for court (with or without apology)
- Name calling
- Silence
- Rude behavior
- Violence (1-6-22)

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**The Response of Our Profession:**

- Character and Fitness Requirements.
- Rules

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**Preamble:**

(5) A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

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**Preamble:**

(9) In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

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**Misconduct  
Rule 8.4**



**Discipline**

- 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;

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**Rule 1.4 (a)(5)**

- (a) A lawyer shall:
- 5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

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**Rule 1.16(a)(1)**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

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**Rule 1.5 Diligence**

A lawyer shall act with reasonable diligence and promptness in representing a client.

Language in Comment 1:

The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

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**Rule 3.1 Meritorious Claims and Contentions**

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

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**Rule 3.4(d) Fairness to Opposing Party & Counsel**

A lawyer shall not:

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

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**Rule 4.4(a) Respect for the Rights of Third Persons**

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

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**Rule 3.5(d)**

A lawyer shall not:

(d) engage in conduct intended to disrupt a tribunal.

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**Rule 8.4(d)**

- It is professional misconduct for a lawyer to:

It is professional misconduct for a lawyer to:

(d) engage in conduct that is prejudicial to the administration of justice.

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**Rule 8.4 Misconduct**

(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.

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**Comment 3 to Rule 8.4:**

[5] 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).

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**ILLINOIS RULE 8.4 (j)**

Violate a federal, state or local statute or ordinance including, but not limited to, the Illinois Human Rights Act (77 5 ILCS 5/1-101et seq) that prohibits discrimination based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status by conduct that reflects adversely on the lawyer's fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer's fitness as a lawyer shall be determined after consideration of all the circumstances, including: the seriousness of the act; whether the lawyer knew that the act was prohibited by statute or ordinance; whether the act was part of a pattern of prohibited conduct; and whether the act was committed in connection with the lawyer's professional activities. No charge of professional misconduct may be brought pursuant to this paragraph until a court or administrative agency of competent jurisdiction has found that the lawyer has engaged in an unlawful discriminatory act, and the finding of the court or administrative agency has become final and enforceable and any right of judicial review has been exhausted.

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**The Illinois Comment 5**

[5] 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.

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**ARDC Treatment of Violations**

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**In Re Quitschau 2017 PR 84 (2018)**

- Created false postings for the internet.
- Fabricated false reviews on Martindale.com, Lawyers.com and Facebook.

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**In Re Cohn 2018 PR 109 (2021)**

Used vulgar language toward a female opposing counsel at a deposition.

Also lashed out at the Judge in the matter making unprofessional, baseless, and hostile comments to and about the Judge.

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**In Re Craddock 2017 PR 00115 (2020)**

Made vulgar and harassing comments to an opposing female counsel.

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**In Re Moore 2015 PR 00076 (2017)**

Made offensive and racist comments to several people involved in the criminal case he was handling.

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**In Re O'Shea**  
**02 SH 64 (2004)**

Made degrading remarks about a female opposing counsel in a letter to the ARDC. Specifically making derogatory statement about her physical appearance, including vulgar, gender-based slurs.

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**In Re Guadagno 2010 PR 65 (2012)**

Respondent had uttered homophobic to other attorneys over a period of time.

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So, what do we do about this?

Be better Humans!

Be active in the enforcement of the Rules.

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**Rule 8.5 Reporting Professional Misconduct**

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

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**In Re Himmel**

125 Ill. 2d. 551 (1988)

Panel recommended private censure.

Review panel recommended dismissal of the complaint.

The Supreme Court disagreed with both.

    Raised sanction to a 1- year suspension.

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**OTHER ACTIONS WE CAN TAKE:**

Civility initiatives on a more local level.

Personal Awareness.

**DO GOOD – BE GOOD**

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