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Paul W. Grimm
David F. Levi Professor of the
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Bolch Judicial Institute of Duke Law School
210 Science Drive | Box 90362
Durham, NC 27708-0362
919-613-7073
judicature@law.duke.edu



FROM THE EDITORIAL ADVISORY BOARD CHAIR

IN NOVEMBER 2023, all first-year Duke Law students (about 240) participated in a two-and-a-half hour *Civil Discourse and Difficult Decisions* (CD3) program as part of the school's professionalism initiative. Students, facilitators, attorneys, and judges together employed civil discourse skills in exercises designed to simulate law practice experiences.

CD3, a United States Courts and Federal Bar Association program, has reached thousands of high school and college students in federal courtrooms across the country. Judge Beth Bloom and I created and first piloted the program in 2017 in the Southern District of Florida to help the next generation see the

value of civility. The CD3 program at Duke was our first opportunity to involve law students as they prepare for careers in a profession that must value civility and engagement, whether the issues are straight-forward or decidedly more complex. (*Read more about CD3 on Page 9.*)

A central attribute of our legal system, especially the courts, is the written and oral communication of argument, ideas, and authority. Lawyers, judges, witnesses, jurors, and others must interact to reach a resolution to disputes. Because our system is premised on adversarial advocacy, these interactions aren't always wrapped like presents or cloaked in cordiality.

The effort to inculcate a culture of civility in the law should start in law school.

That is why it's all the more important for us to cultivate a culture of civility and decorum that promotes clear, credible assertions free of the taint of personal invective and demeaning behavior. The effort to inculcate a culture of civility in the law should start in law school (arguably earlier). It is a natural fit: The Socratic method forces students to engage each other and professors in a question-and-answer dialogue. Students also commit significant time and attention to legal research and writing and formal advocacy. Having learned numerous communication skills, one might expect students to be well equipped to engage in respectful discussion. But civility is not always an outcome of engagement, and in some instances it must be explicitly taught.

And lawyers face new and different challenges than do law students. Lawyers must answer to client demands, interact with opposing counsel, meet court deadlines, and balance personal responsibilities with work. Stress mounts, which in turn can trigger behavior that looks and feels uncontrolled and outright uncivil. Even with years of formal training, civil discourse can evaporate in a moment.

In those moments, communication skills learned in law school might be a distant memory. That's when a culture of civility — often encouraged and led by judges — can make sure a momentary lapse is the exception, not the norm. Learned communication skills and techniques are reinforced by a systemic, wrap-around ethos of cordial, respectful engagement. It also helps that civility is consistently the most effective manner of persuasion and advocacy.

As the late Justice Sandra Day O'Connor said: "Unfortunately, civility is hard to codify or legislate, but you know it when you see it. It's possible to disagree without being disagreeable. . . . The key to resolving conflicts is through dialogue, understanding, and compromise." Let these be tenets we all seek to emulate.

Judge Robin L. Rosenberg, U.S. District Court, Southern District of Florida