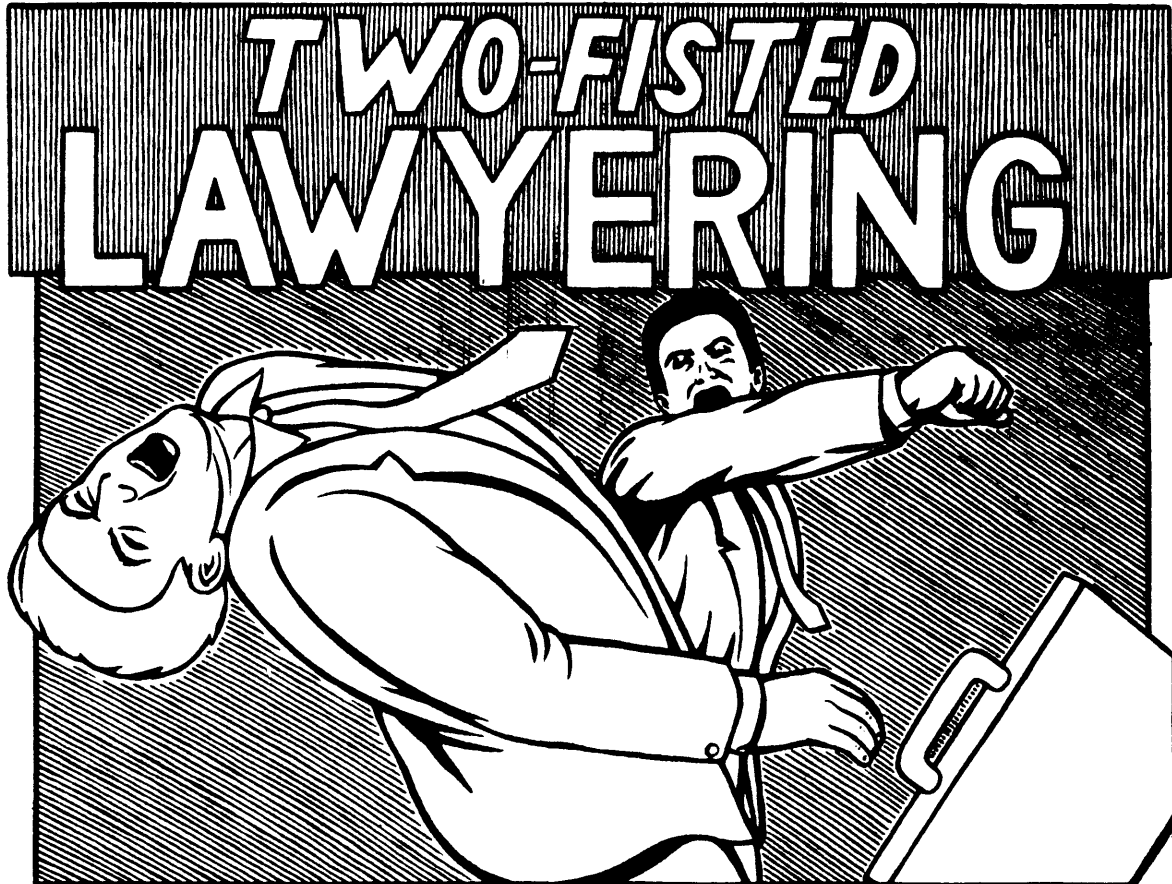


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I'm Paid to Be Rude

By Raoul Lionel Felder

Judith Kaye, the chief judge of New York's Court of Appeals, has proposed a code of civility for New York lawyers. This code, which is to be considered next month by the state's top judges, may seem like a noble enough idea.

Sadly, it is not. It reflects a misreading of what lawyers are hired to be — adversaries — and a misreading of what the legal profession is about — conflict.

The proposed code of etiquette, which would be voluntary, directs lawyers to be polite. Lawyers are already polite and even obsequious to judges; to act otherwise would court contempt charges.

But that is not enough for Judge Kaye. The code directs lawyers to be polite to one another, too. But if lawyers truly care about the causes they

In other words, no delaying tactics.

But this rule of etiquette, however polite, does not always serve clients' interests. There are lawyers who will call over and over again on the same subject or on assorted foolishness. Why should these calls be returned at the client's expense? Why shouldn't a lawyer hang up if an endless nonproductive telephone call cannot otherwise be ended?

Moreover, why shouldn't a lawyer

Why a code of civility for lawyers won't work.

be allowed to use a delaying tactic if time is needed to find a missing witness or uncover vital new evi-

rules are now being advanced. After the O. J. Simpson trial, the reputation of lawyers suffered. This code seeks to uplift our reputations, but the problems with the lawyers in the Simpson trial was not one of rudeness. The code remedies these problems not one bit.

If the civility police insist on monitoring grown-up professionals, why not first adopt a code for doctors who do not return calls to patients who are ill or waiting for medical test results? Or taxi drivers who have raised obnoxious behavior to Olympian heights? Or maitre d's at fashionable restaurants who look at you as if they had just smelled sour milk? Surely, these servants of the public could also use a code of etiquette.

At best, this code will be the object of ridicule on late-night talk shows. At worst, it is insulting to anyone who strides into a courtroom.