

## New Texas Lawyer's Oath to Stress Civility

*By Jonathan Smaby of Texas Center for Legal Ethics – (May 19, 2015) –* The oath required of newly-admitted Texas attorneys is getting an upgrade. Though the changes are minimal, they nonetheless represent an important moment in Texas legal history by putting the state's citizens firmly behind the idea that judges and lawyers who work here should conduct themselves with the highest standards of civility and professionalism.



*Jonathan Smaby*

Last Friday, Governor Greg Abbott signed Senate Bill 534, which passed through the Texas Legislature with unanimous support. Authored by Sen. Kirk Watson, D-Austin, SB 534 amends the existing Texas Lawyer's Oath to require the pledging attorney

to "conduct oneself with integrity and civility in dealing with and communicating with the court and all parties." The law also removes masculine pronouns from the oath in favor of gender-neutral terms.

Sen. Watson's legislation follows a national push to include similar language in lawyer oaths across the country. So far, 13 other states have added "civility" language to their oaths. This growing movement is based on more than a desire for courthouse decorum, however. Civil interactions not only lessen tensions in legal disputes, they also create efficiencies by allowing judges and lawyers to focus less on the inevitably confrontational aspects of our profession and more on our collective duty to ensure the orderly administration of justice. Every minute a judge or a lawyer spends dealing with a colleague's unprofessional behavior is valuable time taken away from the critical work

of evaluating and deciding substantive legal issues on behalf of Texas citizens and businesses.

We may live in politically divided age, but all sides of the warring factions in the Texas Legislature managed to get behind this bill. A broad range of groups endorsed it, including the State Bar of Texas, the Texas Chapters of the American Board of Trial Advocates, the Texas Trial Lawyers Association, and the Texas Association of Defense Counsel, just to name a few. Nine lawyers in the Texas Senate, liberal Democrats and conservative Republicans alike, signed on as co-authors.

SB 534 faced some initial opposition from members of the Texas Supreme Court Advisory Committee based on the perfectly reasonable argument that accusations of incivility could themselves clog up cases and courts with amorphous and dubious claims. The bill sailed through the legislature, however, after Sen. Watson announced before the entire Senate that the legislative intent is not to create a new legal cause of action against attorneys or to expose lawyers to any additional disciplinary measures.

Like many states, Texas has had its share of "Rambo litigators," who believe that their job is to win cases at all costs. Efforts over the years to address this problem – including the issuance of the Texas Lawyer's Creed in 1989 and the creation of the Texas Center for Legal Ethics the same year – have helped reduce their numbers, though they still exist. The Rambos are far outweighed, however, by the overwhelming majority of Texas attorneys who take their obligations to both clients and our legal system seriously while conducting themselves appropriately.

Indeed, the Texas Lawyer's Creed also faced criticism when it was issued by the Supreme Court of Texas and the Texas Court of Criminal Appeals more than 25 years ago. Like the >



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proposed changes to the oath, the Creed did not create any new causes of action, nor did it alter the existing disciplinary system. Instead, it called on attorneys to exhibit the “highest principles of professionalism,” to demonstrate “personal dignity, integrity, and independence,” and to “disagree without being disagreeable,” among other goals for appropriate conduct. While these, too, are not precise requirements governed by enforcement, they do set a high cultural standard that has proven effective in helping lawyers remind themselves, their colleagues, and their clients of the high professional standards expected of our profession.

This small change to the existing Texas Lawyer’s Oath may not seem that momentous, but the oath is the very last requirement a would-be lawyer must meet before he or she officially joins the Texas Bar. In that solemn and meaningful

moment – for many, the culmination of a lifelong dream after years of hard work and study – the pride and joy that these new lawyers feel will forever be bound with their promise to pursue their profession with civility and integrity. And their colleagues and clients should expect nothing less.

Attorney Jonathan Smaby is the Executive Director for the Texas Center for Legal Ethics. He regularly writes and speaks on legal ethics issues, including authoring related articles for legal and business publications as well as delivering presentations before such groups as the NAACP, American Bar Association, State Bar of Texas, and local bar associations throughout the state.

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