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Program takes aim at problem lawyers

Professionalism Panel reels in rude attorneys for counseling

By [Marc Freeman](#), Sun Sentinel

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One lawyer mailed a letter to a judge's home with "unflattering commentary" about a ruling. Another lawyer was so rude in court, he refused to look up from his computer to make eye contact with the judge speaking to him. advertisement

Then there was a divorce attorney who sent nasty emails to his opposing counsel, with insults including, "How do you sleep?" and "Don't be a fool."

Complaints about lawyers behaving badly now go to the 15th Judicial Circuit's Professionalism Panel in [Palm Beach County](#). Five such offenders were called before the panel in the past year, since the Florida Supreme Court made increasing civility a bigger priority.

"There's always going to be obnoxious people who just don't get it," said Michael D. Mopsick, a [Boca Raton](#) lawyer who sits on the panel. "It is important for the public to see and understand what's going on in the legal profession, and that we're trying to make it better."

The high court in June 2013 ordered these panels for each of the state's 20 judicial circuits, to counsel boorish lawyers — deemed "one of the most significant adverse problems that negatively impact the practice of law in Florida today."

But this is not a forum for discipline; ethical violations or matters of severe misconduct are brought to the Florida Bar for possible sanctions including license suspensions. However, the panels can choose to refer professionalism complaints to the Bar for punishment, under the new system.

"One hopes that the Supreme Court's readiness to impose disciplinary sanctions in such cases will deter lawyers from obnoxious, disrespectful, antagonistic, or disruptive behavior," said D. Culver "Skip" Smith III, a West Palm Beach attorney specializing in representing lawyers accused of ethics breaches. "This professionalism issue of ours is worsening."

Anyone from the public can join lawyers and judges in requesting an attorney be summoned to the local Professional Panel, whose six members are leaders in the legal community. The meetings, lasting about 30 minutes, are held in private in Chief Circuit Judge Jeffrey Colbath's conference room.

Violators learn what they did wrong and are advised how to prevent further lapses. The attorneys, whose names are not released, also receive letters detailing their shortcomings and expectations for professional courtesy. An attorney mentoring program also is encouraged.

"The purpose of the panel is to educate," said Mopsick, past president of the South [Palm Beach County](#) Bar Association. "A lot of times the attorneys don't realize what they're doing is unprofessional."

Circuit Judge Charles Burton says he couldn't believe it when an attorney reached out to him — at his residence — with gripes about a ruling in a pending lawsuit. The attorney claimed his interpretation of a rule, not the judge's, was

"the only sensible conclusion."

"I got that letter at home and said, 'What the hell?'" Burton recalled. So he reported the matter to the panel, which met with the attorney in October.

Turns out, the attorney offered excuses for his actions. He told the panel he wanted to get Burton's "attention."

The attorney added that he didn't trust the clerk of court's office to deliver the letter to the judge's chambers. He reasoned that in upstate New York, where he used to practice law, "it was common practice for attorneys to send correspondence to the presiding judges at their homes."

Mopsick said the panel made it clear: "Sending correspondence about pending cases to a judge's home address is not professional conduct."

It's an intrusion on the judge's privacy and is a safety concern, along with being inappropriate, the lawyer was warned.

The panel "is hopeful that you will gain an improved sense of the expected level of civility and professionalism in [Palm Beach County](#)," Mopsick wrote in a letter to the attorney.

Burton said last week he was satisfied with the outcome. He says he doesn't encounter many loutish litigators while sitting on the bench in family court these days.

"By and large most attorneys I see are truly courteous and respectful," Burton said, noting some lawyers "morph into their clients" and get carried away with a win-at-all-costs mentality.

Roger W. Feicht, who practices business and employment law with Gunster in West Palm Beach, helped conduct a survey of [Palm Beach County](#) judges about civility and other areas where lawyers need improvement.

The judges reported professionalism has decreased with more lawyers flooding the area, and the public has taken notice of it.

"Jurors are often surprised and disgusted at the behavior they witness while inside our courtrooms," Feicht wrote, outlining the judges' views in a March column for the [Palm Beach County](#) Bar Association. "Attorneys should not pride themselves on being aggressive."

At the South County Courthouse in [Delray Beach](#), Circuit Judge Jeffrey Gillen sits beside a black obelisk with the words, "Professionalism and Civility, Anything Less Will Not Be Tolerated." Gillen also wears a blue button on his black robe that asks, "Got Civility?"

He taps on it every time a lawyer starts to act up in his courtroom.

"You lead by example, and I maintain my demeanor," Gillen said. "I can't expect lawyers or litigants to take me seriously if I start yelling at them or saying inappropriate things."

Circuit Judge Donald Hafele says he's become increasingly concerned with the aggressive posture displayed by lawyers in his presence, including some who cut him off while he's speaking from the bench at the main courthouse in West Palm Beach.

"There has been a material sea change in recent years in the conduct of attorneys," said Hafele, a judge since 1999. "It's time we restore dignity to this process. This was once a noble profession."

mjfreeman@tribpub.com, 561-243-6642 or Twitter @SSCourts

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