

## **Tenth Judicial Circuit Professionalism Panel**

### **Policies and Procedures**

Adopted by Circuit Professionalism Panel by unanimous vote on February 10, 2017, and approved by Chief Judge Donald Jacobsen.

**PREAMBLE:** The Tenth Circuit Professionalism Committee was established in response to an Order of the Florida Supreme Court for each Circuit to constitute a professionalism committee. The Chair of the Tenth Circuit Professionalism Committee is appointed by the Chief Judge of the Tenth Circuit. The Chair nominates the members of the Professionalism Panel and they are appointed by the Chief Judge. The purpose of the Tenth Circuit Professionalism Committee is to promote and encourage professional behavior by the lawyers practicing in the Tenth Circuit. Pursuant to its charge, the Chief Judge of the Tenth Circuit has assigned to the Professionalism Panel the task of developing and implementing the following professionalism policies and procedures.

### **1. Purpose of the Policies and Procedures**

Pursuant to the Order of the Florida Supreme Court, “In Re: Code for Resolving Professionalism Complaints,” Case No. SC13-688, Fla. S. Ct., June 6, 2013, each Circuit must devise a plan for resolving disputes where a person believes a lawyer has acted in a manner less than the high standards of professionalism expected of lawyers in the Tenth Circuit. The Panel shall only consider acts by a lawyer that occur within the 10<sup>th</sup> Judicial Circuit and involve professionalism.

These procedures do NOT apply to allegations of unethical conduct, which are the province of the Florida bar.

These procedures do NOT apply to complaints by lawyers or other individuals about judges. Complaints about judges are to be directed either to the Administrative Judge for the County, the Chief Judge of the Circuit, and/or the Florida Judicial Qualifications Committee.

It is the goal of these policies and procedures to provide an effective, yet informal, procedure to resolve disagreements over the professionalism of lawyer behavior.

### **2. Make-up of the Panel**

The Panel shall have a chair, plus four members who practice within the 10<sup>th</sup> Judicial Circuit. The Chair of the Tenth Circuit Professionalism Panel is appointed by the Chief Judge of the Tenth Circuit. The Chair nominates the members of the Panel and they are appointed by the Chief Judge. The terms of the members of the Panel shall be three years and there is no prohibition of serving multiple terms.

### **3. Procedure for initiating a complaint**

a. Any person may file a complaint by mail to the Tenth Judicial Circuit Professionalism Panel Chair, P.O. Box 1499, Winter Haven, FL 33882. The outside of the envelope shall state the following in bold letters: **PROFESSIONALISM COMPLAINT DOCUMENT FOR CIRCUIT**

## PROFESSIONALISM PANEL.

- b. A form for such complaints is attached as Attachment 1 to these Policies and Procedures. The form may be changed at the discretion of the Tenth Circuit Professionalism Panel.
- c. The Chair of the Panel shall refer the complaint to a member of the Panel by random selection to investigate the complaint, and report the results to the Panel. If unable to initiate the investigation within five (5) business days, the investigating member shall refer the matter back to the Chair of the Panel who shall assign a different member at random.
- d. If, within ten (10) days after receipt of the complaint, the Chair determines investigation by the Panel would be inappropriate, the Chair of the Panel may appoint a Special Investigating Member from outside the Panel to investigate on behalf of the Panel. The Special Investigating Member may thereupon take whatever steps he/she deems necessary and appropriate.
- e. The Investigating Member or the Special Investigating Member shall provide a copy of the complaint to the attorney.

### **4. Investigation, resolution and appeal**

- a. Within ten (10) days of receipt of an assignment by the Chair, the attorney assigned to investigate the claim shall recommend to the Panel whether investigation of the complaint falls within the issues of professionalism. If not, the attorney will communicate in writing to the Chair for the Panel to vote on whether a finding of no professionalism issue is present for the Panel to consider. The party(s) shall be notified if the issue does not involve professionalism. If the investigating member finds a professionalism issue, the attorney shall attempt to communicate with the complaining party and the attorney(s) involved for the purpose of presenting all findings and recommendations to the Panel for a vote on the appropriate action.
- b. Within thirty (30) days of the assignment from the Chair, the investigating attorney shall notify the Chair in writing or email to convene a meeting of the Panel to review all findings and recommendations of the investigating member.
- c. Within thirty (30) days of receipt by the Chair of writing or email that the investigating member is ready to present all findings and recommendations, the Chair of the Panel shall call a meeting of the Panel (the Panel can meet in person, telephonically or through e-mail) to consider all findings and recommendations of the investigating attorney and determine what action, if any, may be appropriate. The actions of the Panel may include but are not limited to meeting with the involved party(s), letters of advice, or a referral of the matter to the Florida Bar Discipline system. Within twenty (20) days of a meeting of the Panel to find a resolution of an unresolved

dispute, the Panel shall issue a written response to the party(s) involved in the dispute.

d. Within ten (10) days from receipt of the written response by the Panel, if either the complaining party or the party complained against is not satisfied with the resolution of the Panel, they may file a written appeal to the Chair of the Tenth Circuit Professionalism Panel. The appeal must be sent in writing to the Tenth Judicial Circuit Professionalism Panel Chair, P.O. Box 1499, Winter Haven, FL 33882. The outside of the envelope shall state the following in bold letters: **PROFESSIONALISM COMPLAINT DOCUMENT FOR CIRCUIT PROFESSIONALISM PANEL.**

e. The Tenth Circuit Professionalism Panel shall have thirty (30) days to consider the appeal and issue a written response to the party(s) involved in the dispute.

f. If the appeal still is not resolved after thirty (30) days, the parties shall be referred to The Florida Bar Attorney Consumer Assistance and Intake Program (“ACAP”).

g. If a party believes a violation of the Rules Regulating The Florida Bar has occurred, the matter shall be referred to The Florida Bar Discipline system for the filing of a grievance.

h. If, at any time, the investigating member, the special investigating member, the Panel, or the Chair is of the belief that the matter involves a violation of the Rules Regulating The Florida Bar, they are required by the Rules Regulating The Florida Bar to file a report with The Florida Bar.

i. If, at any point in the process, a matter is referred to ACAP or as a grievance to The Florida Bar for a violation of the Rules Regulating The Florida Bar, the Chair, Panel, and investigating member are to close the file and end the Professionalism Panel process.

## 5. CONFIDENTIALITY OF ALL PROCEEDINGS

a. All proceedings pursuant to these procedures are intended to remain confidential, pursuant to the Florida Supreme Court Opinion SC13-688 and Rule 3-7.1, *The Rules Regulating the Florida Bar*. However, confidentiality cannot be guaranteed. It is intended that the complaint will be shared only with members of the Tenth Circuit Professionalism Panel, the Special Investigating Member if one is appointed, the complaining party and the attorney against whom a complaint is filed. No advice can be given on whether third parties may have the right to inspect all information pursuant to a records request.

b. When an investigation is closed, all records shall be sent to the Chair of the Tenth Circuit Professionalism Panel, who shall maintain the records no longer than 36 months from receipt.