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Revised admission oath now emphasizes civility

By Jan Pudlow

Senior Editor

In an adversarial system, lawyers don't always play nice. Attorneys don't always address their arguments to the court, sniping at each other instead. Polite communication devolves into snarky emails. Tempers flare at depositions. Good manners, professionalism, and civility sometimes get lost in the fray of winning a case.

So, on September 12, the Florida Supreme Court added this new language to the Oath of Admission to The Florida Bar, sworn to by every new lawyer, effective immediately:

"To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications."

"It's something that should have been in the oath of admission from the beginning, in my opinion," said Robert A. Cole, of Jacksonville, immediate past president of FLABOTA, the state chapter of the American Board of Trial Advocates that has been working on this issue for years, along with The Florida Bar and law schools.

"We should all treat each other with professionalism and civility. It should be understood. But I think it's just reacting to the lack of civility that is going on in our society as a whole — not just the legal profession. I think it was the right thing to do by the Supreme Court."

Acting on its own in a unanimous decision in [Case No. SC11-1702](#), the court noted two trends: Growing concerns in recent years about incivility among attorneys, and that ABOTA, among others, have taken steps to raise the level of awareness about the importance of civility in practicing law.



For several years, Cole said, the national ABOTA has presented an educational program called "Civility Matters," to bar association groups and law schools. One of the core missions of ABOTA, made up equally of civil defense and plaintiffs' trial counsel, with nearly 7,000 members in all 50 states, is the promotion of professionalism and civility. A committee in the national organization has encouraged states to amend their oaths of admission to require civility in all dealings.

The Florida Supreme Court specifically noted that ABOTA's Code of Professionalism includes a pledge to be "respectful in my conduct toward my adversaries."

South Carolina added a civility pledge to its oath of admission in 2003. Other states, including Utah and New Mexico, have taken similar actions.

Kenneth Marvin, staff counsel of the Bar's Lawyer Regulation Department, noted there is already an existing rule — Rule 4-8.4 Misconduct — that could be used to enforce civility, even though that term is "somewhat vague."

But, Marvin said, the new language in the Oath of Admission to The Florida Bar "is not aspirational, but enforceable to all those who take the oath."

At a recent civility seminar in Tampa, co-sponsored by Tampa Bay ABOTA, the Hillsborough County Bar Association, and Stetson University College of Law, National ABOTA Vice President Mick Callahan, of St. Petersburg, said he asked Chief Justice Charles Canady, the keynote speaker, if he would consider supporting adding the civility clause to Florida's Oath of Admission.

"He said he would explore it with the court and supported the idea," Callahan said, adding he thinks it's necessary because "uncivil conduct by trial lawyers in depositions, in correspondence and phone communications, in scheduling matters, and in mediation proceedings has been increasing."

As a lawyer for 33 years, Cole said, he has "seen a decline in civility. It's been just kind of a gradual type of problem. I see it more with younger lawyers just coming out of law school who are relatively inexperienced. They haven't been properly trained or properly mentored to know courtroom decorum and generally how to treat other members of the profession with civility. It's something you have to learn. You have to be taught it and gain it by experience."

Cole said he learned how to practice law with civility from his two mentors, Rut Liles, president of The Florida Bar in 1988, and longtime Jacksonville lawyer Joe Milton.

Even though Cole was admitted to the Bar in 1978, he said he's never outgrown his mentors. He still gives them a call to ask: "What would you do? How would you handle this?"

Here's an example of uncivility by lawyers Cole has noticed:

"You are in court or in the judge's chambers arguing a disputed motion. Your argument should also be directed to the court. Your comments, your legal and factual arguments, should be made to the judge. What you see sometimes is things break down, and the two lawyers sitting across the table from each other start arguing with each other. The judge has to step in and maintain control."

He has also noticed that some young lawyers "are not being respectful or showing the right etiquette towards not only other attorneys, but the judges."

Miami lawyer Herman Russomanno, 2000 Bar president, past president of the ABOTA Miami Chapter and FLABOTA, and now serving on the ABA Commission on Ethics 20/20, quoted the late U.S. Supreme Court Chief Justice Earl Warren: "The law floats in a sea of ethics."

"One of the specific purposes of ABOTA is to elevate the standards of integrity, honor, and courtesy in the legal profession," Russomanno said.

"It is indeed a high honor for ABOTA/FLABOTA to work with the Florida Supreme Court and The Florida Bar on litigation, civility, and professionalism. For our Supreme Court to revise the Oath of Admission to include this pledge of civility speaks volumes of the excellent work of ABOTA, not only in Florida but throughout the United States."

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