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Professionalism panels are active, but use is still sparse

By Gary Blankenship

Senior Editor

Most circuits around Florida have set up local professionalism committees to review complaints against lawyers, but only a few have actually received any complaints, according to reports filed with the Supreme Court's Commission on Professionalism.



The Bar's Attorney Consumer Assistance Program ([ACAP](#)), though, has around 250 complaints pending about unprofessional actions by lawyers, and has fielded more than 1,600 inquiries about lawyer conduct that may include professionalism issues.

The number for the local professionalism committees comes from reports submitted to the Supreme Court's Commission on Professionalism for the last three months of 2013 and the first three months of 2014. The Bar's numbers are from the second quarter of 2014 and are being prepared for submission to Justice Fred Lewis, who chairs the Commission on Professionalism.

The court last year — following the recommendation of the commission — ordered that local committees be set up as part of an effort to improve professionalism.

Complaints about lawyers' conduct may be made to the local panels or to the Bar's ACAP program. Most are expected to be resolved informally, but the court reiterated that — as has been done in previous Bar grievance cases — egregious unprofessional conduct would be subject to discipline.

The commission met June 26 during the Bar's Annual Convention to review the numbers and work on the professionalism enforcement program (see story on page 1).

After the meeting, Lewis said it's not surprising that results vary, but added that the groundwork has been done.

"This is a very diverse state with each circuit having unique issues unlike other circuits. It is impossible to utilize the identical prism through which we view the issues and problems of each area. We have the foundation in place moving forward for a successful program," he said.

Although the latest Bar numbers were not available to the commission, Lewis said it was expected that results would vary at the local committees, but that initially most of the complaints would come to the Bar.

"Some circuits have exceeded the number of complaints and resolutions we expected while others are lower," he said. "We did expect that the majority of complaints would flow in at the Tallahassee, Florida Bar level based on our history of following that flow. This expectation was followed, as demonstrated in the reported numbers."

Lewis added, "If the public and lawyers prefer a local resolution of this type of complaint, I expect in the future we will see an increase in the local reporting."

It's also expected, he said, that some complaints made through ACAP, that do not result in Bar action, will be referred to local committees for review. Likewise, cases fielded by the local committees that involve more serious violations are expected to be referred to the Bar.

According to the latest numbers, the Bar has not yet referred any cases to local committees, while it has received one case, which is still pending, from a local committee.

At the commission meeting, John Berry, who heads the Bar's Legal Division, and Shanell Schuyler, who runs the ACAP program, said the Bar is still working to refine its professionalism complaint numbers. They said most of the time, a professionalism issue is part of a larger ethics complaint that is handled through the Bar's grievance system. No referrals to local committees, if warranted, will be made in those cases, they said, until the grievance matter is resolved.

And sometimes, clients are merely sounding out the Bar about a possible problem and don't want any contact made with their attorney, they said.

For the second quarter, the main ACAP operation closed 43 cases with professionalism issues and branch offices closed another 27. Another 133 cases were pending at ACAP and 117 at the branches.

During the same period, the Bar fielded nearly 2,000 calls that included at least some potential professionalism issue. The largest number of those, 903, concerned the attorney being disorganized or unprepared. Another 637 dealt with an appearance of impropriety, and 360 concerned possible unprofessional conduct. The next largest number, 53, involved badgering or bullying behavior, 23 mentioned abusive behavior, and 16 concerned "offensive personality."

Those numbers reflect what commission member David Hallman noted at the June 26 meeting. He said a lot of lawyers say the problem they see is not so much conduct or rude behavior, but lawyers being unprepared and disorganized.

"We know how to talk at the [professionalism] panel level to lawyers who are rude. We can talk to them about changing that conduct," he said. "We may need a tool for people who don't know how to get a document into evidence, how to be organized, how to do an uncontested divorce. There are a lot of lawyers lacking basic skills."

Lewis told the commission there may have to be a choice about whether the professionalism effort will focus on the Bar or on the local committees. He added that he initially expects the Bar to get most of the complaints, because that is where most people are used to turning when they have a problem with a lawyer.

"The key to success locally is a local bar and public being aware of this being available, the chief judges taking active interest to be certain each local group is active, each local group having effective and prompt procedures for resolution of complaints, prompt response to all complaints. Finally, a system that is fair but firm to all concerned," Lewis said after the meeting.

He added. "From here the local committees need to advertise their available services, begin active meetings, make sure all complaints are promptly considered, and press forward for an effective and efficient process. Now we will begin to see whether people just want to complain about lawyer conduct or want to take action to resolve bad behavior."