

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN
AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE & ST. LUCIE
COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 2013-14

RE: NINETEENTH CIRCUIT PROFESSIONALISM PANEL

WHEREAS, in May of 1990, the Board of Governors of the Florida Bar approved Ideals and Goals of Professionalism; and

WHEREAS, on June 11, 1998, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Chief Judge of each circuit to create and maintain in continuous operation a Circuit Committee on Professionalism; and

WHEREAS, 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;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the 19th Judicial Circuit of Florida under Rule 2.215, Florida Rules of Judicial Administration, it is ORDERED as follows:

1. The Nineteenth Judicial Circuit Professionalism Panel

The Nineteenth Judicial Circuit Professionalism Panel is designated as the Local Professionalism Panel in accordance with SC13-688. The members of the Executive Board of the Professionalism Panel shall comprise the Circuit Committee on Professionalism. The purpose of the Professionalism Panel is to review complaints and other intake items, meet with attorneys who may have conducted themselves in a manner inconsistent with the Standards of Professionalism in order to discuss such conduct and counsel attorneys to avoid future conduct inconsistent with the existing standards. The Professionalism Panel shall have no authority to discipline any attorney or to compel any attorney to appear before the Professionalism Panel. The Professionalism Panel may also counsel attorneys if it determines such counseling will further the goals of the Standards of Professionalism. The Standards of Professionalism 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.

2. **Standards of Professionalism**

2.1 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.*

2.2 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).

3. **Terminology**

3.1 **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.

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

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

3.4 **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.

3.5 **Professionalism Panel:** An entity independent of The Florida Bar and the judiciary which is established at the circuit level for the purpose of resolving complaints of alleged unprofessional conduct by attorneys practicing in this circuit. The Panel consists of only

members in good standing of The Florida Bar who are either residents of or have principle offices in the 19th Judicial Circuit and/or retired members of the judiciary all who volunteer on an annual basis to be on the Panel.

3.6 **Designated Reviewer:** A member of the Professionalism Panel appointed by majority vote of the Executive Board to participate in any proceeding as a member of a Reviewing Committee as more fully described below and qualified to participate and assist in carrying out this Order pursuant to 6.1 below.

3.7 **Executive Board:** Those individuals who are members of the Professionalism Panel appointed by the Chief Judge, or the Chief Judge's designee, as more specifically described in 7.1 herein.

3.8 **Reviewing Committee:** The committee of Designated Reviewers and members of the Executive Board selected by the Executive Board to review a specific complaint before the Professionalism Panel as more fully described in 6.

4. Initiating Professionalism Complaints Before the 19th Judicial Circuit Professionalism Panel

Commencement of the Process: Any person may initiate a professionalism complaint against a member of The Florida Bar through the 19th Judicial Circuit Professionalism Panel when appropriate. Complaints shall be submitted to the Chair of the Executive Board. The website of the Nineteenth Judicial Circuit shall list the contact information for the Chair (currently www.circuit19.org). Complaints initiated through 19th Judicial Circuit Professionalism Panel can be an informal request for assistance or as an unsworn judicial referral as outlined in Standing Board Policy 15.91 of The Florida Bar. The Professionalism Panel may accept referrals sent by ACAP.

5. Processing Professionalism Complaints Through 19th Judicial Circuit Professionalism Panel

5.1 Initial Screening:

5.1.1 Upon receipt of a written complaint, the Chair of the Executive Board will create a record of the request by obtaining the contact information for both the Complainant and the Respondent. The request shall be limited to ten (10) pages inclusive of exhibits.

5.1.2 Upon receipt of a written complaint, the Executive Board will determine whether the allegations, if proven, would constitute a violation of The Standards of Professionalism in Section 2.1 relating to professionalism. A simple majority vote of the participating Executive Board members (at least three (3) members must be participating in order to take any action) shall be sufficient to render an effective decision. If the Executive Board determines the facts as

alleged may constitute a professionalism violation, an inquiry will be opened and the Executive Board will appoint and convene a Reviewing Committee for the complaint that will investigate the allegations as more fully described in 6. below. If the Executive Board determines the facts as alleged would not constitute a professionalism violation, the Executive Board will advise the Complainant and the Respondent of the decision not to pursue an inquiry and will provide the reasons for doing so. Moreover, pursuant to Supreme Court Opinion SC13-688, the Executive Board has discretion to refer any appropriate complaints to the Florida Bar or the Florida Bar Attorney Consumer Assistance and Intake Program (ACAP), depending upon the nature and severity of the complaint.

6. Review

6.1 If the Reviewing Committee determines, after review, that the facts show the Respondent did not violate The Standards of Professionalism in Section 2.1, the Reviewing Committee 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.

6.2 If the Reviewing Committee determines, after review, that a complaint warrants further action for a possible violation of one or more of The Standards of Professionalism in Section 2.1, the Chair of the Executive Board shall address a letter to the attorney involved inviting the attorney to meet with the Reviewing Committee on a date and time specified. Moreover, pursuant to Supreme Court Opinion SC13-688, the Reviewing Committee has discretion to refer any appropriate complaints to the Florida Bar or the Florida Bar Attorney Consumer Assistance and Intake Program (ACAP), depending upon the nature and severity of the complaint.

6.3 Any letter sent to an attorney by the Professionalism Panel requesting that an attorney appear before a Reviewing Committee shall identify the conduct alleged to be inconsistent with the Standards of Professionalism and the Standards of Professionalism potentially implicated and shall advise the attorney that the Reviewing Committee meeting is not a disciplinary proceeding. A copy of the Standards of Professionalism shall be included in the correspondence. This communication may be delivered by way of e-mail delivered to the current e-mail address for the attorney listed on the Florida Bar's website.

6.4 The Reviewing Committee will meet at the date and time specified in the letter. The Reviewing Committee shall be comprised of at least one member of the Executive Board¹

¹ In the event that each member of the Executive Board determines that they cannot participate in a proceeding as a result of a conflict, the Reviewing Committee shall not be required to contain a member of the Executive Board.

and at least two additional participants (which may be Designated Reviewers) that have been appointed by the Executive Board. The highest ranking member of the Executive Board on the Reviewing Committee shall be the leader of the committee². The purpose of the meeting shall be to discuss with the attorney his or her conduct and ways the attorney should act in the future to be consistent with the Standards of Professionalism.

6.5 If the respondent attorney fails to appear, the Reviewing Committee shall discuss the conduct inconsistent with the Standards of Professionalism and shall summarize the committee's discussions by letter to the respondent attorney. Consistent with the provisions of this Order, the Reviewing Committee may consider the Respondent's failure to appear in determining whether referral to the Florida Bar and/or ACAP is appropriate.

6.6 The Reviewing Committee and shall be responsible for submitting its determination (report and recommendation) at the conclusion of the committee's investigation of that complaint to the Executive Board. The Executive Board may send a letter summarizing the Reviewing Committee's discussions to the respondent attorney and may send a letter(s) to local Bar Associations for publication with the name(s) deleted and any identifying information redacted in order to preserve the confidentiality of the proceeding.

7. Appointment and Terms

7.1 The Professionalism Panel shall have an Executive Board comprised of five of its members selected by the Chief Judge. The Chief Judge shall not be a member of the Professionalism Panel. The Executive Board members shall have staggered terms. The initial Executive Board shall have two (2) members with a one (1) year term, two (2) members with a two (2) year term, and one (1) member with a three (3) year term. Thereafter, the terms for the successor members appointed to serve on the Executive Board shall be for three (3) years from the date of appointment by the Chief Judge, which should be on or about October, or until such time as their successors are appointed. The terms for appointments by the Chief Judge to fill vacancies shall be for the length of time remaining to complete the term of the vacancy, and such appointments to fill vacancies and such initial appointments for terms less than three (3) years shall not count toward service for determining consecutive terms. Continuous service of an Executive Board member shall not exceed two (2) consecutive three (3) year terms. An Executive Board member shall not be reappointed to serve on the Executive Board for a period of one (1) year after the end of the Executive Board Member's second consecutive three (3) year term. The

²In the event that the Reviewing Committee does not contain a member of the Executive Board, the Reviewing Committee members shall choose the leader of the committee.

expiration of the term of service as a member of the Executive Board shall not disqualify that prior Executive Board member from concluding any investigations pending before that prior Executive Board member, from serving as a Designated Reviewer on a future Reviewing Committee, or from remaining a member of the Professionalism Panel.

8. Panel Chair

The initial Chair and initial Vice Chair of the Executive Board shall be selected by the Chief Judge. The Chair shall serve for a one (1) year term and the Vice Chair shall serve for a two (2) year term, including the second year of service as the successor Chair. Thereafter, on or about October of each year thereafter, and in any event, no less often than annually, the Executive Board shall elect, by majority vote, the successor Vice Chair from the members of the Executive Board serving at that time with two (2) or more years remaining in their current terms of appointment.

9. Miscellaneous

The Executive Board shall be permitted and empowered to promulgate and enact all rules and procedures in deems required to further the purpose of this Order and Supreme Court Opinion SC13-688 as may be amended.

DONE AND ORDERED, in Chambers, at Stuart, Martin County, Florida, this 6th day of December, 2013.



Steven J. Levin
Chief Judge