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## Lawyers need to step up to the plate

A worthy adversary in court can be a worthy post-trial drinking buddy, too.

I am a big baseball fan. Always have been, always will be. Yet, I did not know of a MLB rule that seems outdated to me.

Rule 4.06 states: "Players in uniform shall not address or mingle with spectators, nor sit in the stands before, during or after a game. No manager, coach or player shall address any spectator before or during a game. Players of opposing team shall not fraternize at any time while in uniform."

Did I read that correctly? "Players of opposing teams shall not fraternize at any time while in uniform."

The first baseman is always talking to the player that just reached base. The shortstop and second baseman are always chatting with the batter who safely slid in for a double.

This rule simply cannot be true. Incredibly, it is true.

I have recently learned that this rule was enacted as an earlier effort to contain the threats of corruption and collusion. The rule was intended to maintain baseball's competitive integrity. From what I have read, it was instituted shortly after the 1919 "Black Sox" scandal. Leave it to Chicago to be the impetus for such a rule.

Let's be honest — this rule is ignored and violated on a daily basis. I have never seen it enforced. Times have changed since the rule was implemented. With the advent of free agency, frequent trades, players moving more freely from franchise to franchise, friendships have formed with ex-teammates that make it almost impossible to keep them from socializing on the field. From my perspective,

socializing with your opponent while on the field is a good thing.

When I read the rule, I thought back to a deposition from some 20 years ago. I was representing a man who lost his wife and son in a horrific motor vehicle accident. It was a very sad case. There were three lawyers representing the opposing parties, and I knew all three of them.

When I walked in, we exchanged pleasantries, a couple of laughs and I assumed the deposition was ready to proceed. Little did I know, my client thought I was in cahoots with the other side. Unbeknownst to me, my client believed Rule 4.06 applied not only to baseball players but to attorneys. In the eyes of my client, attorneys from opposing sides should not fraternize at any time during litigation.

It was an important lesson for me to learn. Clients expect their lawyers to engage in zealous advocacy. I agree with the premise, however, a lawyer can be tough and aggressive and still not be obnoxious and rude.

As John F. Kennedy once said, "civility is not a sign of weakness." Civility does not suggest a lack of zealous representation. It is a must in the practice of law.

I have been practicing law for more than 25 years — this is my lot in life. Practicing law is simply more fun and less stressful when there is a good rapport with opposing counsel and the bench.

Grabbing a drink with opposing counsel after a lengthy deposition does not display a sign of weakness or signal you are contemplating settlement. As Shakespeare once noted, "Strive mightily, but eat and drink as friends." I like a good battle, but I love to eat and drink a whole lot more.

### BALANCING LIFE AND THE LAW



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With one of my former partners, Robert P. Walsh Jr., I would commonly place a bet over the result of our trials. The non-trial participant would buy the trial attorney a beer if he won and a Long Island iced tea if he lost. (Beers taste better, trust me.)

Over the years, the secret society we formed has extended to opposing counsels and clients. A couple of years ago, I won a case against a lawyer whom I really liked. After the trial when the verdict came back, my client gleefully said, "Oh good, it is beers and not Long Island iced teas for us."

I guess the point of my story is a legal career should not equate with nuclear war. True, there are some lawyers I would gladly watch choke down a Long Island iced tea after their bitter loss. Yet there are countless lawyers I have practiced law with whom I would gladly have a cocktail with after work. Those are the people who make the practice of law fun. Those are the people who make the practice of law worth engaging with on a daily basis.

As officers of the court, we must strive to conduct ourselves with dignity, courtesy and

integrity. Those attributes should extend to the daily practice of law.

I think I am dating myself, however — a handshake was as good as gold with most of the lawyers I grew up working with. Today, I feel like the confirming e-mail is needed with certain lawyers. I hate that part of the practice of law.

For some lawyers, incivility is in their blood. But I still believe in the good of most people. Most lawyers are not inherently uncivil.

We all slip into times when we are not acting with civility. It happens. At the end of the day, can you look yourself in the mirror and say you acted as a civil lawyer? If so, you should be proud of yourself.

I think MLB Rule 4.06 is ridiculous. I have coached youth sports for roughly nine years, in addition to football, baseball, basketball and soccer. (Coincidentally, I knew nothing about soccer and the only admonition I gave to the young lads was "don't use your hands.")

I would have had my kids knowingly violate Rule 4.06 on each and every occasion. I am a big believer in fraternizing with the opponent. Don't believe me? My wife is a former defense attorney.

Making and maintaining friendships on the field and in the courtroom is what life has been all about for me. I will continue to fraternize with opposing counsels. I will encourage Jack and Lily (my children) to fraternize with their opponents.

You never know when you are going to make that lifelong friend.

Now that I am stumping and attempting to denounce this ridiculous rule, my next paper may share my thoughts on the designated hitter.