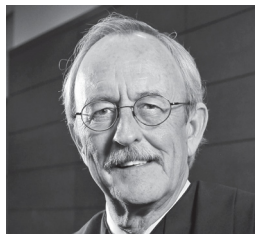


# THE PANEL

The State Bar of Texas Professionalism Committee asked respected jurists about their experiences and thoughts on professionalism—the good and the bad. Here are their responses.



**KEN MOLBERG**

An excellent attorney substituted for another law firm. At the next court status conference, he reported that prior counsel had not properly responded to discovery requests and he was now, with his client's knowledge, producing documents that were quite harmful to his client's case. The attorney's forthrightness may have avoided sanctions against his clients, and although the attorney tried and lost the case, I never before saw professionalism play out in such a profound way. ¶ An attorney opposed a continuance necessitated by opposing counsel's serious illness. If your client disagrees with such a request, fire the client, or if client control is an extreme issue, get that point across to the court. ¶ I like lawyers, but my top pet peeves are with those who file reflexive sanctions motions, inadequately prepare for hearings and trials, misrepresent facts or law or fail to cite adverse authority, or repeatedly interrupt opposing counsel or the judge. ¶ A judge should be professional and require the same of lawyers, but be mindful that lawyers have a tough job and are humans with life's pressures like everyone else. I also cite to the Texas Lawyer's Creed.

*Molberg is presiding judge of the 95th Judicial District Court in Dallas County.*



**LORA LIVINGSTON**

Zealous yet polite and passionate advocacy always wins the day in my experience. ¶ Sadly, I can recall a number of examples of unprofessional behavior. The most egregious was the threat of a fistfight between two male lawyers during a discussion in chambers. Both were threatened with contempt and intervention by law enforcement officers. In another example, a lawyer insulted a pro se litigant by making disparaging remarks about the pleadings, including comments about misspellings and poor grammar. In turn, the pro se litigant made a disparaging remark about the physical appearance of the lawyer. Neither comment was appropriate, but I was much more disappointed in the conduct of the lawyer. The comments were made in front of a packed courtroom, and people felt uncomfortable by the actions of the attorney. This did nothing to enhance the image of the legal profession. In the end, the client was embarrassed and undoubtedly unhappy when the lawyer lost the motion and all credibility with the court. ¶ When a judge starts and ends on time and keeps promises, the litigants will follow that model.

*Livingston is judge of the 261st Civil District Court in Travis County.*



**RANDY WILSON**

I once had a hearing on a motion where only one side was present. The lawyer came to the bench and said, "Judge, the other side isn't here. He's been active throughout this case, and I don't feel right proceeding without him. Let me call and see if he got notice of the hearing." Turns out no notice was provided. That lawyer instantly won my respect. I told other judges what happened, and that lawyer had complete credibility thereafter. ¶ Unprofessionalism is not following the Golden Rule. Treat others as you would like to be treated. Grant extensions. Cut people slack. Not every infraction requires a motion for sanctions. ¶ Don't stretch your position and cases. Don't exaggerate holdings. If you're caught misrepresenting cases, authorities, and facts, you've lost. Period. The best argument is often the most professional: Be firm in representing your client but respectful to others. ¶ Judges can promote professionalism by rewarding the professional and punishing the transgressor. Actions have consequences. If you bend the rules, we remember. Similarly, gracious conduct is both appreciated and rewarded.

*Wilson is judge of the 157th Civil District Court in Harris County.*



**LAUREN PARISH**

While there are numerous examples of professionalism I could cite, one of the most impressive that I commonly observe is the attorney who truly exhibits a commitment to serve others. Frequently an attorney will benevolently come to the aid of those who are not financially able to hire a lawyer, which aids the court and promotes a just result in such cases. ¶ Meanwhile, I have seen lawyers make blatant misrepresentations of law and facts in pleadings, motions, and arguments to the court in order to gain advantage over opponents and take advantage of the court. Often the attorneys will speak rapidly or interrupt or "talk over" the witness, opposing counsel, and even the court. These behaviors make it almost impossible for the court reporter to make a record. ¶ Within the confines of the courtroom, the judge can promote and encourage professionalism by impressing upon the attorneys the importance of the Lawyer's Creed and by insisting that rules of proper courtroom decorum be followed. Outside the courtroom, the judge can make himself or herself available to speak at local bar meetings on the subject of professionalism.

*Parish is judge of the 115th District Court in Upshur County.*



**JOHN D. LOVE**

I have found that attorneys who have an awareness of the neutral role the court is playing typically display higher standards of professionalism than those who do not. ¶ I have had a few attorneys in essence "argue" with the court or let their emotions get the best of them. By engaging in such behavior, an attorney can only lessen the judge's confidence in that attorney's credibility and professionalism. ¶ I have several pet peeves: audible comments or facial expressions to indicate disagreement with opposing counsel, failing to prepare witnesses concerning their courtroom behavior (talking over the judge, etc.), arguing with the court or with a witness, asking to approach the bench on trivial matters, and failing to adequately confer in an attempt to resolve a dispute before coming to court. ¶ A judge can set a standard for professionalism in and out of the courtroom by how the judge deals with attorneys, litigants, and witnesses. There are times that a judge must step in and uphold standards of professionalism through words, verbal or written, or a monetary or substantive sanction. **TBJ**

*Love is a magistrate judge of the U.S. District Court for the Eastern District of Texas.*