

# President's Message



## Giving Thanks for Civility and Professionalism – I Swear

By John M. Howe

It is hard to believe that Thanksgiving is right around the corner. As the fall season advances and

the holiday season approaches, we, the lawyers of Palm Beach County, have so much to be thankful for. We live and practice in one of the most beautiful places in the country, a reprieve from scorching summer temperatures and heat indices should be here anytime now, and yes, Gator Football is in full swing! But, for all of these blessings we enjoy, how often do we recognize and reflect upon our good fortune as advocates when we encounter civility, fairness, integrity and professionalism exhibited by our opposition? Apparently, the Florida Supreme Court (“FSC”) believes that these attributes are becoming increasingly scarce in our profession in that, on September 12, 2011, the court handed down Ruling #SC11-1702 styled IN RE: OATH OF ADMISSION TO THE FLORIDA BAR.

In entering SC11-1702, the FSC found that “...[i]n recent years, concerns have grown about acts of incivility among members of the legal profession.” This FSC finding raises many questions. The amendment was strongly supported by the American Board of Trial Advocates (ABOTA). ABOTA Palm Beach Chapter President, Mickey Smith, stated “This change in the oath should make it clear to the small minority of attorneys who do not practice with civility that their actions are wrong and will not be tolerated.” However, are instances of incivility really on the rise, or are we experiencing the collateral effects from phenomena we have come to know as E.R.S. (Email Rage Syndrome) and B.B.L. (Bashing by Listserv)? In other words, is it that we lawyers are increasingly acting like jerks toward each other, or has our awareness of such incidents simply grown, due to the use (abuse) of the “reply all” and “forward to group” functions, blogs, and professional distribution lists by a few rogue lawyers to bash other lawyers. These digital tools and functions have also been increasingly utilized to publicize instances of unprofessional conduct by other members

of the legal profession. In any event, unprofessional conduct and incivility has caught the attention of the state’s highest court. Accordingly, the FSC ordered the Oath of Admission to The Florida Bar be amended to include the following clause: **“To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.”**

From now on, all inductees to the Bar will be required to make this pledge. So what does this mean for the way veteran Bar members behave toward each other? This issue has sparked debate in many legal circles. It has been suggested by some that all members of the Bar should be encouraged, or even required, to re-take their oaths to include the new pledge. I disagree. In my opinion, the oath of attorney we all took already requires us to conduct ourselves in a civil and professional manner in our interaction with courts, court officers, clients, juries, parties and witnesses. Yep, I think that covered everybody. And, there were no provisions of the old oath that allowed unprofessionalism or incivility outside the courtroom either. So, does the amendment to the oath serve as a noble reminder from the FSC of how we should treat each other? It may. But, as far as I am concerned, we were already required to treat opposing parties and their counsel with fairness, integrity and civility, both in court and out, and in all oral and written communications (including electronic communication).

However, we should all take this new provision of the oath to heart as a personal admonition and reminder of how we should treat our sisters and brothers in the practice of law. Are you conscientious of those attributes? When was the last time you shook your opposing counsel’s hand after spirited oral arguments at a hearing – regardless of who won? Would you point out a scrivener’s error, favorable to you or your client, but which was not a part of the agreement? Have you ever made a conscious decision to pick up the phone and actually speak to opposing counsel instead of selecting “reply” or “reply all” and eviscerating her or him?

Have you ever encouraged two lawyers who are feuding in a public online forum to work it out in private? Have you ever mentored a new lawyer to take the “high road”? If you had difficulty answering any of these questions in the affirmative, you might consider taking the revised oath. If you disagree with such gestures of fairness, integrity and civility, it would make no difference which version of the oaths you took. I believe, however, that the overwhelming majority of lawyers, in this circuit and elsewhere, would share these sentiments, both in theory and in practice. For that super-majority, your original oaths should suffice. **Happy Thanksgiving!**



### Featured Board Member - Robin Bresky

This month’s featured member of the board is Robin Bresky. Robin has got to be one of the most energetic and involved lawyers I know! In addition to practicing law and serving on our Bar’s board, Robin also serves on the boards of the South Palm Beach County Bar Association, Legal Aid Society, and as Treasurer of FAWL. Somehow, she balances all of these activities with being a wife and the mother of two outstanding children. A South Florida native, Robin attended law school at the Chicago Kent College of Law. She has been practicing law for 12 years and is the proprietor of Robin Bresky, P.A. in Boca Raton. Her firm specializes in appeals and civil and criminal litigation support. Robin is married to Dr. Kenneth Bresky, and they are the justifiably proud parents of a son who is freshman at the University of Texas, and a daughter who is a junior in high school. The Bresky Family pets are a chocolate Labrador retriever named Lucky, and a Cotton de Tulear, named Candy. When she is not spending time with her family or practicing, Robin enjoys voluntary bar work. Her personal creed is “Anything worth doing is worth doing well” – and that, she does!