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Excessive Advocacy
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All too often, legal practitioners reduce modern-day litigation to ice hockey in business suits.

Litigated matters as well as legally assisted business transactions sometimes result in: 1) public shouting matches; 2) name calling, orally or by written communication; 3) failing to extend a common courtesy in order to gain an advantage; 4) use of a deposition or correspondence to embarrass or humiliate another; and/or 5) using rules of procedure to bludgeon an adversary knowing that one is advocating a marginal legal position.

In a recent commencement address, Supreme Court Justice Sandra Day O'Connor stated:

Clients increasingly view lawyers as mere vendors of services, and law firms perceive themselves as businesses in a competitive marketplace. As the number of lawyers in this country approaches one million, the legal profession has narrowed its focus to the bottom line, to winning cases at all costs, and to making larger amounts of money. Almost every complaint about the decline of ethics and civility "sounds the dirge of the profession turning into a trade."

One lawyer who stopped practicing law explained his decision to leave the profession in these bleak terms: "I was tired of deceit . . . many attorneys believe that zealously representing their clients means pushing all rules of ethics and decency to the limit."

Utah Supreme Court Justice Matthew B. Durrant wrote in *Civility and Advocacy*:

Even more regrettably, I fear that too many lawyers are buying into the notion that incivility makes for effective advocacy. There has been no shortage of articles and speeches calling for greater civility among lawyers. I concur wholeheartedly in that sentiment. Lawyers should see themselves as engaged in a noble profession. They should conduct themselves with dignity and courtesy. They should be invariably honest and straightforward. Why? It should be enough that it is the right thing to do, and a more satisfying way to practice—a better way to live, for that matter. Those whose lawyering strategy is to inflict maximum misery often make themselves most miserable of all. But I write to suggest one additional reason for adhering to the highest standards of courtesy and professionalism. *Civility, dignity and honesty not only make for a more satisfying and fulfilling professional life, but for more effective advocacy.*

As lawyers, our responsibilities (see n.*) include acting as a representative of our clients,

an advocate, a negotiator, an intermediary between clients and an evaluator who examines a client's legal affairs and thereafter advises accordingly.

Our "Rules of Professional Conduct Preamble: A Lawyer's Responsibilities" provides that a lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. It goes on to say that *a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.*

Excessive advocacy has become too common. It is *not* the sole responsibility of The Florida Bar, the Center for Professionalism, and the judges of this state to force-feed reasonable, respectful, and courteous behavior to attorneys. It *is* the responsibility of each and every Florida attorney to examine and ponder his or her professional behavior and to mentor young attorneys on acting in a reasonable manner. In the end, it is by deed rather than by decree that attorneys teach each other that it is possible to "disagree without being disagreeable."