

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 22-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 22-05 A1**

**(Amending AO No. 22-05)
(Rescinding and superseding
AO No. 14-01 A1)**

**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*, 116 So. 3d 280 (Fla. 2013), 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 General Practice and 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. The Chief Judge of the Circuit may appoint co-chairs to assist with the Committee responsibilities

- b. The Committee shall be comprised of the following members:
 - i. Judiciary:
 - 1. The Chief Judge of the Eleventh Judicial Circuit
 - 2. The Chief Judge of the Circuit may designate additional Circuit and County court judges.
 - 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 Professionalism Expectations*, *The Rules Regulating The Florida Bar*, the *Standards of Professional Courtesy and Civility for South Florida*, *The Florida Bar Legal Professionalism in the Electronic Age Special Considerations for Attorneys*, 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. This term will be extended automatically unless otherwise determined by the Chief Judge of the Circuit.
- 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 Professionalism Expectations*, *The Rules Regulating The Florida Bar*, the *Standards of Professional Courtesy and Civility for South Florida*, *The Florida Bar Legal Professionalism in the Electronic Age Special Considerations for Attorneys*, 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. The Committee shall submit to the Chair of the Commission on Professionalism, a report on the status of professionalism and

professionalism activities within the Circuit upon request.

- 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*, 116 So. 3d 280 (Fla. 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 Florida Bar Professionalism Expectations* (Exhibit A), *The Rules Regulating The Florida Bar*, the *Standards of Professional Courtesy and Civility for South Florida* (Exhibit A), *The Florida Bar Legal Professionalism in the Electronic Age Special Considerations for Attorneys* (Exhibit A), and the decisions of The Florida Supreme Court relating to professionalism, 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.
 - d. Local Professionalism Panels do not have jurisdiction to review complaints against members of the judiciary. *In re Code for Resolving Professionalism Complaints*, 116 So. 3d 280 (Fla. 2013). The Florida Judicial Qualifications Commission investigates allegations of misconduct by judges of the County, Circuit, District Courts of Appeal, as well as Justices of the Supreme Court of Florida. Art. V, § 12, Fla. Const.

Administrative Order No. 14-02 A1 remains rescinded and superseded in its entirety and held for naught.

This Administrative Order shall take effect immediately upon execution and shall remain in effect until further order of the Court. Except as amended herein, Administrative Order No. 22-05 remains in full force and effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 24th day of October, 2022.

**NUSHIN G. SAYFIE, 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, *The Florida Bar Professionalism Expectations*, the *Standards of Professional Courtesy and Civility for South Florida*, *The Florida Bar Legal Professionalism in the Electronic Age Special Considerations for Attorneys*, 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 Professionalism Expectations Preamble

As The Florida Bar grows, it becomes more important to articulate the bar's professionalism expectations and for Florida lawyers to demonstrate these expectations in practice. The guidance provided in these Professionalism Expectations originates both from (1) the ethical duties established by the Florida Supreme Court in the Rules Regulating The Florida Bar and (2) the long-standing customs of fair, civil, and honorable legal practice in Florida. Where a Professionalism Expectation is coextensive with a lawyer's ethical duty, the expectation is stated as an imperative, cast in the terms of "must" or "must not." Where a Professionalism Expectation is drawn from a professional custom that is not directly provided for in the Rules Regulating The Florida Bar, the expectation is stated as a recommendation of correct action, cast in terms of "should" or "should not." To The Florida Bar, lawyer professionalism is:

1. embracing a commitment to serve others;
2. dedicating to properly using knowledge and skills to promote a fair and just result;
3. endeavoring to enhance knowledge, skills, and competence;
4. ensuring that concern for a client's desired result does not subvert the lawyer's fairness, honesty, civility, respect, and courtesy during interactions with fellow professionals, clients, opponents, public officials, members of the judiciary, or the public;
5. contributing skill, knowledge, and influence to further the profession's commitment to service and the public good, including efforts to provide all persons, regardless of their means or popularity of their causes, with access to the law and the judicial system;
6. enhancing the legal system's reputation by educating the public about the profession's capabilities and limits, specifically about what the legal system can achieve and the appropriate methods of obtaining those results; and
7. accepting responsibility for one's own professional conduct and the conduct of others in the profession, including encouraging other lawyers to meet these civility

and Professionalism Expectations and fostering peer regulation to ensure that each lawyer is competent and public-spirited.

To reinforce and communicate its expectations of lawyer professionalism among our members, The Florida Bar adopts the following Professionalism Expectations:

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

A license to practice law is a privilege that gives the lawyer a special position of trust, power, and influence in our society. This privilege requires a lawyer to use that position to promote the public good and to foster the reputation of the legal profession while protecting our system of equal justice under the law.

Expectations:

1. A lawyer should avoid the appearance of impropriety.
2. A lawyer should counsel and encourage other lawyers to abide by these Professionalism Expectations.
3. A lawyer should promote the public's understanding of the lawyer's role in the legal profession and protect public confidence in a just and fair legal system founded on the rule of law.
4. A lawyer should not enter into a lawyer-client relationship when the lawyer cannot provide competent and diligent service to the client throughout the course of the representation.
5. A lawyer must not seek clients through the use of misleading or manipulative oral and written representations or advertisements. (See R. Regulating Fla. Bar 4-7.13 and 4-7.14). Contingency fee arrangements must be in writing and follow R. Regulating Fla. Bar 4-1.5(f).
6. When 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.
7. A lawyer must place a client's best interest ahead of the lawyer's or another party's interests. (See R. Regulating Fla. Bar 4-1.7(a)(2)).
8. A lawyer must maintain and preserve the confidence and private information of clients. (See R. Regulating Fla. Bar 4- 1.6).
9. In any representation where 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, and avoid charging unnecessary expenses to the client.
10. When a fee dispute arises that cannot be amicably resolved, a lawyer should endeavor to utilize an alternative dispute resolution mechanism such as fee arbitration.
11. A lawyer must routinely keep clients informed and attempt to resolve client concerns. (See R. Regulating Fla. Bar 4-1.4). In the case of irreconcilable disagreements with a client, the lawyer must provide diligent representation until the lawyer-client relationship is formally dissolved in compliance with the law and the client's best interests. (See R. Regulating Fla. Bar 4-1.16).

12. A lawyer must devote professional time and resources and use civic influence to ensure equal access to our system of justice. (See R. Regulating Fla. Bar 4-6.1).
13. A lawyer must avoid discriminatory conduct prejudicial to the administration of justice in connection with the practice of law. (See R. Regulating Fla. Bar 4-8.4(d)).

2. Honest and Effective Communication

A lawyer's word is his or her bond. Effective communication requires lawyers to be honest, diligent, civil, and respectful in their interactions with others.

Expectations:

1. A lawyer should inform every client what the lawyer expects from the client and what the client can expect from the lawyer during the term of the legal representation.
2. Candor and civility must be used in all oral and written communications. (See R. Regulating Fla. Bar 4-8.4(c)).
3. A lawyer must avoid disparaging personal remarks or acrimony toward opposing parties, opposing counsel, third parties or the court. (See R. Regulating Fla. Bar 4-8.4(d)).
4. A lawyer must timely serve all pleadings to prevent prejudice or delay to the opposing party. (See R. Regulating Fla. Bar 4-3.2).
5. A lawyer's communications in connection with the practice of law, including communications on social media, must not disparage another's character or competence or be used to inappropriately influence or contact others. (See R. Regulating Fla. Bar 4-8.4(d)).
6. A lawyer should use formal letters or emails for legal correspondence and should not use text messages to correspond with a client or opposing counsel unless mutually agreed.
7. 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.
8. 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.
9. A lawyer should not withhold information from a client to serve the lawyer's own interest or convenience.
10. A lawyer must not knowingly misstate, misrepresent, or distort any fact or legal authority to the court or to opposing counsel and must not mislead by inaction or silence. Further, the discovery of additional evidence or unintentional misrepresentations must immediately be disclosed or otherwise corrected. (See R. Regulating Fla. Bar 4-3.3 and 4-8.4).
11. A lawyer must not inappropriately communicate with a party represented by a lawyer (See R. Regulating Fla. Bar 4- 4.2), including not responding "reply all" to emails.
12. A lawyer should diligently prepare legal forms and documents to avoid future harm or litigation for the client while ensuring compliance with the requirements of the law.

13. Social media must not be used to disparage opposing parties, lawyers, judges, and members of the public. (See R. Regulating Fla. Bar 4-8.2(a) and 4-8.4(d)).
14. Social media should not be used to avoid the ethical rules regulating lawyer advertising.
15. Social media must not be used to inappropriately contact judges, mediators, jurors, witnesses, or represented parties. (See R. Regulating Fla. Bar 4-3.5 and 4-4.2).
16. Social media must not be used for the purpose of influencing adjudicative proceedings. (See R. Regulating Fla. Bar 4-3.6).
17. A lawyer must ensure that the use of electronic devices does not impair the attorney-client privilege or confidentiality. (See R. Regulating Fla. Bar 4-1.6).
18. A lawyer must diligently respond to calls, correspondences, complaints, and investigations by The Florida Bar. (See Regulating Fla. Bar 4-8.4(g)).

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

Courtesy, cooperation, integrity, fair play, and abiding by a sense of honor are paramount for preserving the integrity of the profession and to ensuring fair, efficient, and effective administration of justice for the public.

Expectations:

1. A lawyer must not engage in dilatory or delay tactics. (See R. Regulating Fla. Bar 4-3.2).
2. A lawyer should not make scheduling decisions that limit opposing counsel's opportunity to prepare or respond.
3. A lawyer should not unreasonably oppose an adversary's motion.
4. A lawyer must not permit non-lawyer 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. (See Regulating Fla. Bar 4-3.5(b) and 4-8.4(a)).
5. A lawyer must avoid substantive *ex parte* communications in a pending case with a presiding judge. The lawyer must notify opposing counsel of all communications with the court or other tribunal, except those involving only scheduling or clerical matters. (See R. Regulating Fla. Bar 4-3.5).
6. When submitting a written communication to a court or other tribunal, a lawyer should provide opposing counsel with a copy of the document contemporaneously or sufficiently in advance of any related hearing.
7. A lawyer must promptly prepare a proposed order, ensure that the order fairly and adequately represents the court's ruling before submitting the order to the court, and advise the court whether opposing counsel has approved the order. (See R. Regulating Fla. Bar 4-3.4(c)).
8. A lawyer should only schedule depositions to ascertain relevant facts and not to generate income or harass deponents or opposing counsel.
9. A lawyer must not ask a deponent irrelevant personal questions or questions designed to embarrass a deponent. (See Regulating Fla. Bar 4-4.4(a)).
10. A lawyer should not make improper objections in depositions.
11. A lawyer must not prevent a deponent from answering questions unless a legal privilege applies. (See R. Regulating Fla. Bar 4-3.4(c)).

12. When scheduling depositions, hearings, and other court proceedings, a lawyer should request an amount of time that permits all parties in the case the opportunity to be fully and fairly heard on the matter.
13. A lawyer should immediately provide a scheduling notice for a hearing, deposition, or trial to all opposing parties.
14. A lawyer should notify opposing parties and subpoenaed witnesses of a cancelled or rescheduled hearing, deposition, or trial.
15. During pre-trial disclosure, a lawyer should make a reasonable, good-faith effort to identify witnesses likely to be called to testify.
16. During pre-trial disclosure, a lawyer should make a reasonable good-faith effort to identify exhibits to be proffered into evidence.
17. A lawyer should not mark on or alter exhibits, charts, graphs, or diagrams without opposing counsel's permission or leave of court.
18. A lawyer must not threaten opposing parties with sanctions, disciplinary complaints, criminal charges, or additional litigation to gain a tactical advantage. (See R. Regulating Fla. Bar 4-3.4(g) and (h)).

4. Fair and Efficient Administration of Justice

The just, speedy, and inexpensive determination of every controversy is necessary to preserve our system of justice.

Expectations:

1. A lawyer should be familiar with the court's administrative orders, local rules, and each judge's published standing orders, practices, and procedures.
2. A lawyer should endeavor to achieve the client's lawful objectives as economically and expeditiously as possible.
3. A lawyer should counsel the client concerning the benefits of mediation, arbitration, and other alternative methods of resolving disputes.
4. A lawyer should counsel the client to consider settlement in good faith.
5. A lawyer should accede to reasonable requests for waivers of procedural formalities when the client's legitimate interests are not adversely affected.
6. A lawyer must not invoke a rule for the purpose of creating undue delay, or propose frivolous oral or written arguments which do not have an adequate basis in the law nor fact. (See R. Regulating Fla. Bar 4-3.1).
7. A lawyer must not use discovery to harass or improperly burden an adversary or cause the adversary to incur unnecessary expense. (See R. Regulating Fla. Bar 4-4.4).
8. A lawyer should frame reasonable discovery requests tailored to the matter at hand.
9. A lawyer should assure that responses to proper discovery requests are timely, complete, and consistent with the obvious intent of the request. A lawyer should not avoid disclosure unless a legal privilege prevents disclosure.
10. A lawyer should not respond to discovery requests in a disorganized, unintelligible, or inappropriate manner, in an attempt to conceal evidence.
11. A lawyer should stipulate to all facts and principles of law that are not in dispute and should promptly respond to requests for stipulations of fact or law.

12. After consulting with the client, a lawyer should voluntarily withdraw claims and defenses that are without merit, superfluous, or cumulative.
13. A lawyer should be fully prepared when appearing in court or at hearings.
14. A lawyer should not use *voir dire* to extract promises from or to suggest desired verdicts to jurors.
15. A lawyer should abstain from all acts, comments, and attitudes calculated to curry favor with jurors.
16. A lawyer should not express bias or personal opinion concerning any matter at issue in opening statements and in arguments to the jury.
17. A lawyer should not make offers or requests for a stipulation in front of the jury.
18. A lawyer should not use the post-hearing submission of proposed orders as an opportunity to argue or reargue a matter's merits.
19. A lawyer must not request rescheduling, cancellations, extensions, and postponements without legitimate reasons or solely for the purpose of delay or obtaining unfair advantage. (See R. Regulating Fla. Bar 4-4.4).
20. A lawyer must not criticize or denigrate opposing parties, witnesses, or the court to clients, media, or members of the public. (See R. Regulating Fla. Bar 4-8.2(a) and 4-8.4(d)).

5. Decorum and Courtesy

When lawyers display reverence for the law, the judicial system, and the legal profession by acting with respect, decorum, and courtesy, they earn the trust of the public and help to preserve faith in the operation of a fair judicial system.

Expectations:

1. A lawyer should abstain from rude, disruptive, and disrespectful behavior. The lawyer should encourage clients and support personnel to do the same.
2. A lawyer should be civil and courteous in all situations, both professional and personal, and avoid conduct that is degrading to the legal profession. (See R. Regulating Fla. Bar 3-4.3).
3. A lawyer must always behave in a courteous and formal manner in hearings, depositions, and trials and should refrain from seeking special consideration from a judge or juror.
4. A lawyer should refer to all parties, witnesses, and other counsel by their last names during legal proceedings.
5. A lawyer should request permission from the court before approaching the bench or submitting any document.
6. A lawyer should state only the legal grounds for an objection unless the court requests further argument or elaboration.
7. A lawyer should inform clients and witnesses that approving and disapproving gestures, facial expressions, or audible comments are absolutely prohibited in legal proceedings.
8. A lawyer should abstain from conduct that diverts the fact-finder's attention from the relevant facts or causes a fact-finder to make a legally impermissible decision.
9. A lawyer should address objections, requests, and observations to the judge.

10. A lawyer should attempt to resolve disagreements before requesting a court hearing or filing a motion to compel or for sanctions.

6. Respect for the Time and Commitments of Others

Respecting the time and commitments of others is essential to the efficient and fair resolution of legal matters.

Expectations:

1. A lawyer should not impose arbitrary or unreasonable deadlines on others.
2. A lawyer should schedule a deposition during a time period sufficient to allow all parties to examine the deponent.
3. Unless circumstances compel more expedited scheduling, a lawyer should provide litigants, witnesses, and other affected persons with ample advance notice of hearings, depositions, meetings, and other proceedings, and whenever practical, schedule these events at times convenient for all interested persons.
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 adjudication.
5. A lawyer should promptly agree to a proposed time for a hearing, deposition, meeting, or other proceeding or make his or her own counter proposal of time.
6. A lawyer should promptly call potential scheduling conflicts or problems to the attention of those affected, including the court or tribunal.
7. A lawyer should avoid last-minute cancellations of hearings, depositions, meetings, and other proceedings.
8. A lawyer should promptly notify the court or tribunal when a scheduled court appearance becomes unnecessary.
9. A lawyer should be punctual in attending all court appearances, depositions, meetings, conferences, and other proceedings.
10. A lawyer must respond promptly to inquiries and communications from clients and others. (See R. Regulating Fla. Bar 4-1.4.)

7. Independence of Judgment

An enduring value of a lawyer's service is grounded in the lawyer's willingness to exercise independent judgment in practice and while giving the client advice and counsel.

Expectations:

1. A lawyer should exercise independent judgment and should not be governed by the client's ulterior motives, ill will, or deceit.
2. A lawyer should counsel a client or prospective client, even with respect to a meritorious claim or defense, about the public and private burdens of pursuing the claim as compared with the benefits to be achieved.
3. In advising a client, a lawyer should not understate or overstate achievable results or otherwise create unrealistic expectations.

4. A lawyer should not permit a client's ill will toward an adversary, witness, or tribunal to become that of the lawyer.
5. A lawyer must counsel a client against using tactics designed: (a) to hinder or improperly delay a legal process; 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. (See R. Regulating Fla. Bar 4-1.16, 4-3.2, and 4-4.4).
6. In contractual and business negotiations, a lawyer should counsel the client concerning what is reasonable and customary under the circumstances.

Standards of Professional Courtesy and Civility for South Florida

Preamble

Attorneys are often retained to represent their clients in disputes or transactions. The practice of law is often an adversarial process. Attorneys are ethically bound to zealously represent and advocate in their clients' best interests. Nonetheless, certain standards of professional courtesy exist that must be observed in the courtroom, the board room, or any other setting in which an attorney is present.

The following standards of professional courtesy describe the conduct expected of attorneys practicing before courts and other tribunals in South Florida, including Broward, Indian River, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach, and St. Lucie counties. These standards are not meant to be exhaustive, but instead to set a tone or guide for conduct not specifically covered by these standards. The overriding principles promoted by these standards are good-faith, civil and respectful communication between counsel and similar cooperation with judges, arbitrators, mediators, clerks, court staff, witnesses, and non-parties.

These standards have been codified with the intent that their dissemination will educate and remind attorneys and their clients that attorneys practicing in South Florida are expected to behave professionally and civilly at all times. In 1990, the Board of Governors of The Florida Bar adopted the Ideals and Goals of Professionalism. In 2011, the Florida Supreme Court amended its oath of attorney admission ("Oath of Attorney Admission") to require that attorneys taking the oath pledge to opposing parties and counsel "fairness, integrity, and civility, not only in court, but also in all written and oral communications." In 2013, the Florida Supreme Court issued an opinion entitled *In re: Code for Resolving Professionalism Complaints* (SC13-688) that requires each judicial circuit in Florida to create a local professionalism panel to hear grievances for professionalism and civility violations. These standards below should be read together with the Ideals and Goals Professionalism, the Oath of Attorney Admission, and the Florida Supreme Court's opinion aimed at improving attorneys' professionalism and civility.

I. Scheduling

1. Attorneys should endeavor to provide opposing counsel and pro se litigants (collectively, “opposing counsel”), parties, witnesses, and other affected persons sufficient notice of depositions, hearings, and other proceedings, except upon agreement of counsel, in an emergency, or in other circumstances compelling more expedited scheduling. As a general rule, actual notice should be given that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions and five (5) business days for hearings.
2. Attorneys should communicate with opposing counsel prior to scheduling depositions, hearings, and other proceedings, so as to schedule them at times that are mutually convenient for all interested persons. Further, sufficient time should be reserved to permit a complete presentation by counsel for all parties. 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 that is as close in time as is reasonably available, and attorneys should cooperate with each other when conflicts and calendar changes are reasonably necessary. Only after making a reasonable effort to confer with opposing counsel should attorneys unilaterally schedule depositions, hearings, or other matters.
3. Attorneys should notify opposing counsel, the court or other tribunal, and others affected, of scheduling conflicts as soon as they become apparent. Further, attorneys should cooperate with one another regarding all reasonable rescheduling requests that do not prejudice their clients or unduly delay a proceeding and promptly offer reasonable alternative dates to reschedule a matter.
4. Attorneys should promptly notify the court or other tribunal of any resolution between parties that renders a scheduled court appearance unnecessary or otherwise moot.
5. Attorneys should grant reasonable requests by opposing counsel for extensions of time within which to respond to pleadings, discovery, and other matters when such an extension will not prejudice their client or unduly delay a proceeding.
6. Attorneys should cooperate with opposing counsel during trials and evidentiary hearings by disclosing with reasonable advance notice the identities of all witnesses reasonably expected to be called and the length of time needed to present the attorney’s client’s case except when a client’s material rights would be adversely affected. The attorneys also should cooperate with the calling of witnesses out of turn when the circumstances justify it.

II. Discovery

1. Attorneys should pursue discovery requests that are reasonably related to the matter at issue. Attorneys should not use discovery for the purpose of harassing, embarrassing, or causing the adversary to incur unnecessary expenses.
2. Attorneys should not use discovery for the purpose of causing undue delay or obtaining unfair advantage.
3. Attorneys should ensure that responses to reasonable discovery requests are timely, organized, complete and consistent with the obvious intent of the request. Attorneys should not produce documents in a way calculated to hide or obscure the existence of documents. A response to a request to produce should refer to each of the items in the request and the responsive documents should be produced as they correspond to each request or as they are kept in the usual course of business.

III. Conduct Directed to Opposing Counsel, the Court/Tribunal, and Other Participants in the Proceedings

1. As it brings dishonor to the legal profession, attorneys should refrain from criticizing or denigrating opposing counsel, the court/tribunal and their staff, the parties, and witnesses before clients, the public, and the media.
2. Attorneys should be, and should impress upon their clients and witnesses the need to be, courteous and respectful and not rude or disruptive with the court/tribunal, opposing counsel, parties, and witnesses.
3. Attorneys should make an effort to explain to witnesses the purpose of their required attendance at depositions, hearings, or trials. Absent compelling circumstances, attorneys should give adequate notice to non-party witnesses before the scheduling of their depositions, advance notice of a subpoena for a deposition, hearing or trial. Attorneys further should attempt to accommodate the schedules of witnesses when resetting their appearance and promptly notify them of any cancellations.
4. Attorneys should respect and abide by the spirit and letter of all rulings of the court and advise their clients to do the same.
5. Attorneys and their staff should a) act and speak civilly and respectfully to courtroom deputies and bailiffs, clerks, court reporters, judicial assistants, and law clerks; b) be selective in inquiries posed to judicial assistants as their time and resources are limited; and c) familiarize themselves with the court's administrative orders, local rules and each judge's published standing ordered, practices and procedures.

IV. Candor to the Court/Tribunal and Opposing Counsel

1. Attorneys should not knowingly misstate, misrepresent, or distort any fact or legal authority to the court, tribunal or opposing counsel and shall not mislead by inaction or silence. Further, if this occurs unintentionally and is later discovered, the attorney immediately should disclose and correct the error. Attorneys, likewise, should affirmatively notify the court or tribunal of controlling legal authority that is contrary to their client's legal position.
2. Attorneys immediately should notify opposing counsel of all oral or written communications with the court or other tribunal, except those involving only scheduling or administrative matters.
3. Copies of any submissions to the court or other tribunal (such as e-mails, correspondence, motions, pleadings, memoranda or law, legal authorities, exhibits, transcripts, etc.), should be simultaneously provided to opposing counsel by e-mail or delivery of an electronic or hard copy. For example, if a memorandum of law is hand-delivered to the court, a copy should be simultaneously e-mailed or hand-delivered to opposing counsel.
4. Attorneys should submit factual or legal argument to a court in a motion or memorandum of law and not in the form of an e-mail or letter. Tribunals other than courts, however, may permit more informal means than a motion or memorandum of law for the submission of factual or legal argument.
5. Attorneys should draft proposed orders promptly after a hearing or decision and the orders should fairly and adequately represent the ruling of the court or tribunal. Attorneys should promptly provide, either orally or in writing, proposed orders to opposing counsel for approval. In response, opposing counsel should communicate promptly any objections to the drafting attorney. The drafting attorney then should promptly submit a copy of the proposed order to the court or other tribunal and state whether opposing counsel agrees or objects to the form of the order.
6. Attorneys should draft agreements and other documents promptly after the discussions or agreement so as to fairly reflect the true intent of the parties. Where revisions are made to an agreement or other document, attorneys should point out, redline, or otherwise highlight any such additions, deletions, or modifications for opposing counsel.

V. Efficient Administration

1. Attorneys should refrain from actions intended primarily to harass or embarrass and should refrain from actions which cause unnecessary expense or delay.
2. Attorneys should, whenever possible, prior to filing or upon receiving a motion,

contact opposing counsel to determine if the matter can be resolved in whole or in part. This may alleviate the need for filing the motion or allow submission of an agreed order in lieu of a hearing.

3. Attorneys should, whenever appropriate, discuss discovery planning. Attorneys should also endeavor to stipulate to all facts and legal authority not reasonably in dispute.

4. Attorneys should encourage principled negotiations and efficient resolution of disputes on their merits.

Legal Professionalism in the Electronic Age The Henry Latimer Center for Professionalism

Due to the COVID-19 pandemic and the requirement of “social distancing,” society has been forced to rethink ways to carry out its essential functions. One of the most profound shifts is the movement to video conferencing. With this shift, it is crucial to uphold the expectation of professionalism and civility within the legal profession. This guide and its resources provide some best practices and recommendations for practicing with professionalism virtually.

Special Considerations for Attorneys

- Continue to demonstrate The Florida Bar’s civility and professionalism expectations while fulfilling the fundamental duties to the client and the judicial system.
- Ensure the individual needs of your client are being met by confirming their access to the proper technology needed to conduct virtual hearings (i.e., computer with internet, smartphone, or landline).
- Plan to provide confidential communication with your client before and during the hearing to discuss and resolve any issues.
 - Coordinate frequent conference calls and emails before the hearing.
 - When discussing client matters at home, ensure all listening devices such as Amazon Alexa or Google Home are muted or turned off.
 - During the hearing, ensure the virtual platform allows for “private chats” or “breakout rooms” so that you may chat confidentially and directly with your client.
 - Be aware of your surroundings. You still have a duty of confidentiality to your client, which extends beyond just information the client wants to keep secret. Instead, that duty extends to all information learned in the course of representation. Just because the court hearing is public does not mean that you should be sharing the content of the hearing with others in your

workspace. If you have a video or teleconference, find a location that is apart from others and that respects the privacy expectations of your client and the decorum expected by a court.

- During a virtual hearing it is best to:

- Familiarize yourself and your client with the virtual platform prior to the hearing and join the conference before the start time.
- While participating in a hearing remotely, it is important to be mindful of your surroundings. You should find a quiet place away from any distracting background noises and, if possible, use a neutral wall or virtual background.
- As an attorney you are held to higher standards which includes wearing professional attire, even from the confines of your home.
- Be aware that while you are on camera on a video conference, other participants can see you the whole time and are looking directly at you. Your facial expressions are perhaps under more scrutiny than in an in-person setting. Pay special attention to monitoring your emotions and expressing them appropriately when others are speaking.
- Position the camera at eye-level. Your image is best captured if you are looking straight-on at the camera. If you are using a laptop, hard back books placed under the laptop are a great way to raise the laptop camera to eye-level. Try to allow a bit of your body to be shown. Your persuasiveness and influence may be increased by being able to take advantage of your non-verbals while on video.
- Continue to use all the non-verbals of active listening that you would use in a normal court hearing. Maintain eye contact by looking at the camera when listening and speaking, nod your head to indicate understanding, even lean in a little to show that you are engaged with the speaker.
- If a video conference is recorded, remember that the recording may begin before and end after you are aware of it. Anytime you are on a video conference, assume you are being recorded. Likewise, if there is a chat function that you are using, assume the chat messages are also being recorded.
- If you lose connection, stay calm and attempt to log back on. It is a good idea to have a phone number you can call or text to let others know you are working on resolving the problem and rejoining the call.

EXHIBIT B

ELEVENTH JUDICIAL CIRCUIT PROCEDURAL RULES GOVERNING LOCAL PROFESSIONALISM PANELS

I. Standards and Purpose

Pursuant to *In re: Code for Resolving Professionalism Complaints*, 116 So. 3d 280 (Fla. 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 Professionalism Expectations*, *The Rules Regulating The Florida Bar*, *The Florida Bar Legal Professionalism in the Electronic Age Special Considerations for Attorneys*, 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 an electronic Complaint form on the Circuit's Website (www.jud11.flcourt.org)¹ or by mailing a Complaint form to (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

- 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.

¹ Upon submission of an electronic Complaint form, the Complainant must print and sign the Complaint form and mail the original Complaint to the Panel. If the signed Complaint is not received following the electronic submission, the Panel will not accept the Complaint. Signature photocopies will not be accepted.

- 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 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. Gen. Prac. & Jud. Admin. 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.