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civility?**

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 14-2
(Court Administration)

ADMINISTRATIVE ORDER
NO. 14-01

IN RE: ELEVENTH JUDICIAL CIRCUIT
PROFESSIONALISM AND CIVILITY
COMMITTEE AND LOCAL
PROFESSIONALISM PANEL

WHEREAS, the Supreme Court of Florida previously mandated that the Chief Judge of each judicial circuit establish a Circuit Committee on Professionalism; and

WHEREAS, pursuant to the Supreme Court of Florida's Administrative Order *In re: Commission on Professionalism*, dated June 11, 1998, each Chief Judge was directed to maintain in continuous operation a Circuit Committee on Professionalism; and

WHEREAS, thereafter, the Eleventh Judicial Circuit Professionalism and Civility Committee was established; and

WHEREAS, on June 6, 2013 the Supreme Court of Florida adopted *In re: Code for Resolving Professionalism Complaints*, that mandates that the Chief Judge of each judicial circuit create a Local Professionalism Panel to receive and resolve professionalism complaints informally;

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

1. The Eleventh Judicial Circuit Professionalism and Civility Committee ("Committee") will continue to operate in the Eleventh Judicial Circuit ("Circuit").
 - a. In accordance with the Supreme Court of Florida's Administrative Order *In re: Commission on Professionalism*, the Chief Judge of the Circuit will serve as the Chair of the Committee.

b. The Committee shall be comprised of the following members:

i. Judiciary:

1. The Chief Judge of the Eleventh Judicial Circuit
2. Third District Court of Appeal Judge
3. Circuit Civil Division Judge
4. Circuit Criminal Division Judge
5. Circuit Family Division Judge
6. Circuit Probate Division Judge
7. Circuit Juvenile Division Judge
8. County Civil Division Judge
9. County Criminal Division Judge
10. County Domestic Violence Division Judge

ii. Attorneys:

1. State Attorney for Miami-Dade County or designee
2. Public Defender for Miami-Dade County or designee
3. Regional Counsel for the Third District or designee
4. Any other lawyer appointed by the Chief Judge that practices within the Eleventh Judicial Circuit and has demonstrated adherence to the professional standards of conduct 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 relating to professionalism.

c. Members of the Committee shall serve for a term of two (2) years.

d. The function and purpose of the Committee is to assess the status of professionalism among attorneys and to promote adherence to the professional standards of conduct 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 relating to professionalism and ethics within the Circuit.

e. The Committee shall discuss, monitor and/or coordinate professionalism activities within the Circuit, and may take action deemed appropriate by the Committee in furtherance of promoting and encouraging professionalism within the legal community.

- f. The Committee shall meet quarterly, or on a schedule otherwise established by the Committee.
 - g. Each January, the Committee shall submit to the Chair of the Commission on Professionalism, an annual report on the status of professionalism and professionalism activities within the Circuit.
 - h. The Committee shall report to the Chief Judge.
2. Local Professionalism Panels are hereby established and charged with receiving, screening, and acting upon complaints of unprofessional conduct pursuant to In re: Code for Resolving Professionalism Complaints, 38 Fla. L. Weekly S378 (Fla. Jun. 6, 2013). The Panels shall begin receiving, screening and resolving complaints on September 1, 2014. Further,
- a. In accordance with the Code for Resolving Professionalism Complaints, the Circuit hereby adopts and hereby incorporates as if fully set forth herein: the *Oath of Admission to the Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Rules Regulating The Florida Bar*, the decisions of The Florida Supreme Court relating to professionalism, and *The Florida Bar Ideals and Goals of Professionalism* as set forth in Exhibit A, collectively referred to as the *Standards of Professionalism and Civility* (“Standards”).
 - b. The Local Professionalism Panel (“Panel”) will consist of respected attorneys in the community who will informally resolve complaints against attorneys practicing in the Circuit, in accordance with the procedures set forth in Exhibit B.
 - c. If deemed appropriate, the Panel may refer complaints to The Florida Bar.

This Administrative Order shall take effect immediately upon execution and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 14th day of February, 2014.

**BERTILA SOTO, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

Exhibit A

Eleventh Judicial Circuit Standards of Professionalism and Civility

The Eleventh Judicial Circuit adopts and hereby incorporates as if fully set forth herein: the *Oath of Admission to the Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Rules Regulating The Florida Bar*, the decisions of The Florida Supreme Court relating to professionalism, and *The Florida Bar Ideals and Goals of Professionalism*, collectively referred to as the *Standards of Professionalism and Civility* ("Standards"). Attorneys practicing within the Eleventh Circuit shall govern themselves according to these *Standards*.

The Florida Bar Ideals and Goals of Professionalism

1. Commitment to Equal Justice Under Law and the Public Good

Ideal:

A Florida lawyer should, in both professional and personal conduct, recognize that a license to practice law is a privilege which gives the lawyer a special position of trust, power and influence in our society. This privilege brings corresponding duties, for which the lawyer is accountable to the public, namely, to use that position and power in an honest and fair manner which respects the dignity of others, promotes the public good, and protects our system of equal justice under the law.

Goals:

1.1 A lawyer should at all times avoid the appearance of impropriety.

1.2 A lawyer should counsel and encourage other lawyers to abide by these ideals of professionalism.

1.3 A lawyer should at all times promote in the general public an understanding of the role of the legal profession in our system of equal justice under law.

1.4 A lawyer should encourage and support only those judicial candidates who by skill, knowledge, experience, integrity, temperament and commitment to public service are qualified to hold such positions.

1.5 When considering whether to advertise and what methods of advertising to use, a lawyer's first goal should be to promote and protect public confidence in a just and fair legal system founded on the rule of law.

1.6 Upon being employed by a new client, a lawyer should discuss fee and cost arrangements at the outset of the representation, and promptly confirm those arrangements in writing.

1.7 In any representation in which the fee arrangement is other than a contingent percentage-of-recovery fee or a fixed, flat-sum fee or in which the representation is anticipated to be of more than brief duration, a lawyer should bill clients on a regular, frequent interim basis.

1.8 When a fee dispute arises that cannot be amicably resolved, a lawyer should endeavor to refer the dispute to the appropriate fee arbitration panel.

2. Adherence to a Fundamental Sense of Honor, Integrity, and Fair Play

Ideal:

A lawyer should at all times be guided by a fundamental sense of honor, integrity, and fair play, and should counsel his or her client to do likewise.

Goals:

2.1 A lawyer should not impose arbitrary or unreasonable deadlines for action by others.

2.2 A lawyer should not make scheduling decisions with the motive of limiting opposing counsel's opportunity to prepare or respond.

2.3 A lawyer should not unreasonably oppose an adversary's application for an order or an adversary's request to insert a term or provision in a document.

2.4 A lawyer should never permit nonlawyer support personnel to communicate with a judge or judicial officer on any matters pending before the judge or officer or with other court personnel except on scheduling and other ministerial matters.

2.5 A lawyer should notify opposing counsel of all communications with the court or other tribunal, except those involving only scheduling or clerical matters.

2.6 When submitting any written communication to a court or other tribunal, a lawyer should provide opposing counsel with a copy of the document contemporaneously, and sufficiently in advance of any related hearing to assure both the court and opposing counsel have a reasonable opportunity to review it beforehand.

2.7 A lawyer should promptly comply with requests to prepare proposed orders.

2.8 When scheduling hearings and other adjudicative proceedings, a lawyer should request an amount of time that is truly calculated to permit full and fair presentation of the matter to be adjudicated and to permit equal response by the lawyer's adversary.

2.9 A lawyer should immediately notify all counsel of any hearing time that the lawyer has reserved with the court or tribunal.

2.10 When there has been pre-trial disclosure of trial witnesses, a lawyer should make a reasonable, good-faith effort to identify those witnesses whom the lawyer believes are reasonably likely to be called to testify.

2.11 During trials and evidentiary hearings the lawyers should mutually agree to disclose the identities, and duration of witnesses anticipated to be called that day and the following day, including depositions to be read, and should cooperate in sharing with opposing counsel all visual-aid equipment.

2.12 When there has been pre-trial disclosure of trial exhibits, a lawyer should make a reasonable good-faith effort to identify those exhibits that the lawyer believes will be proffered into evidence.

2.13 A lawyer should not mark on or alter exhibits, charts, graphs, and diagrams without opposing counsel's permission or leave of court.

2.14 A lawyer should abstain from conduct calculated to detract or divert the fact-finder's attention from the relevant facts or otherwise cause it to reach a decision on an impermissible basis.

3. Honesty and Candor

Ideal:

A lawyer's word should be his or her bond. The lawyer should not knowingly misstate, distort, or improperly exaggerate any fact or opinion and should not improperly permit the lawyer's silence or inaction to mislead anyone.

Goals:

3.1 In drafting a proposed letter of intent, the memorialization of an oral agreement or a written contract reflecting an agreement reached in concept, a lawyer should draft a document that fairly reflects the agreement of the parties.

3.2 In drafting documents, a lawyer should point out to opposing counsel all changes that the lawyer makes or causes to be made from one draft to another.

3.3 A lawyer should not withhold information from a client to serve the lawyer's own interest or convenience.

4. Fair and Efficient Administration of Justice

Ideal:

A lawyer should always conduct himself or herself to assure the just, speedy, and inexpensive determination of every action and resolution of every controversy.

Goals:

- 4.1 A lawyer should endeavor to achieve the client's lawful objectives as economically and expeditiously as possible.
- 4.2 A lawyer should counsel the client concerning the benefits of mediation, arbitration, and other alternative methods of resolving disputes.
- 4.3 A lawyer should counsel the client to consider and explore settlement in good faith.
- 4.4 A lawyer should accede to reasonable requests for waivers of procedural formalities when the client's legitimate interests are not adversely affected.
- 4.5 A lawyer should not invoke a rule for the purpose of creating undue delay.
- 4.6 A lawyer should never use discovery for the purpose of harassing or improperly burdening an adversary or causing the adversary to incur unnecessary expense.
- 4.7 A lawyer should frame reasonable discovery requests tailored to the matter at hand.
- 4.8 A lawyer should assure that responses to proper requests for discovery are timely and complete and are consistent with the obvious intent of the request.
- 4.9 In civil cases, a lawyer should stipulate all facts and principles of law which are not in dispute, and should promptly respond to requests for stipulations of fact or law.
- 4.10 After consulting with the client, a lawyer should voluntarily withdraw claims [and] defenses when it becomes apparent that they are without merit, are superfluous or merely cumulative.
- 4.11 A lawyer should appear at a hearing before a court or other tribunal fully prepared to submit the matter at issue to the court or tribunal for adjudication.
- 4.12 A lawyer should not use the post-hearing submission of proposed orders as a guise to argue or reargue the merits of the matter to be determined.
- 4.13 A lawyer should not request rescheduling, cancellations, extensions, and postponements without legitimate reasons and never solely for the purpose of delay or obtaining unfair advantage.

5. Courtesy

Ideal:

A lawyer should treat all persons with courtesy and respect and at all times abstain from rude, disruptive and disrespectful behavior. The lawyer should encourage the lawyer's

clients and support personnel to do likewise even when confronted with rude, disruptive and disrespectful behavior.

6. Respect for the Time and Commitments of Others

Ideal:

A lawyer should respect the time and commitments of others.

Goals:

6.1 Before scheduling a hearing on any motion or discovery objection, a lawyer should endeavor to resolve or narrow the issue at hand.

6.2 In scheduling depositions upon oral examination, a lawyer should allow enough time to permit the conclusion of the deposition, including examination by all parties, without adjournment.

6.3 Unless circumstances compel more expedited scheduling, a lawyer should endeavor to provide litigants, witnesses, and other affected persons or parties with ample advance notice of hearings, depositions, meetings, and other proceedings, and whenever practical, schedule such activities at times that are convenient to all interested persons.

6.4 A lawyer should accede to all reasonable requests for scheduling, rescheduling, cancellations, extensions, and postponements that do not prejudice the client's opportunity for full, fair and prompt consideration and adjudication of the client's claim or defense.

6.5 Upon receiving an inquiry concerning a proposed time for a hearing, deposition, meeting, or other proceeding, a lawyer should promptly agree to the proposal or offer a counter suggestion.

6.6 A lawyer should call potential scheduling conflicts or problems to the attention of those affected, including the court or tribunal, as soon as they become apparent to the lawyer.

6.7 A lawyer should avoid last-minute cancellations of hearings, depositions, meetings, and other proceedings.

6.8 A lawyer should promptly notify the court or tribunal of any resolution by the parties that renders a scheduled court appearance unnecessary.

6.9 A lawyer should be punctual in attending all court appearances, depositions, meetings, conferences, and other proceedings.

6.10 A lawyer should respond promptly to inquiries and communications from clients and others.

7. Independence of Judgment

Ideal:

A lawyer should exercise independent judgment and should not be governed by a client's ill will or deceit.

Goals:

7.1 A lawyer should counsel the client or prospective client, even with respect to a meritorious claim or defense, concerning the public and private burdens of pursuing the claim as compared with the benefits to be achieved.

7.2 A lawyer should at all times provide the client with objective evaluations and advise without purposefully understating or overstating achievable results or otherwise creating unrealistic expectations.

7.3 A lawyer should not permit the client's ill will toward an adversary, witness, or tribunal to become that of the lawyer's.

7.4 A lawyer should counsel the client against the use of tactics designed: (a) to hinder or improperly delay the process involved; or (b) to embarrass, harass, intimidate, improperly burden, or oppress an adversary, party or any other person and should withdraw from representation if the client insists on such tactics.

7.5 In contractual and business negotiations, a lawyer should counsel the client concerning what is reasonable and customary under the circumstances.

EXHIBIT B

ELEVENTH JUDICIAL CIRCUIT PROCEDURAL RULES GOVERNING LOCAL PROFESSIONALISM PANELS

I. Standards and Purpose

Pursuant to In re: Code for Resolving Professionalism Complaints, 38 Fla. L. Weekly S378 (Fla. Jun. 6, 2013), the purpose of the Local Professionalism Panel ("Panel") is to receive, screen, and act upon complaints of unprofessional conduct and resolve those complaints informally, if possible, or refer to The Florida Bar, if deemed appropriate.

The Panel may discuss complaints, if appropriate, with the attorney alleged to have engaged in unprofessional conduct ("Respondent Attorney") and address conduct inconsistent with the *Standards of Professionalism and Civility* ("*Standards*") in an informal, non-punitive, and educational manner. See Exhibit A. The Panel shall have no authority to discipline any attorney or to compel any attorney to appear before the Panel. The Panel may counsel attorneys if it determines such counseling will further the goals of the *Standards*.

II. Panel Membership

- a. The Panel shall be composed of attorneys practicing within the Eleventh Judicial Circuit and who have demonstrated adherence to the professional standards of conduct 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 relating to professionalism.
- b. The Panel members shall be nominated by the Professionalism and Civility Committee ("Committee"), and appointed by the Chief Judge of the Eleventh Judicial Circuit.
- c. In nominating attorneys for the Panel, the Committee shall consider the following factors:
 - i. Length of time in practice
 - ii. Board certification
 - iii. Trial experience
 - iv. Reputation
 - v. Leadership in voluntary bars or other areas of the community

- d. Once selected, Panel members shall serve for two-year terms. Commencing September 1, 2014, two Panels consisting of three (3) members each, shall be assigned to receive, screen and resolve complaints on a rotating quarterly basis.

III. Initiation of a Complaint by a Person

- a. Any person may initiate a professionalism complaint against an attorney practicing in the Eleventh Judicial Circuit by submitting a signed Complaint form (Exhibit C) to:

Eleventh Judicial Circuit of Florida
ATTN: Professionalism Panel
Lawson E. Thomas Courthouse Center, Room 3016
175 Northwest 1st Avenue
Miami, Florida 33128

or

Email: ProfessionalismPanel@jud11.flcourts.org

- b. Absent extenuating circumstances, such a complaint shall be filed within fifteen (15) days of the conduct complained of, or within fifteen (15) days of the conclusion of the trial in which the conduct occurred.
- c. The complaint shall be limited to five (5) pages, including exhibits.
- d. Upon receipt, the Panel will review the complaint and make a determination as to whether a hearing is warranted. If necessary, the Panel may request additional written clarification from the complaining party. If the alleged misconduct is minor and appears to be an isolated incident, the Panel will not notify the Respondent Attorney that a complaint was filed and the Panel will take no further action.
- e. If a complaint is referred to the Panel, the Panel may conduct an investigation, request a response from the Respondent Attorney, or invite the Respondent Attorney to appear before the Panel to address the complaint on a date and time specified.

IV. Initiation of a Complaint by The Florida Bar's Attorney Consumer Assistance Program (ACAP).

- a. The Panel may accept referrals from ACAP.
- b. The Panel shall review the referral, notify the Respondent Attorney of the

referral, and determine whether the matter justifies review. If necessary, the Panel may request a response from the Respondent Attorney and invite the attorney to meet with the Panel on a date and time specified.

V. Investigation and Hearing

- a. The Professionalism Panel shall endeavor to resolve all referrals within forty-five (45) days of receipt of the complaint or referral.
- b. At a reasonable time before any final findings are made by the Panel, the Respondent Attorney shall be advised of the conduct that is being investigated and the *Standards* that may have been violated. Any letter(s) sent to the Respondent Attorney by the Panel, shall advise the Respondent Attorney that the hearing is not a disciplinary proceeding.
- c. The Respondent Attorney may be accompanied by counsel. The respondent shall be provided with all materials considered by the Panel and shall be given an opportunity to make a written statement, sworn or unsworn, explaining, refuting, or admitting the alleged unprofessional conduct.
- d. The Respondent Attorney may record the hearing before the Panel at his or her own cost.

VI. Remedial Action

- a. If the Panel determines that the Respondent Attorney's conduct is inconsistent with the *Standards*, it may take remedial action including but not limited to the following:
 - i. Counsel the Respondent Attorney about the behavior and take no further action;
 - ii. Refer the Respondent Attorney to the Eleventh Judicial Circuit's Mentoring Program;
 - iii. Refer the Respondent Attorney to ACAP;
 - iv. Refer the Respondent Attorney to one of The Florida Bar's Practice and Professionalism Enhancement Programs, such as: The Florida Bar's Ethics School, Professionalism Workshops, Law Office Management Assistance Service (LOMAS), Anger Management Classes, etc.; and/or
 - v. Impose other remedies the Panel deems appropriate.

- b. If the Respondent Attorney is referred to the Mentoring Program or for other remedial assistance, and the Respondent Attorney does not comply with the referral within thirty (30) days, the Committee may refer the Respondent Attorney to ACAP.
- c. If the Respondent Attorney fails to appear at the hearing, the Panel shall discuss the alleged conduct inconsistent with the *Standards* and may summarize the Panel's findings by letter to the Respondent Attorney. The Panel may consider the Respondent Attorney's failure to appear in determining whether referral to ACAP is appropriate.

VII. Confidentiality

- a. The Committee and Panel shall maintain the confidentiality of the proceedings governed by these rules.
- b. The Administrative Office of the Courts shall maintain the confidentiality of documents and records in its possession and control as required by applicable law in accordance with the requirements of Fla. R. Jud. Admin 2.420 and Rule 3-7.1 of the Rules Regulating the Florida Bar.
- c. All findings by the Panel shall be published on the Eleventh Judicial Circuit website. However, the names of the parties shall remain confidential.
- d. At the inception of the proceedings governed by these rules, all Panel members, the Complainant, and the Respondent Attorney shall be required to sign a statement acknowledging that:
 - i. All information disclosed during the Panel process is confidential and shall not be disclosed to anyone except other Panel members, the Complainant, or the Respondent Attorney, except in instances where the Panel publishes its findings as described in subsection c; and
 - ii. The Panel is a voluntary, informal program intended to be non-punitive, educational, and constructive; furthermore, participation and successful completion of all recommendations from the Panel shall not result in the imposition of sanctions or discipline.

(Exhibit C)

**LOCAL PROFESSIONALISM PANEL
COMPLAINT FORM**

PART ONE: COMPLAINANT INFORMATION

Your Name: _____
Organization: _____
Street Address: _____
City, State, Zip Code: _____
Telephone: _____
E-mail: _____
Florida Bar Number: _____

Client Member of public Lawyer Judge

Does this complaint pertain to a matter currently in litigation? Yes No

PART TWO: RESPONDENT ATTORNEY INFORMATION

Attorney's Name: _____
Organization: _____
Street Address: _____
City, State, Zip Code: _____
Telephone: _____
E-mail: _____
Florida Bar Number: _____

PART THREE: FACTS/ALLEGATIONS

Nature of Incident

<input type="checkbox"/>	Appearance of impropriety
<input type="checkbox"/>	Unprofessional conduct
<input type="checkbox"/>	Uncivil, unruly
<input type="checkbox"/>	Rude, discourteous, disruptive, disrespectful
<input type="checkbox"/>	Offensive personality
<input type="checkbox"/>	Abusive

<input type="checkbox"/>	Honesty, integrity, candor
<input type="checkbox"/>	Unfair play, dilatory tactics
<input type="checkbox"/>	Used profanity/obscene gestures
<input type="checkbox"/>	Bullying or badgering
<input type="checkbox"/>	Disorganized or unprepared
<input type="checkbox"/>	Other: _____

Standards Implicated (Refer to Exhibit A)

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Incident date(s):

The specific incident or incidents I am complaining about are (attach additional sheets as necessary):

PART FOUR: WITNESSES

The witnesses in support of my allegations are (include name, address, and telephone number for each witness):

PART FIVE: SIGNATURE:

Under penalties of perjury, I declare that the foregoing facts are true, correct and complete.

Print Name

Signature

Date