

## **ABOTA Rapid Response Protocol**

### **Goal**

Provide guidelines for the rapid response to issues affecting ABOTA's principal missions are:

- The preserving and protecting the 7<sup>th</sup> Amendment right to civil jury trial.
- Protecting the independence and impartiality of the judicial branch.
- Promoting-professionalism and civility in the practice of law and especially as it relates to litigation and trials.

### **Summary of Protocol**

Establish guidelines for public statements, press releases, media advisories and op/ed pieces from ABOTA educating the public or responding to attacks or misinformation concerning ABOTA's mission.

### **Purpose of the Rapid Response Protocol**

The news cycle in today's technological world is 24/7. Issues and topics frequently presented as news and facts are increasingly less subject to the principles of good journalism and often contain inaccuracies, incorrect facts and sometimes based feelings and opinions rather than an educated understanding of the rule of law and our constitutional republic. For matters that are time sensitive in today's news cycle a rapid response is frequently necessary to be relevant.

### **Rapid Response Team (RRT)**

A Rapid Response Team will be formed annually and appointed by the National President of ABOTA. The Team shall consist of five members, including the National President, President-Elect, Vice President and two members of the National Board with diverse and relevant experience. The members of the RRT shall be approved by the ABOTA National Executive Committee. The members of the RRT shall work together in formulating timely media responses consistent with this policy. At least three of the members of the RRT shall agree before responding in the media on behalf of ABOTA. The only individuals authorized to speak to and/or otherwise communicate with the media on behalf of ABOTA are the National President or the National President's specific designate.

### **Issues ABOTA may Respond to**

These guidelines will be applied as uniformly as possible. A public statement or response should be made on behalf of ABOTA only when the topic affects our principal missions as stated above. ABOTA responds to a number of issues that may impact the right to civil trial by jury or are contrary to resolutions adopted by ABOTA's National Board of Directors.

The following is a list of general categories may be considered:

- Issues concerning attacks affecting the value and right to the civil jury trial
- Issues concerning forced mandatory arbitration
- Issues concerning jury service
- Issues concerning the standards of legal professionalism and civility

- Issues concerning judicial independence and impartiality. However, if the issue concerns an attack or unfair criticism of a judge, ABOTA will be guided by the *Protocol for Responding to Unfair Criticism of Judges* rather than this ABOTA Rapid Response Protocol.
- Issues concerning educating the public as to the benefits of our jury system
- Issues related to ABOTA Resolutions passed by the National Board (*see Attachment A*).

#### **When a response is generally not appropriate**

- The issue is political and not directly related to ABOTA's principle mission.
- A significant disagreement exists amongst the members of ABOTA
- The issue has local chapter or state/regional organization interest but does not meet national standards or rise to national level.
- Requests for ABOTA to endorse a judge or a political candidate

#### **The Timing, Form, and Drafting Considerations of the Response**

##### **Timing**

- Because of the extraordinary increase in the use of social media and dissemination of news through online channels, there is now a greater risk than ever before that unjust criticism and misleading statements will quickly spread, making a prompt response essential. The RRT will work closely with ABOTA's National Office Staff to respond quickly and within the news cycle when it is determined that a response is necessary.
- To be effective, the response must be prompt and accurate and, if at all possible, should be made within 24-48 hours and as soon as practicable.
- Direct communication with a reporter or editor may clarify the facts and serve to defuse the situation.

##### **Form of Response**

- The form and manner of the response should be such that it will receive the same exposure and notoriety as the criticism or misinformation.
- A letter to the editor is an effective form of response because it is the most likely to be printed fully and accurately.
- Press releases are usually more subject to editing and are frequently viewed as less credible.
- Television or radio talk shows by on-air appearance may be effective forms of response, but should be used carefully.
- In some circumstances, press conferences provide effective means to disseminate a response.
- Direct communication with reporters and editors intended to clarify facts and present another position is encouraged.
- Social Media. Any response should be posted on ABOTA's website and its social media platforms. In addition to the brief responses that are feasible via posts or "tweets," the organization should consider directing the reader to the more expansive response on [www.abota.org](http://www.abota.org).

##### **Drafting Considerations**

- The response should be a concise, accurate, "to-the-point" statement, devoid of emotional, inflammatory, or subjective language.
- The response should not appear defensive or self-serving.

- The statement should be informative and not argumentative or condescending.
- The statement should include a correction of the inaccuracies, citing facts and relevant authorities where appropriate.
- The statement should be written in plain language, suitable for inclusion in a newspaper story.
- The statement should NOT attempt to discredit others; that is, attack the competence, good faith, motives, or associates of the critic.
- The RRT should consider the cause of the criticism or controversy, which might not be immediately apparent.

### **Other Options for Responses**

**News release/News Advisory.** A news release or news advisory can be sent through ABOTA's existing media channels about why ABOTA believes the issue is being addressed by the organization.

**Letter.** A letter can be sent to the party(ies) explaining why ABOTA believes the issue is being addressed by the organization.

**Letter to the Editor.** A letter to the editor briefly explaining the reasons why ABOTA is responding and any additional explanation that would help the public better understand the particular situation could be sent to the appropriate media outlets.

**A phone call or email** to the reporter or editor who published a misleading statement or who initiated or encouraged an attack may also be appropriate and helpful.

**Op-Ed or Editorial.** In some cases where the issue is determined to need a more in-depth response, an Op-Ed piece or editorial may be prepared and distributed to the appropriate media outlets to help the public better understand the particular situation.

**Social Media.** Any response should be posted on ABOTA's website and its social media platforms. In addition to the brief responses that are feasible via posts or "tweets," the organization should consider directing the reader to the more expansive response on [www.abota.org](http://www.abota.org).

**News Conference.** In more extreme cases, a news conference can be scheduled during which the issue can be explained to assist the public in better understanding the reasons why ABOTA is responding.

### **Responding to a Time Sensitive Issue**

Immediacy is important. For matters that are time sensitive and subject to a news cycle in order to be relevant, the RRT will convene within 24 hours of receiving a request, require at least three members to participate and will follow the process of reviewing the issue as it relates these guidelines. In no instance should the process take more than 72 hours from the time a complete request is received.

Any member of the RRT, the ABOTA Executive Director, or a designee (which may include committee leadership) may draft the position or comment for consideration and ultimate approval.

The RRT and the Executive Committee have the authority to modify any messaging to ensure the position or comment meets ABOTA's goals to inform and educate the public and falls within ABOTA's principal mission.

The National President will report to the Board of Directors regarding any positions or comments approved by the RRT and the Executive Committee.

### **Responding to Media Inquiries Requiring Immediate Response**

When a media request for public comment is received requiring an immediate response, the Executive Director will first make a preliminary determination whether the issue relates to ABOTA's mission, goals, and/or strategic framework, or appears to fall within one of the specific areas identified. Although the goal would be to respond to any issue immediately, the RRT has a maximum of 72 hours to complete the response.

After the Executive Director makes that preliminary determination, the ED will contact each member of RRT by text, email, telephone or similar immediate method for a response within two hours. The ED will provide recommendations to RRT regarding messaging and method for delivering the message (i.e. live interview, statement, letter to the editor, etc.)

At least three members of the RRT must respond and agree on the message points if the ABOTA National President will speak to the media, or agree on any written statements or official ABOTA commentary before any public comment is distributed to the media. In all cases, the ABOTA National President or his/her designee has final approval before any written comment is disseminated.

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### **NOTE: ABOTA's stand on matters on Capitol Hill**

Through the American Civil Trial Bar Roundtable Legislative Analysis Fund, ABOTA supports efforts to preserve and promote the right to a civil jury trial. The Roundtable's primary focus is the continuation and preservation of the civil trial justice system. With the assistance of a legislative consultant in Washington, D.C., ABOTA remains an active force in opposing legislation contrary to ABOTA's founding principles and Resolutions that have been duly adopted by the ABOTA National Board of Directors. Issues of concern are addressed by the Roundtable through formal and grassroots efforts.

"ABOTA National is 501(c) (6) organization. There are no prohibitions on lobbying as long as the lobbying is related to the organization's exempt purpose. If you do engage in lobbying, you will need to notify members of dues used for those activities as they are nondeductible."

— Source: Susan Powell, Whitley Penn accounting firm, Dallas

**End**