



MINNESOTA LAWYERS MUTUAL
INSURANCE COMPANY

Minnesota Lawyers Mutual Ins. Co. Practice Management Webcast Series

The Ethics of the Nastygram & Other Legal Writing Caveats

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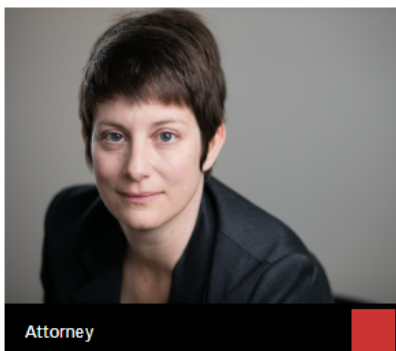
Karin Ciano

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■ I'm a former federal career clerk looking to meet good people, work on interesting cases, and get back into federal court whenever I can. I practice civil rights and employment law, and am also a [freelance attorney](#) who can assist you with putting your best foot forward in federal cases. I look forward to working with you.

**Attorney, Briefwriter,
and Federal Sherpa**

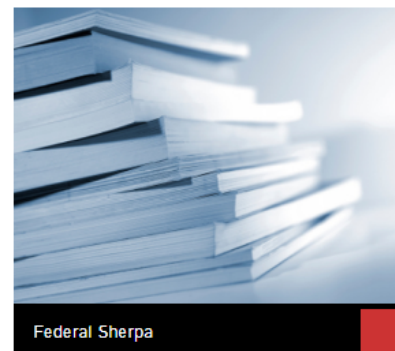
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Attorney



Briefwriter



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Nastygrams: What are they?



Low hanging fruit:
5 tricks to make your letters more persuasive



1. Write for the court

Low hanging fruit:

5 tricks to make your letters more persuasive



2. Assume good faith

Low hanging fruit:
5 tricks to make your letters more persuasive



3. Eyes on the prize

Low hanging fruit:
5 tricks to make your letters more persuasive



4. Proofread

Low hanging fruit:
5 tricks to make your letters more persuasive



5. Sleep on it

Low hanging fruit:
5 tricks to make your letters more persuasive



**PLEASE STAND BEHIND
THE YELLOW LINE**

Bright Lines

Still unethical: lying, threatening, and submitting pleadings you haven't read

RULE 1.4 (ABRIDGED)

ABA Model Rule 1.4 Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent...
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Part (a)
The basic rule

Consult with the
client and keep
them up-to-date.

Part (b)
Take the time
necessary to
explain things

RULE 4.1

ABA Model Rule 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person; or

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Part (a)
False statements
prohibited

Part (b)
Correct the
record to avoid
assisting with
fraud

RULE 3.3 (ABRIDGED)

ABA Model Rule 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) offer evidence that the lawyer knows to be false...

Part (a)(1)
Lying or failing to
correct a false
statement to the
court is
prohibited.

Part (a)(2)
Disclose adverse
authority if
necessary



What makes letters go viral?

Special considerations when writing to
an unrepresented party



The Streisand effect

What makes letters go viral?

Special considerations when writing to
an unrepresented party



The Ballad of Branden Forcements

What makes letters go viral?

Special considerations when writing to
an unrepresented party



Don't make
us
call your
Mom

What makes letters go viral?

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To Dilly
or
not to Dilly

What makes letters go viral?

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Snarky or sanctionable?
Grey areas in letter-writing

Sarcasm



Snarky or sanctionable?
Grey areas in letter-writing

Condescension



Snarky or sanctionable?
Grey areas in letter-writing

PARENTAL
ADVISORY

Strong language



Snarky or sanctionable?
Grey areas in letter-writing



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Documents



Ask a Question



Info



Help



type in your
question for the
panel.





Pro tips

Great letters and why they work



1. Why

Pro tips

Great letters and why they work



2. Who

Pro tips

Great letters and why they work



3. What

Pro tips

Great letters and why they work



4. When

Pro tips

Great letters and why they work



5. How

Pro tips

Great letters and why they work

Judge:

“You speak attorney.”

Lawyer:

“I hope that’s a compliment.”



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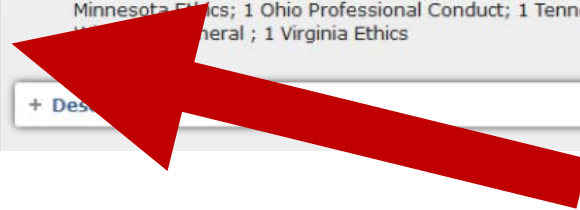
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