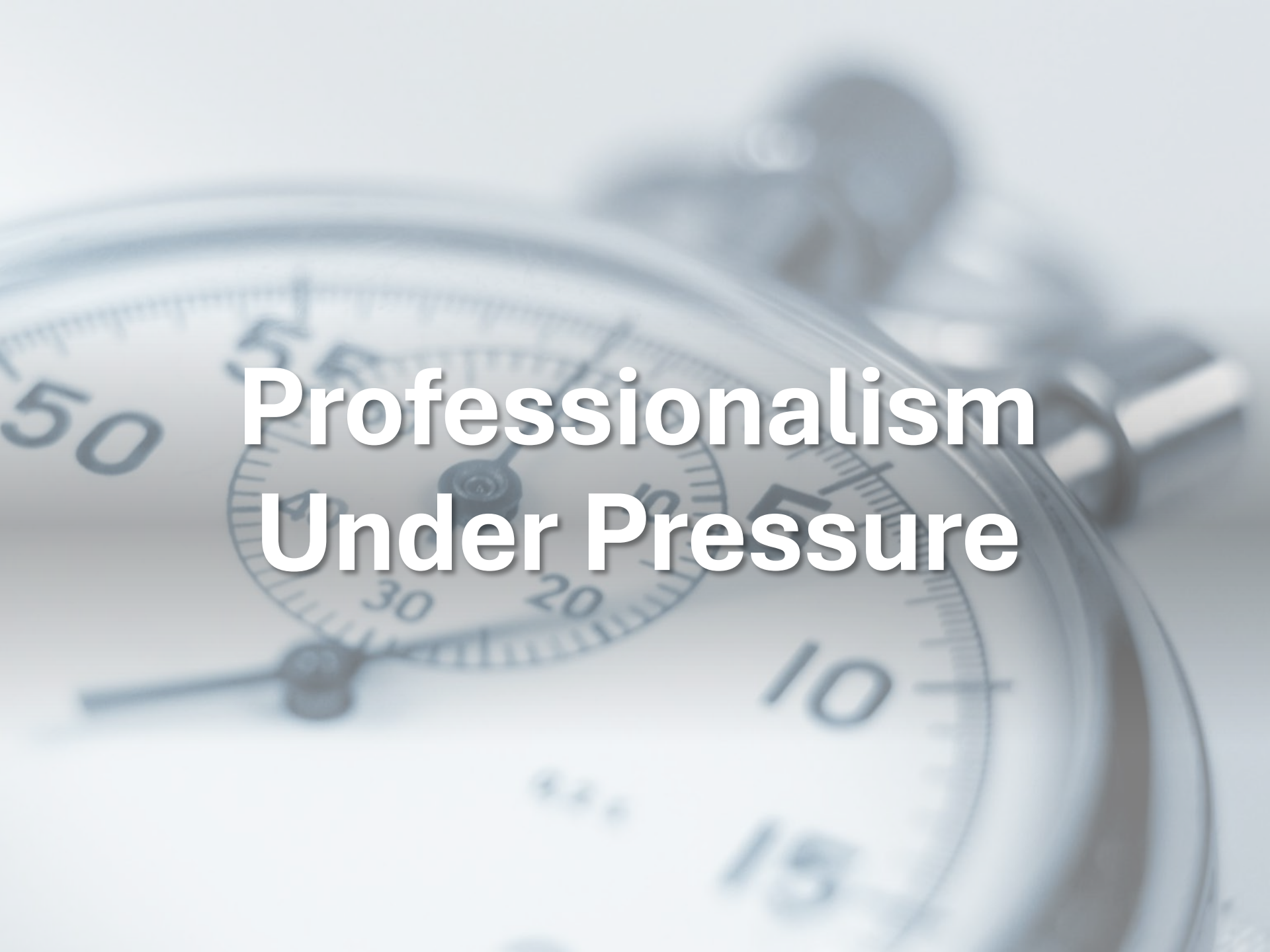




Professionalism Under Pressure

Professionalism Is Not Aspirational

La. C.C.P. art. 371: attorney as officer of the court—must act with “dignity and decorum.”

Rules of Professional Conduct

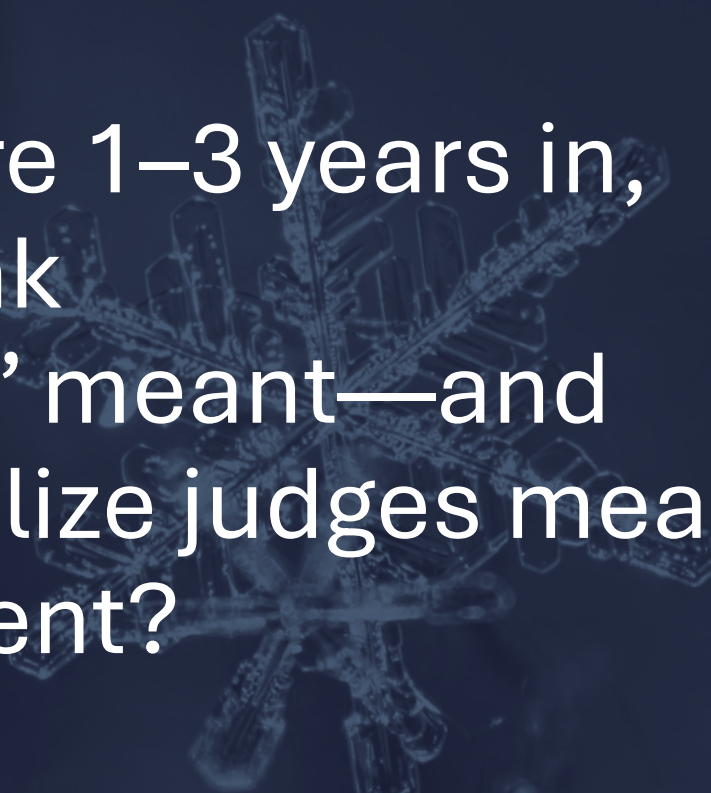
→ Minimum standards; disciplinary enforcement

Rules of Professionalism

→ Court-enforced expectations governing litigation conduct

Prompt:

Q: When you were 1–3 years in, what did you think ‘professionalism’ meant—and when did you realize judges mean something different?



Supreme Court Recognition of Professionalism as Court Authority

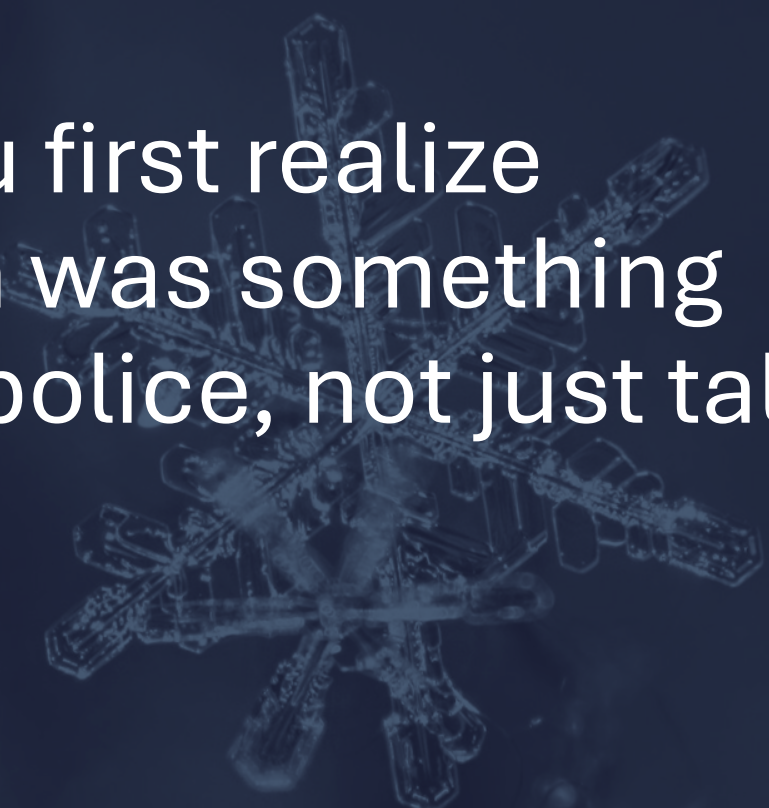
- *Horton v. McCary*, 635 So.2d 199 (La. 1994)
- Q: Have you ever assumed conduct was safe because it didn't violate a specific rule—only to learn the judge disagreed?
- Q: What conduct would you imagine would get you 'instantly labeled' by the court—and is that label different in state vs. federal court?

Supreme Court Recognition of Professionalism as Court Authority

- *Langley v. Petro Star Corp.*, 01-0198 (La. 6/29/01), 792 So.2d 721
- Q: Does litigation pressure sometimes blind us to how our conduct affects the court?

Prompt:

Q: When did you first realize professionalism was something judges actively police, not just talk about?



Supreme Court Recognition of Professionalism as Court Authority

- Key quotes from LASC:
 - “These standards... encourage... judges and lawyers... to meet our obligations... and thereby achieve... professionalism and civility....”
 - “These standards shall not be used as a basis for litigation or sanctions or penalties.”

Supreme Court Recognition of Professionalism as Court Authority

Remember you swore an oath?

- “We will speak and write civilly and respectfully in all communications with the court.”
- “We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities....”
- “We will not engage in any conduct that brings disorder or disruption to the courtroom.”

Prompt:

Q: If the Code of Professionalism says it's not a sanctions basis, why do courts and parties still treat it like the standard?



Integrity and Respect for the Legal System

La. C.C.P. 371 Duties of an Attorney as an officer of the court

An attorney at law is an officer of the court. He shall conduct himself at all times with dignity and decorum, and in a manner consistent with the dignity and authority of the court and the role which he himself should play in the administration of justice.

He shall treat the court, its officers, jurors, witnesses, opposing party, and opposing counsel with due respect; shall not interrupt opposing counsel, or otherwise interfere with or impede the orderly dispatch of judicial business by the court; shall not knowingly encourage or produce false evidence; and shall not knowingly make any misrepresentation, or otherwise impose upon or deceive the court.

Integrity and Respect for the Legal System

La. C.C.P. 863 Signing of pleadings, effect.

A. Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name...

B. Pleadings need not be verified or accompanied by affidavit or certificate, except as provided by law, but the signature of an attorney or party shall constitute a certification by him that he has read the pleading; that to the best of his knowledge, information or belief formed after reasonable inquiry it is well grounded in fact; that it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; that that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. ...(emphasis added)

Integrity and Respect for the Legal System

In re Succession of Thomas, 602 So.2d
1108, 1108 (La. App. 1 Cir. 1992)

Q: How often do we justify aggressive tactics as
“just strategy” without asking whether they serve a
legitimate purpose?

Integrity and Respect for the Legal System

La. C.C.P. 864 Attorney subject to disciplinary action

An attorney may be subjected to appropriate disciplinary action for a willful violation of Article 863, or for the insertion of scandalous or indecent matter in a pleading.

Integrity and Respect for the Legal System

Federal Rule 11: Signing of Pleadings, Motions, and Other Papers; Representations to Court; Sanctions

(a) Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party...

(b) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -

1. it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
2. the claims, defenses, and other legal contentions therein are warranted by existing law or by nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
3. the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity based on a lack of information or belief.
4. the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Integrity and Respect for the Legal System

Rule 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 especially one 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;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law; or
- (g) Threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

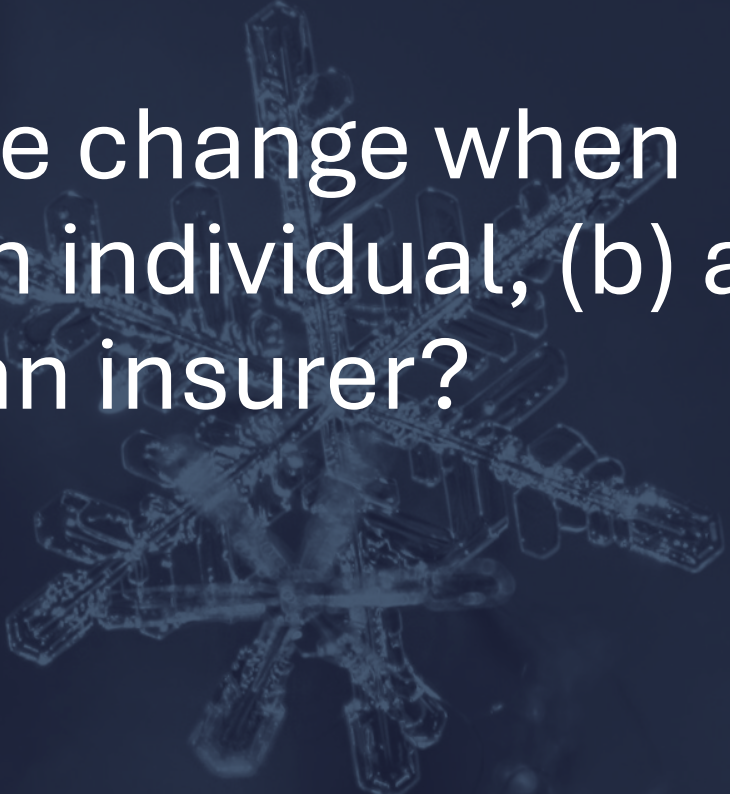
Prompt:

Q: What is the difference between
'advocacy spin' and
'mischaracterization'?

A faint, stylized snowflake graphic is visible in the background, centered behind the text. It has a complex, multi-armed structure with intricate details, resembling a microscopic view of a snow crystal or a decorative geometric pattern. The snowflake is rendered in a light blue/white color against the dark blue background.

Prompt:

Q: Does your tone change when the client is (a) an individual, (b) a corporation, (c) an insurer?



Prompt:

Q: Have you ever been pressured by a client or other to take a position that felt technically defensible but professionally wrong?



Audience hypothetical:

You catch a record problem the night before a hearing.

Do you (a) narrow the argument, (b) ignore it and hope it doesn't come up, (c) disclose it first and pivot?

Civility Is a Litigation Strategy, Not a Personality Trait

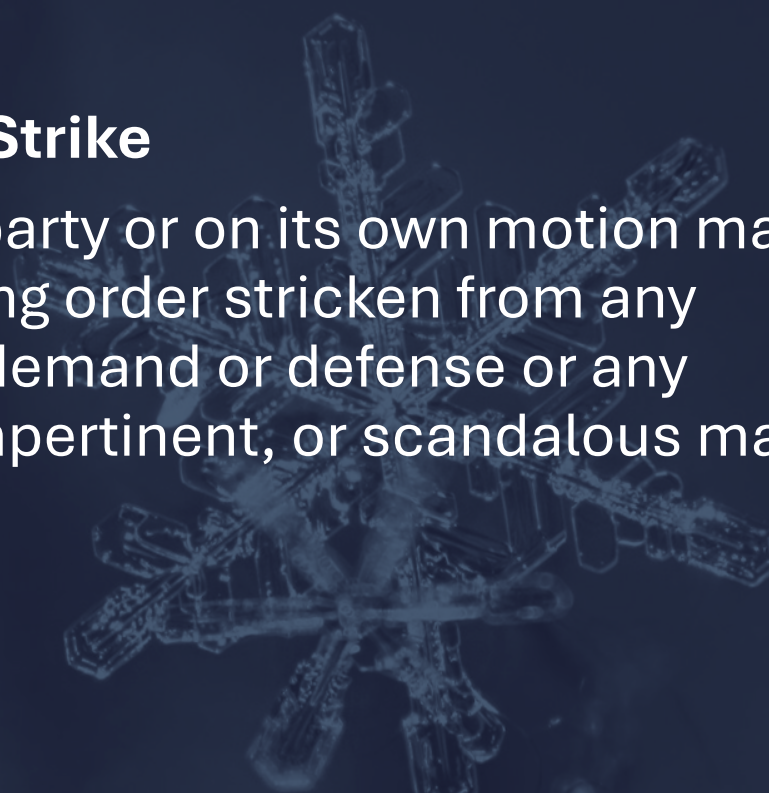
Uniform Rule 2-12.4, Courts of Appeal

The language used in the brief shall be courteous, free from vile, obscene, obnoxious, or offensive expressions, and free from insulting, abusive, discourteous, or irrelevant matter or criticism of any person, class of persons or association of persons, or any court, or judge or other officer thereof, or of any institution. Any violation of this Rule shall subject the author, or authors, of the brief to punishment for contempt of court, and to having such brief returned.

Civility Is a Litigation Strategy, Not a Personality Trait

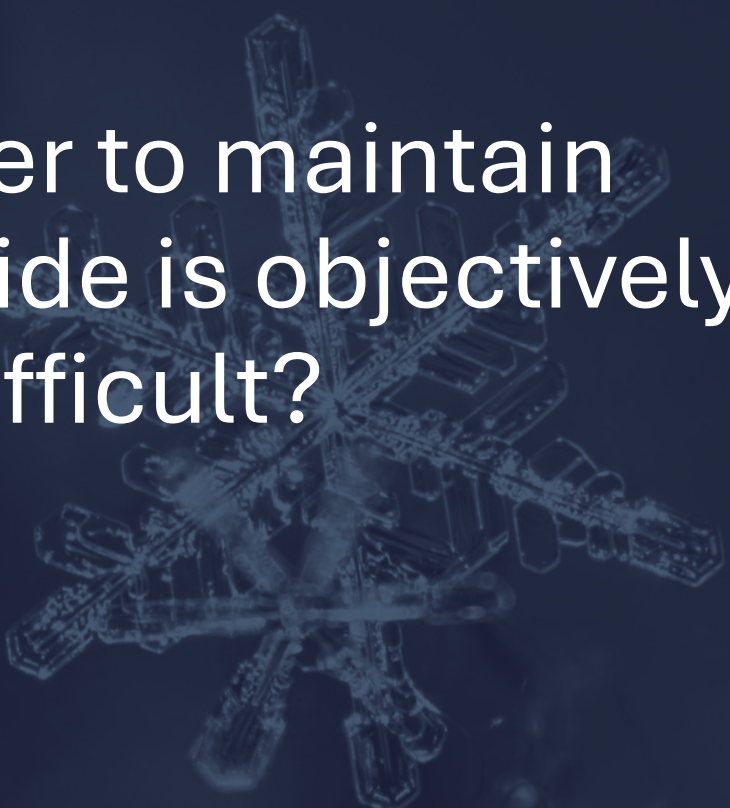
La. C.C.P. 964 Motion to Strike

The court on motion of a party or on its own motion may at any time and after a hearing order stricken from any pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter.



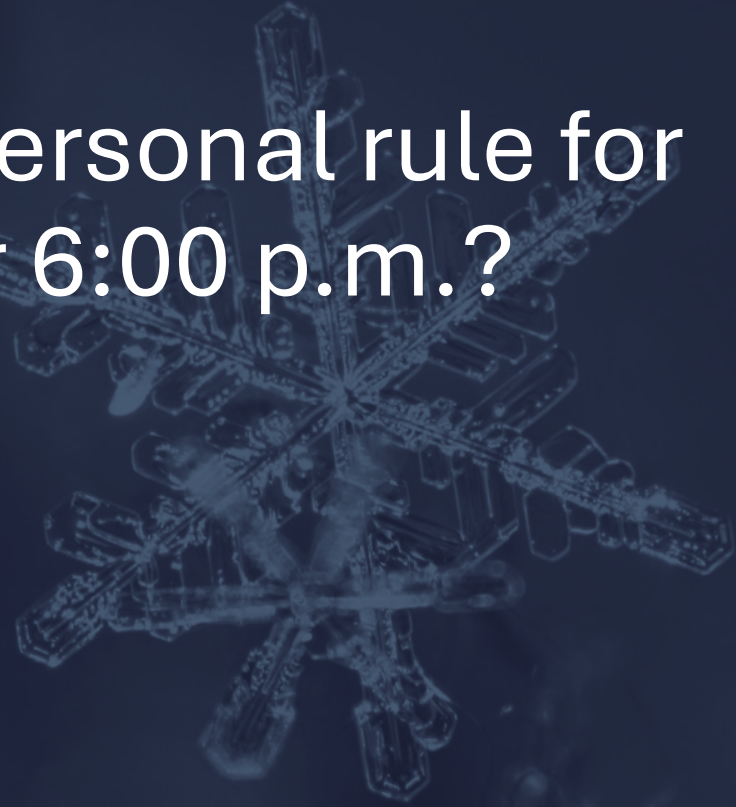
Prompt:

Q: Is civility harder to maintain when the other side is objectively wrong—or just difficult?



Prompt:

Q: What's your personal rule for emails sent after 6:00 p.m.?



Prompt:

Q: Do you ever ‘match energy’—
and does it ever help your client?

*Diesel Driving Academy, Inc. v.
Ferrier*, 563 So.2d 898 (La. App. 2
Cir. 1990)

Prompt:

Q: What is your process for de-escalating a deposition that's going off the rails?

Q: At what point do you involve a partner or request a discovery conference with the judge?

Audience Question:

Who has had an email read back to them in court?



Candor To The Court

La. CCP art. 863; 864

FRE Rule 11

Pierce v. Buck Kreihs Marine Repair, LLC, 2022-CA-0848 (La. App. 4 Cir. Jul. 31, 2023)

“Three credibility failures”:

- Filing/maintaining without objective support
- Deposition testimony vs. later affidavit conflict
- Attempting a paid dismissal after admitting no evidence

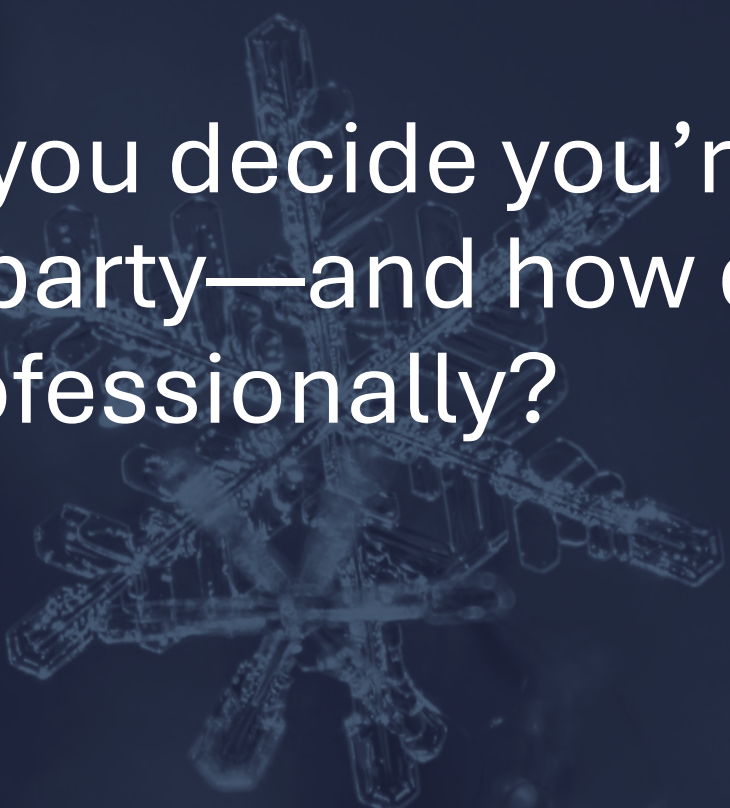
Prompt:

Q: Where is the ethical line between 'negotiation leverage' and 'monetizing dismissal'?



Prompt:

Q: How early do you decide you're suing the wrong party—and how do you unwind it professionally?



Prompt:

Q: When does 'I'll learn it in discovery' become sanctionable?



Prompt:

Q: If your client insists on keeping a weak defense or cause of action in the case, what do you do?



Discovery: A Professional Minefield

Art. 1471. Failure to comply with order compelling discovery; sanctions

If a party or an officer, director, or managing agent of a party or a person designated under Article 1442 or 1448 to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under Article 1464 or 1469, the court in which the action is pending may make such orders in regard to the failure as are just, including any of the following:

- (1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.
- (2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.
- (3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a default judgment against the disobedient party upon presentation of proof as required by Article 1702.
- (4) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

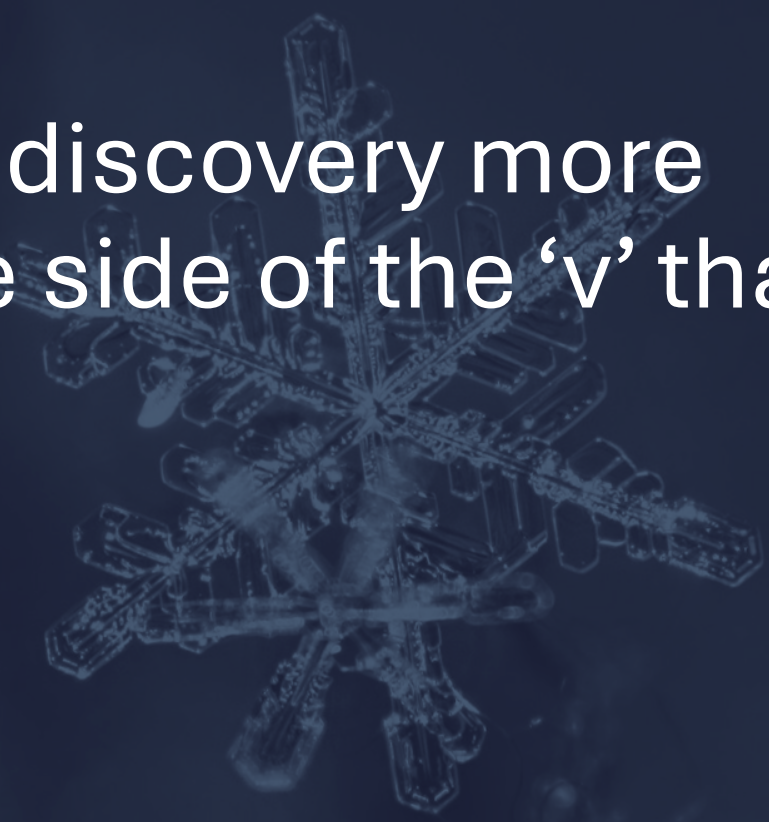
Discovery: A Professional Minefield

McWilliams v. Exxon Mobil Corp., 12-1288 (La. App. 3 Cir. 04/03/13); 111 So. 3d 564

- Three key phases of delay:
 - **Phase 1**: delay/refusal (six months no response; protective order)
 - **Phase 2**: court orders + warnings (deadlines; one-week production; “no sympathy”)
 - **Phase 3**: document dumps + unprepared 1442 reps → motion to compel → sanction (defenses struck; only damages left)

Prompt:

Q: Is aggressive discovery more tolerated on one side of the 'v' than the other?



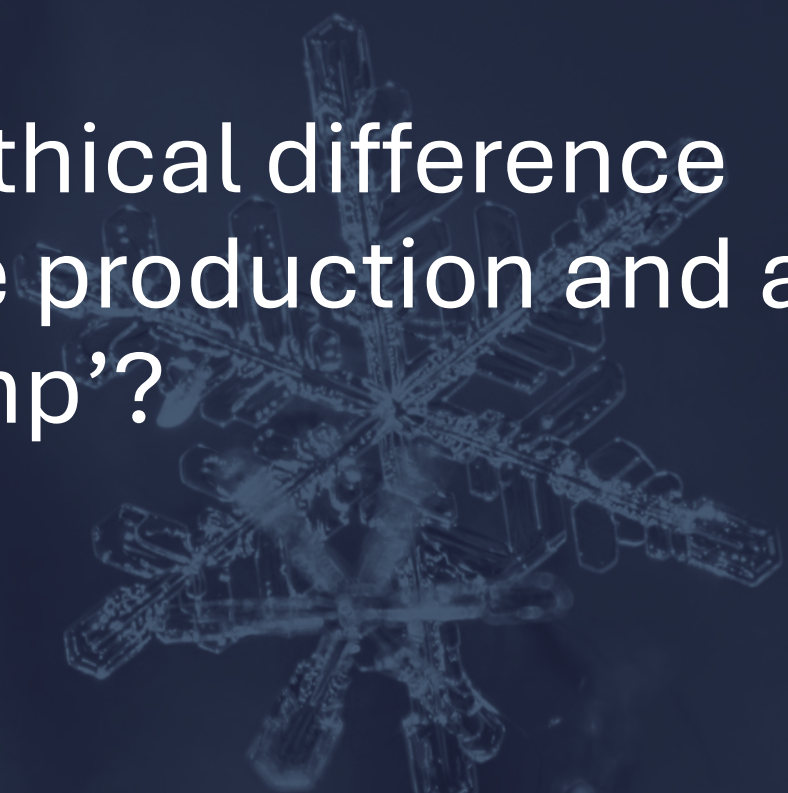
Prompt:

Q: What is the single most common discovery mistake young lawyers make?



Prompt:

Q: What's the ethical difference between a large production and a 'document dump'?



Sides of the V:

Q: What professionalism norm surprised you most after crossing over?



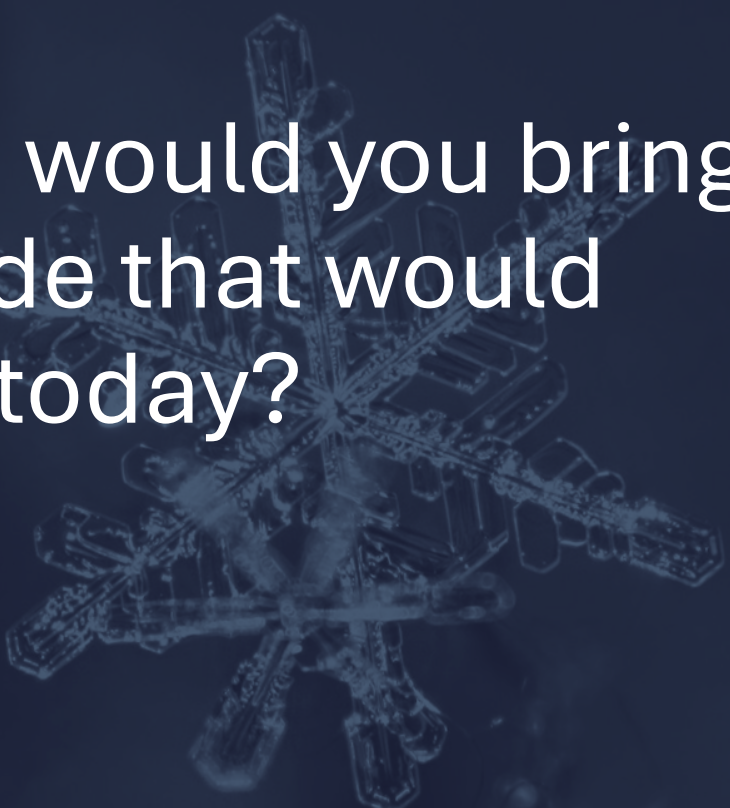
Sides of the V:

Q: Does client control feel different: individual claimant vs. insurer vs. corporate GC?



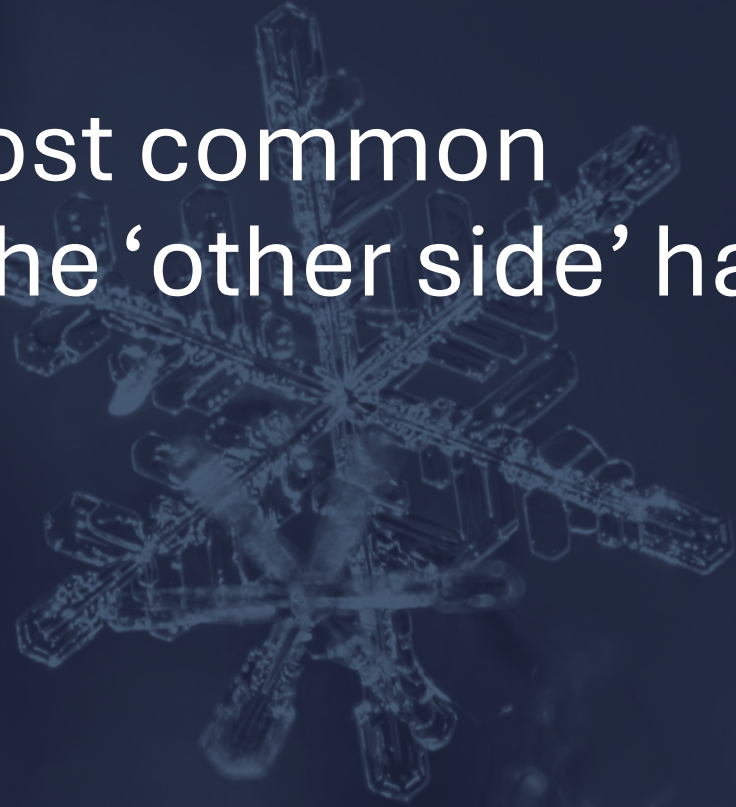
Sides of the V:

Q: What practice would you bring from the other side that would make you better today?



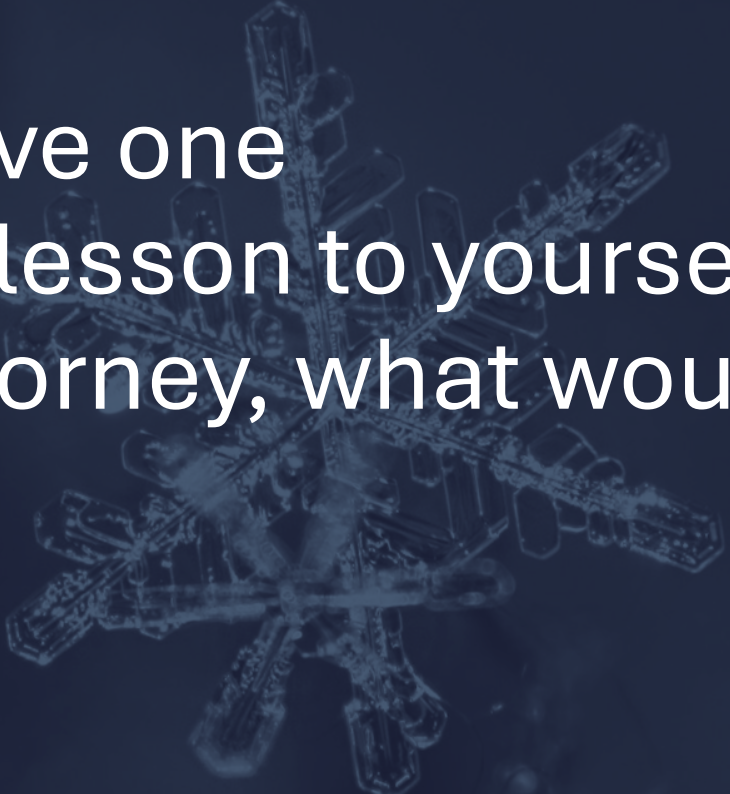
Sides of the V:

Q: What's the most common misconception the 'other side' has about your job?



Final Audience Question:

Q: If you could give one professionalism lesson to yourself as a first-year attorney, what would it be?



Happy Holidays!