



Kristopher J. Kest, Esq.

## *I Really Wish Someone Would Talk to That Guy!*

**I** really wish someone would talk to that guy. Ugh ... I've got *her* for opposing counsel? The other attorney did *what?*!

Enter the Ninth Judicial Circuit Local Professionalism Panel. Established by Ninth Circuit Administrative Order 2014-07, the panel addresses, upon your request, instances of unprofessional behavior by and among members of the Ninth Judicial Circuit. Referrals to the panel are made by submitting the form attached to the Administrative Order, which can be found at [www.ninthcircuit.org](http://www.ninthcircuit.org).<sup>1</sup> Put your local professionalism panel to work!

The panel was created at the direction of the Florida Supreme Court. On June 6, 2013, the Supreme Court directed the chief judge of each circuit to "create a Local Professionalism Panel to receive and resolve professionalism complaints informally if possible." *In re Code for Resolving Professionalism Complaints*, 116 So.3d 280, 282 (Fla. 2013). Little other guidance was provided as to the structure, make-up, or procedures to be followed by the local professionalism panels. For the Ninth Circuit, former Chief Judge Belvin Perry, Jr., created an inclusive panel, seating representatives from 10 local voluntary bar associations. New Chief Judge Frederick J. Lauten recently entered Amended Administrative Order 2014-07-A-01 and appointed two new at-large members to the panel.

But, you may be asking, what kind of issues should I refer to the panel? First, note that any person may make a referral to the panel, including attorneys, judges, members of the public, and The Florida Bar itself. If you feel that an attorney's behavior merits "a talking to" but does not rise to the level of a formal complaint to The Florida Bar, consider a referral to the panel. You might also consider a referral if it is a "close call" as to whether the behavior merits a Florida Bar complaint. The panel is empowered to make a referral to The Florida Bar if warranted.

Okay, but what standards will the panel use to measure the respondent attorney's behavior? You will be happy to know that the Florida Supreme Court recognized that there are already plenty of professionalism standards available and did not create any more. Instead, the following were identified as the "ideals and standards" to which attorneys in the Ninth Circuit will be held: 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; the decisions and administra-

tive directives of the Florida Supreme Court; the Professionalism Standards of the Osceola County Bar Association; and the Orange County Bar Association's Standards of Professional Courtesy and Courtroom Decorum. Each of these can be found by a Google search.

When the panel receives a referral (which can be anonymous), the chairperson assigns three members from the panel to investigate and address the issue within 45 days. The three members selected will hold a meeting to which the respondent attorney will be invited. While attendance by the respondent attorney at this meeting is voluntary (as is everything associated with the process), the three-member panel may take a lack of attendance into consideration when deciding whether to refer the matter to The Florida Bar.

So – the big question: What can the panel do to the respondent attorney if it finds a deviation from the ideals and standards? The panel does not have authority to sanction or punish. Instead, it is directed to make "non-punitive, educational and constructive" recommendations. These recommendations may include an oral or written decision to the respondent attorney; referral to a mentoring program, The Florida Bar Ethics School, the Florida Lawyers Assistance Program, or The Florida Bar itself; guidelines to assist the respondent attorney in the future; or any other recommendation the three-member panel deems appropriate. Compliance with these recommendations is voluntary and all records and information received or created by the panel are confidential and are destroyed within 30 days of the conclusion of the proceedings.

There is debate within The Florida Bar as to whether these local professionalism panels will be effective. As they say, time will tell. But your local professionalism panel is off to a good start, having handled two referrals as of this writing. You are encouraged to continue making referrals as needed. The Ninth Circuit is already a great place to practice law, and use of the panel can make it even better. Questions may be directed to the author or to the chairperson, Jeffrey D. Keiner, Esq., at 407-843-8880, or [Jeffrey.Keiner@gray-robinson.com](mailto:Jeffrey.Keiner@gray-robinson.com).

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<sup>1</sup>Select "Research," then "Admin Orders," then in the Order Number field search for "2014-07."