

IN THE THIRD JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 2013-011

Third Circuit Professionalism Panel and Committee

In May of 1990, the Florida Bar Board of Governors approved Ideals and Goals of Professionalism, hereinafter referred to as the "Ideals." On June 11, 1998, the Florida Supreme Court issued an Administrative Order directing the Chief Judge of each circuit to create and maintain in continuous operation a Committee on Professionalism. Accordingly, in June of 1998, the Chief Judge of the Third Judicial Circuit, through Administrative Order 98-020, created a Joint Bench/Bar Professionalism Committee. On June 6, 2013, the Supreme Court of Florida, in opinion SC13-688, adopted the Code for Resolving Professionalism Complaints and directed the Chief Judge of each circuit to create a Local Professionalism Panel to receive and resolve professionalism complaints. A copy of this opinion in its entirety is attached to this Administrative Order.

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

1. The Third Judicial Circuit Joint Bench/Bar Professionalism Committee is hereby reconstituted as the Third Judicial Circuit Professionalism Panel ("Panel") and Committee that is specifically designated to act as the local professionalism panel in accordance with SC13-688. The Panel shall be henceforth composed of the following individuals:

- Third Judicial Circuit's representative on the Florida Bar's Board of Governors;
- Third Judicial Circuit's representative on the Florida Bar's Young Lawyers' Division Board of Governors;
- President of the Third Judicial Circuit Bar Association;
- State Attorney or designee (Assistant State Attorney);
- Public Defender or designee (Assistant Public Defender);
- Member of the judiciary appointed by the Chief Judge;
- At-large member selected by the Third Judicial Circuit's representative on the Florida Bar's Board of Governors;
- At-large member selected by the president of the Third Judicial Circuit Bar Association; and
- At-large member selected by the member of the Third Judicial Circuit's judiciary appointed to the Panel by the Chief Judge.

The Panel shall meet as soon as possible after the effective date of this order and select a Chairperson. The President of the Third Circuit Bar Association shall be responsible for scheduling the time and location of the first meeting. A quorum shall be met if at least five members are present. All decisions of the Panel, including the selection of Chairperson, shall be by majority vote of a quorum.

All attorneys on the Panel must have at least five years of practice. The Chief Judge shall not be a member of the Panel but may, at the request of the Chairperson, preside over the Panel. In the absence of the Chief Judge, the Chairperson of the Panel shall preside.

2. The purpose of the Panel is to meet with attorneys who have conducted themselves in a manner inconsistent with the Ideals or any particular local standards approved by the Third Circuit Bar Association (hereafter "Standards") in order to discuss such conduct and counsel attorneys to avoid future conduct inconsistent with the Ideals, Standards, the Oath of Admission to the Florida Bar, the Florida Bar Creed of Professionalism, the Rules Regulating the Florida Bar, or the decisions of the Florida Supreme Court (hereafter collectively "Ideals and Standards"). **The Panel shall have no authority to discipline any attorney or to compel any attorney to appear before the Panel.** The Panel may also counsel attorneys if it determines such counseling will further the goals of the Ideals or Standards. The following procedures shall generally govern the proceedings of the Panel:
 - (a) Initiation by Judicial Officer or Quasi-Judicial Officer:
 - (i) When any Judge, Magistrate, Child Support Hearing Officer, or Traffic Hearing Officer within the Third Judicial Circuit determines that an attorney has engaged in conduct inconsistent with the Ideals and Standards, the Judge, Magistrate, Child Support Hearing Officer, or Traffic Hearing Officer may refer the matter to the Professionalism Panel (by e-mail or letter) via the Chairperson.
 - (ii) The Chairperson, on behalf of the Panel, shall address a letter to the attorney involved, inviting that attorney to meet with the Panel on a date and time specified.
 - (b) Initiation by Attorney/Non-Attorney:
 - (i) If an attorney observes conduct on the part of another attorney that he or she believes is inconsistent with the Ideals or Standards, that attorney may request that the Panel consider the matter by directing a letter or e-mail to the Chairperson.
 - (ii) If a non-attorney person is directly and adversely affected by conduct on the part of an attorney that is inconsistent with the Ideals or Standards, that person may request that the Panel consider the matter by directing a letter or e-mail to the Chairperson.
 - (iii) The written request shall be limited to ten (10) pages inclusive of exhibits.
 - (iv) The Chairperson shall review the request, shall notify the respondent attorney of the request, may request a response, and shall determine whether the matter justifies a referral to the Panel. If a matter is referred to the Panel, the Chairperson shall address a letter to the attorney involved inviting the attorney to meet with the Panel on a date and time specified.
 - (c) Initiation by the Florida Bar's Attorney Consumer Assistance and Intake Program (ACAP).

- (i) The Professionalism Panel may accept referrals sent by ACAP. Conversely, the Panel may also, in its discretion, refer matters, as described in a request or as determined by the Panel, to ACAP at any time depending upon the nature and severity of a matter.
 - (ii) The Chairperson shall review the request, shall notify the respondent attorney of the request, may request a response, and shall determine whether the matter justifies a referral to the Panel. If a matter is referred to the Panel, the Chairperson shall address a letter to the attorney involved inviting the attorney to meet with the Panel on a date and time specified.
- (d) Any letter sent to an attorney by the Chairperson (paragraphs a, b and c above) requesting that an attorney appear before the Panel shall identify the conduct alleged to be inconsistent with the Ideals or Standards and the Ideals or Standards potentially implicated, and shall advise the attorney that the Panel meeting is not a disciplinary proceeding. A copy of the *Ideals and Standards* applicable shall be included in the correspondence.
 - (e) The Panel will meet at the date and time specified in the letter. The purpose of the meeting will be to discuss with the attorney his or her conduct and ways the attorney should act in the future to be consistent with the *Ideals and Standards*. The Chairperson shall send a letter summarizing (“summary letter”) the Panel’s discussions to the respondent attorney.
 - (f) If the respondent attorney fails to appear, the Panel shall discuss the conduct inconsistent with the Ideals or Standards and shall summarize the Panel’s discussions in a summary letter to the respondent attorney. **Consistent with the provisions of paragraph 4 of this Order, the Panel may consider the Respondent’s failure to appear in determining whether a referral to ACAP is appropriate.**
3. The Chairperson, if authorized by the Panel, may, for purposes of professional education, provide a copy of any summary letter for publication in any legal professional publication so long as the name of the respondent attorney and any other party or witness name is redacted.
 4. The Ideals and Standards apply to all counsel practicing law in this circuit and their staff, pro se litigants appearing before the courts of this circuit, and all persons entering an appearance before the courts of this circuit.
 5. The Third Judicial Circuit Local Professionalism Panel and Committee shall also be charged with carrying out all duties previously directed to be performed by the Third Judicial Circuit Joint Bench/Bar Professionalism Committee.
 6. The Chairperson shall be responsible for completion of the *Individual Reporting Form For Local Circuit Professionalism Panel* for each individual matter addressed by the Panel and for completion of the *Florida Bar ACAP and Local Circuit Professionalism Panel Quarterly Summary Report To The Florida Supreme Court*, (copies of which are attached) for forwarding the completed forms to the Chief Judge of the Third Judicial Circuit, who shall, after review and signature, forward to the Chair of the Commission on Professionalism in accordance with instructions of Justice R. Fred Lewis.

7. The Chairperson shall retain copies of all correspondence and reports described in this order and shall be the custodian of all originals and copies of records generated by the Third Judicial Circuit Professionalism Panel and Committee.

DONE AND SIGNED, in Chambers, at Perry, Taylor County, Florida, this 20th day of December, 2013.

A handwritten signature in cursive script, appearing to read "G. Parker", written in black ink.

Greg Parker, Chief Judge

Supreme Court of Florida

No. SC13-688

IN RE: CODE FOR RESOLVING PROFESSIONALISM COMPLAINTS

[June 6, 2013]

LEWIS, J.

The Supreme Court of Florida Commission on Professionalism has requested that the Court adopt a Code for Resolving Professionalism Complaints which would include a structure to provide a process to more critically address professionalism issues in Florida. We have jurisdiction, art. V, § 15, Fla. Const. (“The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted”), and grant the request.

The current professionalism movement in Florida traces its formal beginning to a Florida Bar task force created in 1989 which generated a report to this Court in 1996 that reported lawyers’ professionalism to be in a state of “steep decline.” In July of 1996, The Florida Bar requested that this Court create the Supreme Court of Florida Commission on Professionalism with the overarching objective of

increasing the professionalism aspirations of all lawyers in Florida and ensuring that the practice of law remains a high calling with lawyers invested in not only the service of individual clients but also service to the public good as well.

Recognizing that professionalism involves principles, character, critical and reflective judgment, along with an understanding of ourselves and others working in and under stressful circumstances, Florida has traditionally followed a more passive, academic approach to enhance and improve professionalism. Continuing legal education programs, speeches, contests, meetings and other academic methods of addressing professionalism have been implemented on both state and local levels. During the last two years, the Professionalism Commission has studied and reviewed both our status and progress in advancing professionalism. Although it is impossible to determine with scientific certainty the true or exact status of professionalism today, the passive academic approach to such problems has probably had a positive impact toward improving professionalism or at least maintaining the status quo by preventing a further decline as reported in 1996, the Professionalism Commission has concluded that we continue to experience significant problems that are unacceptable, requiring further and more concrete action. Surveys of both lawyers and judges continue to consistently reflect that professionalism is one of the most significant adverse problems that negatively impacts the practice of law in Florida today. While we continue our educational

approach, the Professionalism Commission concluded that further integrated, affirmative, practical and active measures are now needed. We agree.

Over the years, we have come to understand that professionalism or acceptable professional behavior is not simply a matter of character or principles nor is it simply an issue of rule-following or rule-violating. To the contrary, unacceptable professional conduct and behavior is often a matter of choice or decision-making. Therefore, we accept the proposal of the Professionalism Commission to create a structure for affirmatively addressing unacceptable professional conduct. This first step admittedly contains small initial measures designed to firmly encourage better behavior. This structure attempts to utilize a wide range of interventions from mere conversations to written communications to more severe sanctions as may be applied under our existing Florida Code of Professional Responsibility, which continues above and beyond the structure we approve today.

As a first step, the Professionalism Commission has concluded and now proposes that we should not attempt to create an entirely new code of “professional” or “unprofessional” conduct nor should we, at this time, attempt to codify an entirely new “Code of Professionalism.” We agree with this approach. The Professionalism Commission has proposed, and we adopt, the collection and integration of our current and already existing standards of behavior as already

codified in: (1) the Oath of Admission to The Florida Bar; (2) The Florida Bar Creed of Professionalism; (3) The Florida Bar Ideals and Goals of Professionalism; (4) The Rules Regulating The Florida Bar; and (5) the decisions of the Florida Supreme Court into and as part of the Code for Resolving Professionalism Complaints we adopt today. This provides an integrated standard based on the standards previously adopted and already in existence for many years. These standards have been previously approved and are in use, but are not expressed and placed in one location as our standards of expected professional behavior.

The Professionalism Commission has also proposed that the mechanism for initiating, processing, and resolving professionalism complaints be the Attorney Consumer Assistance and Intake Program (ACAP) created by The Florida Bar. We agree and adopt this mechanism. ACAP has been previously created and already accepts, screens, mediates and attempts to resolve any complaints concerning professional behavior. This structure exists to receive and resolve any complaints before and in the place of the initiation of formal grievance proceedings.

The Professionalism Commission also recognized that pursuant to the Administrative Order issued by this Court on June 11, 1998, the Chief Judge of each circuit was directed to create and maintain in continuous operation a Circuit Committee on Professionalism. The Professionalism Commission has proposed

that a local committee in each circuit be activated to receive, screen and act upon any and all complaints of unprofessional conduct and to resolve those complaints informally, if possible, or refer to The Florida Bar if necessary. We agree with this proposal and also adopt the Local Professionalism Panel plan. The Chief Judge of every circuit shall create a Local Professionalism Panel to receive and resolve professionalism complaints informally if possible. In the discretion of the Chief Judge, the Circuit Committee on Professionalism may be designated as the Local Professionalism Panel. The Chief Judge of each circuit is responsible for activating the respective committees.

The Code for Resolving Professionalism Complaints, attached as Exhibit A, was published for comments, comments were received and considered by the Professionalism Commission, and a public hearing was conducted. The Conference of County Court Judges and the Conference of Circuit Court Judges have responded in favor of the proposed Code as an initial step toward improving professional conduct in Florida. We hereby adopt the Code for Resolving Professionalism Complaints attached as Exhibit A, effective immediately. The Court extends its gratitude to the members of the Professionalism Commission, the Standing Committee on Professionalism, The Florida Bar Center for Professionalism, and The Florida Bar for the extensive work expended in connection with this major project.

It is so ordered.

POLSTON, C.J., and PARIENTE, QUINCE, CANADY, LABARGA, and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceedings – Code for Resolving Professionalism Complaints

EXHIBIT A

Code for Resolving Professionalism Complaints

Standards of Professionalism

Members of The Florida Bar shall not engage in unprofessional conduct. “Unprofessional conduct” means substantial or repeated violations of the *Oath of Admission to The Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Florida Bar Ideals and Goals of Professionalism*, *The Rules Regulating The Florida Bar*, or the decisions of *The Florida Supreme Court*.

Unprofessional conduct, as defined above, in many instances will constitute a violation of one or more of the *Rules of Professional Conduct*. In particular, Rule 4-8.4(d) of *The Rules Regulating The Florida Bar* has been the basis for imposing discipline in such instances. See generally, *The Florida Bar v. Ratiner*, 46 So. 3d 35 (Fla. 2010); *The Florida Bar v. Abramson*, 3 So. 3d 964 (Fla. 2009); and *The Florida Bar v. Martocci*, 791 So. 2d 1074 (Fla. 2001).

Implementation Procedures

1. Terminology

1.1. **Standards of Professionalism:** The Standards of Professionalism are set forth in the *Oath of Admission to The Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Florida Bar Ideals and Goals of Professionalism*, *The Rules Regulating The Florida Bar* and the decisions of *The Florida Supreme Court*.

1.2. **Complainant:** The person who complains that an attorney's conduct has violated the Standards of Professionalism.

1.3. **Respondent:** The attorney whose behavior is the subject of the complaint.

1.4. **Attorney Consumer Assistance and Intake Program (ACAP):** The program of The Florida Bar which fields and screens complaints against members of The Florida Bar. Depending upon the nature and severity of the professionalism complaint, ACAP can resolve the complaint informally as provided herein or it can refer the matter to the appropriate branch office of The Florida Bar's Lawyer Regulation Department for further action.

1.5. **Local Professionalism Panel:** An entity independent of The Florida Bar which is established at the local level for the purpose of resolving complaints of alleged unprofessional conduct by attorneys practicing in that circuit.

1.6. **Practice and Professionalism Enhancement Programs:** The various programs of The Florida Bar which exist for use in diversion cases or as a condition of discipline. These programs include Ethics School, Professionalism Workshops, Law Office Management Assistance Service (LOMAS), Stress Management Workshop, Florida Lawyers Assistance, Inc., and the Trust Accounting Workshop.

2. Initiating Professionalism Complaints

2.1. **Commencement of the Process:** Any person may initiate a professionalism complaint against a member of The Florida Bar through a Local Professionalism Panel when available and appropriate, or through ACAP. Complaints received by a Local Professionalism Panel may be referred to ACAP at any time depending upon the nature and severity of the complaint.

3. Processing Professionalism Complaints Through ACAP

3.1. Complaints initiated through ACAP can be an informal request for assistance either through a telephone call or by a written request. The complaint can also be a formal complaint either under oath as required by Rule 3-7.3(c) of *The Rules Regulating The Florida Bar* or as an unsworn judicial referral as outlined in Standing Board Policy 15.91 of The Florida Bar. The Bar may also lodge a complaint on its own initiative.

3.2. Initial Screening

- 3.2.1. Upon receipt of a complaint, ACAP will create a record of the request by obtaining the contact information for both the Complainant and the Respondent. The information will then be forwarded to an ACAP Attorney for Initial Screening.
- 3.2.2. If the ACAP Attorney determines that the concerns raised in the complaint could be resolved informally, the ACAP Attorney will contact the Respondent to discuss the professionalism issues and provide remedial guidance as necessary, or refer the complaint to a Local Professionalism Panel. If the matter cannot be resolved informally, the ACAP Attorney will contact the Complainant and explain any further available options.
- 3.2.3. Upon receipt of a complaint that cannot be resolved informally, the ACAP Attorney will determine whether the allegations, if proven, would constitute a violation of *The Rules of Professional Conduct* relating to professionalism. If the ACAP Attorney determines the facts as alleged would constitute a violation, an inquiry will be opened and the ACAP Attorney will investigate the allegations. If the ACAP Attorney determines the facts as alleged would not constitute a violation, the ACAP Attorney will advise the Complainant and the Respondent of the decision not to pursue an inquiry and will provide the reasons for doing so.
- 3.2.4. If the ACAP Attorney determines after investigation that the facts show the Respondent did not violate *The Rules of Professional Conduct*, the ACAP Attorney may dismiss the case after taking informal action if necessary, such as providing remedial guidance. The Complainant and Respondent will be notified of the dismissal and will be provided the reasons for doing so.
- 3.2.5. If the ACAP Attorney determines after investigation that a complaint warrants further action for a possible violation of one or more of *The Rules of Professional Conduct*, the ACAP Attorney will forward the matter to the appropriate branch office of The Florida Bar's Lawyer Regulation Department for further consideration.

3.3. Review at the Branch Level: Upon a referral to the branch office, branch Bar counsel may dismiss the case after further review and/or investigation, recommend Diversion to a Practice and Professionalism Enhancement Program in accordance with Rule 3-5.3(d) of *The Rules Regulating The Florida Bar*, or refer to a Grievance Committee for further investigation.

3.4. Review by the Grievance Committee: Upon referral and conclusion of the investigation, the Grievance Committee will make one of the following findings:

- A. No probable cause;
- B. No probable cause and include a letter of advice to the Respondent;
- C. Recommendation of Diversion to one of the Practice and Professionalism Enhancement Programs;
- D. Recommendation of Admonishment for Minor Misconduct; or
- E. Probable cause. Probable cause under Rule 3-2.1 of *The Rules Regulating The Florida Bar* is a finding by an authorized agency that there is cause to believe that a member of The Florida Bar is guilty of misconduct justifying disciplinary action.

3.5. Confidentiality: The confidentiality of disciplinary investigations and proceedings is outlined in Rule 3-7.1 of *The Rules Regulating the Florida Bar*. Any record of informal attempts to resolve a dispute as outlined in paragraph 3.2.2. would also be subject to the provisions of Rule 3-7.1 except that notes of any telephonic communication between the ACAP Attorney and the Complainant, the Respondent, or any third party would be considered the work product of The Florida Bar and would remain confidential and not become part of the public record.

**INDIVIDUAL REPORTING FORM FOR
LOCAL CIRCUIT PROFESSIONALISM PANEL**

Individual Completing Form: _____ Date: _____

Address: _____

Email: _____ Phone: _____

Name of Person Who Filed Complaint: _____

Client ___ Member of public ___ Lawyer ___ Judge ___ TFB# _____

Address: _____

Email: _____ Phone: _____

Name of Attorney Complaint Filed Against: _____

TFB #: _____ Email: _____

Phone: _____

Address: _____

Date Complaint Filed: _____ Date of Incident: _____

Nature of Incident:

___ Appearance of impropriety

___ Honesty, integrity, candor

___ Unprofessional conduct

___ Unfair play, dilatory tactics

___ Uncivil, unruly

___ Used profanity/obscene gestures

___ Rude, discourteous, disruptive, disrespectful

___ Bullying or badgering

___ Offensive personality

___ Disorganized or unprepared

___ Abusive

Other: _____

Names and address of Panel Participants Involved:

Final Resolution: ___ No action ___ Counseled ___ Refer TFB ___ Other _____

Recommended: ___ Counseled ___ Attend CLE ___ Referral (where) _____ ___ Apology Issued

___ Mentoring Suggested ___ Other (Please describe) _____

Comments:

Chief Judge Signature: _____ Circuit Number: _____

**FLORIDA BAR ACAP
AND
LOCAL CIRCUIT PROFESSIONALISM PANEL
QUARTERLY SUMMARY REPORT TO THE FLORIDA SUPREME COURT**

Reporting Period: July – Sept. 20____ Oct. – Dec. 20____ Jan. – March 20____ April - June 20____

Individual Completing Form: _____ Date: _____

Address: _____

Email: _____ Phone: _____

Total Number of Complaints this Period: _____ Total Number of Pending Complaints: _____

Total Number of Closed Complaints: _____ Total Number of Repeat Lawyers Reported: _____

Please indicate the number and type of complainants:

Client: ____ Member of public: ____ Lawyer: ____ Judge: ____

Nature of the incident: Please select the most applicable category for each of the closed complaints.

- | | |
|---|-------------------------------------|
| ___ Appearance of impropriety | ___ Honesty, integrity, candor |
| ___ Unprofessional conduct | ___ Fair play, dilatory tactics |
| ___ Uncivil, unruly | ___ Used profanity/obscene gestures |
| ___ Rude, discourteous, disruptive, disrespectful | ___ Bullying or badgering |
| ___ Offensive personality | ___ Disorganized or unprepared |
| ___ Abusive | Other: _____ |

Please indicate the number of dispositions in each category:

- ___ Consultation completed
- ___ No show
- ___ Referred to The Florida Bar
- ___ Other: _____
- _____

Comments:

Chief Judge Signature: _____ Circuit Number: _____

Florida Bar ACAP _____