

How CAL-ABOTA Changed the Attorney Oath

Civility is an important part of being a professional. It is hard to feel professional while engaging in a screaming match, employing underhanded tactics or simply refusing to extend common courtesies to an opponent. Although preservation of the Seventh Amendment's right to a jury trial in civil cases is the principal mission of the American Board of Trial Advocates, promoting the practice of civility among trial practitioners runs a close second.

Nearly ten years ago, David Casselman, as President of CAL-ABOTA (a Regional Chapter of ABOTA), created a video seminar called Civility Matters. That video, updated and revised, has spread across the nation. Now Civility Matters seminars are presented annually throughout the nation at law schools and bar association meetings.

Nearly two years ago, another CAL-ABOTA President, Doug DeGrave (Orange County Chapter), mentioned at an executive committee meeting that he thought the oath every new attorney takes should have a civility component. Doug started at the top in his quest to turn his idea into reality by meeting with the Chief Justice of the California Supreme Court who was immediately supportive of the idea. CAL-ABOTA then petitioned the Supreme Court for a modification of the attorney oath.

Doug next called the State Bar's Executive Director, former State Senator Joe Dunn, who also supported the concept. Senator Dunn put Doug in touch with State Bar President Patrick Kelly. Pat embraced the notion and formed a State Bar committee to study the idea and work out the details.

It was decided that no legislative action was necessary if the promise of civility was aspirational rather than mandatory. Keeping it aspirational would also avoid a host of problems that could arise if there were disciplinary consequences to violating an oath of civility.

The State Bar process was lengthy but finally culminated late last year when a proposal to modify the oath was sent out for comment. The final version was submitted to the Supreme Court and approved by it in April, making this the first change in the attorney oath in over 140 years. The revised oath became effective on May 23, 2014, Doug DeGrave's birthday.

The words added to the oath are simple, "As an officer of the Court, I will strive to conduct myself at all times with dignity, courtesy, and integrity." The words chosen are rather close to one of the specific purposes listed in ABOTA's Mission Statement: "To elevate the standard of integrity, honor and courtesy in the legal profession."

California is not the first state to implement this type of change. Fifteen states now have some civility component in their attorney oaths and others are actively taking steps to do the same.

According to Doug DeGrave: "The change in the oath can be the beginning of a new public perception of attorneys." The new oath will also serve as a reminder to all lawyers to adhere to principles of professionalism, said State Bar President Kelly.

We need the reminder. In the heat of battle and under the pressure to win, it is easy to start getting personal. We need to remember that the lawyer on the other side is your opponent, not your enemy.

Squabbling, bullying and refusing to extend common courtesies demean our profession and ultimately waste time and money, usually our client's money. Pat Kelly points out, "you can stand your ground where necessary in a courteous, professional way." Pat believes those who practice civility are "a much more worthy and serious opponent in any dispute".

It is CAL-ABOTA's hope that the revised oath will help halt the decline in civility and spark a rise in professionalism.

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