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## Bar Bulletin: Opposing counsel who can get along this summer can earn a free drink from Charles Jimerson

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Charles Jimerson, right, and Robert Heekin Jr., demonstrating that opposing counsel can enjoy a beverage and some collegiality.

Monday, June 13, 11:01 AM EDT

By Charles B. Jimerson, The JBA Board of Governors

Clarence Darrow once said, "The trouble with the law is lawyers."

I tend to agree. One of the foremost problems with civil litigation is it's so expensive and the reward (if any) is so delayed.

As a lawsuit drags on through the system — pleadings, motion practice, discovery, etc. — the matter becomes a war of attrition. Parties often are motivated to settle the dispute not based on the merits of their respective positions, but based on the costs they are incurring and the extent of their financial and emotional resources.

If this is a plague infecting our profession, what can we do about it as lawyers? The answers that come to mind are:

1. Focus your case strategy at the onset to ensure the main thing stays the main thing throughout the engagement.
2. Form an efficient legal team that leverages resources and technology.
3. Assess and reassess the value of the case at all stages. Compare the return on investment with the legal budget to ensure value to the client always is given.
4. Put your clients to work for you. Communicate well with them, use their personnel assets and get them personally invested in the development of their own case.

And most important:

5. Cooperate with opposing counsel at every available opportunity.

The last point is worth emphasizing, as it is the factor that will provide the most financial and emotional return on investment.

The only time I am not smitten with my job is when I am involved in a case with a lawyer I detest and have trouble getting along with.

When lawyers get too emotionally and personally involved with a case, there are very few good things that can come out of it.

We've all been there. That's why we learn from yesterday, live for today and plan for tomorrow.

When I get too charged up about a case, it is because of one reason and one reason only — I am a fierce competitor.

But there are ways to compete and zealously advocate without turning a dispute between clients into an all-out battle among the parties and the lawyers.

When lawyers start to lose their civility, it brings us all down.

The clients lose as the cost of litigation unnecessarily increases. The court system loses as it is burdened with avoidable and immaterial squabbles.

The lawyers lose because they've hoisted their own petard by damaging their professional reputation and making an already stressful job much more stressful than it needs to be.

And the profession as a whole loses because the character and integrity of our lawyers are called into question with every preventable dustup.

Cooperate where you can and choose your battles. Pick battles big enough to matter and small enough to win.

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Don't let something that doesn't matter (read: pride and ego) cause you to lose something that does (read: your client's case and your client's business).

Picking your battles with opposing counsel is only the first step in garnering a more accordant Bar.

The second step is fighting those imperious battles in a dignified manner. Civility costs nothing and buys everything. If you can't be civil to your opposing counsels, please be quiet and be seated.

Go run for president or some other job that seems to be indiscriminately accepting applications.

When you're interacting with other lawyers, ask yourself: Is it kind? Is it true? Is it necessary?

You don't have to be a jerk to compete or to win in this business. We are a more credible Bar when we focus less on raising our voices and more on improving our arguments.

It takes experience to learn that the competitor to be feared is the one who never bothers you at all, but goes on making his or her case better all the time.

If competition is why you are in this business, I can assure you there are many better ways to competitively do your job than by provoking altercations.

Look in the mirror. That's your competition. Make yourself and your case better every single day. When you do that, you will have confidence, and confidence has no worthy adversary.

To walk the walk, I'm hereby issuing a civility challenge to all of you litigators out there. Pick up the phone and call one (or all) of your opposing counsels and ask them to join you for cup of coffee or a beer.

For the rest of this summer, the first round will be on me. All you have to do is email me a picture of you and your opposing counsel in an active lawsuit having a coffee/beer summit together and then send me the bill.

Feel free to talk turkey or just keep it light when you get together. The point is to be simpatico and make us all better in the process. Cheers!

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