

AFELA LIST Serv
Terms of Use • 2016

Purpose

The purpose of the AFELA List Serv (also referred to as “List” or “List Serv”) is for members of AFELA in private practice, to share experiences of administrative processes, share information about recent developments in the law, administrative regulations and court rules, share work product that is not subject to client privilege and confer with each other confidentially.

By Utilizing The AFELA List Serv You Agree

By utilizing, viewing, reading, engaging with, replying to, or joining the AFELA List Serv you agree to and are demonstrating acceptance of the Terms of Use for the AFELA List Serv and the penalties for violation.

Access

The AFELA list serve is restricted to elder law attorneys who are members of AFELA who are in private attorneys, as defined by their membership status with NAELA or paid employees or consultants for AFELA. AFELA may allow use by individuals who are categorized by NAELA as another type of member upon approval from the AFELA Board of Directors. Upon confirmation of these requirements approved list serv members are permitted to post to, receive from or otherwise use or access the List Serv. NAELA has the following categories of membership: **Private attorney**; **Professor/Judge** (any licensed attorney who are professors of law or judges may qualify for this category); **Student** (full time law students); **LSC/Title III** (Licensed members of the Bar of any State, Commonwealth, Territory, or District of the United States of America who promote the welfare of the elderly and people with special needs and are legal aid attorneys, employed by a 501(c)(3) nonprofit corporation that promotes equal access to justice, or attorneys representing clients under Title III of the Older Americans Act, employed by a qualified non-profit advocacy agency, employed by state protective agencies, or employed by a government agency whose purpose is to protect and/or promote the interests of the elderly and/or persons with special needs may become a member of the Academy upon payment of dues and submission of a duly executed application for membership in the format approved by the Board of Directors); **Government** (Licensed members of the Bar of any State, Commonwealth, Territory, or District of the United States of America who are employed by any local, state or federal government for the purpose of reviewing or regulating any benefits the elderly and people with special needs may be eligible for may become a member of the Academy upon payment of dues and submission of a duly executed

application for membership in the format approved by the Board of Directors); **Retired** (active members that been with NAELA for at least 5 years and have retired from practicing law but still want to remain involved in NAELA and participating on committees etc.)

By joining or otherwise utilizing the AFELA List Serv in anyway, you agree to the following:

1. Not to allow nonmembers (including your associates, paralegal, assistants, etc.) to use your user name to access, join or utilize the AFELA List Serv;
2. Not to allow nonmembers (including your associates, paralegals, assistants, etc.) to post or otherwise use the AFELA List Serv;
3. Ensure nonmembers are not to be allowed access to any messages or attachments you have downloaded;
4. Not to disseminate, distribute, forward, republish, or otherwise share AFELA List Serv replies, posts, conversations, or announcements with anyone, any entity or any other list serv outside the AFELA List Serv, except for those posts or information specifically marked for public disclosure; and
5. Adhere to all other General Guidelines of Use.

General Guidelines on Use

- All postings **MUST** be accompanied by the name, email address and physical address of the AFELA List Serv member.
- **DO NOT POST ATTORNEY/CLIENT PRIVILEGED INFORMATION!**
- **DO NOT POST CASE SPECIFIC INFORMATION, CLIENT'S NAME(S) OR OPPOSING COUNSEL'S NAME(S)!**
- Be respectful. Be civil. Be professional.
- This is a professional list serv. Do not post racist, sexist, homophobic, discriminatory, or other derogatory remarks or jokes that may be offensive to other people.
- Check all posts for viruses.
- Do not post political endorsements. Do not endorse candidates. Do not solicit contributions for political candidates or causes.
- Do not post solicitations for business entities.
- Do not use the AFELA List Serv to advertise CLE programs except:
 - AFELA events

- NAELA events
 - AFELA/NAELA co-hosted events
 - Elder Law Section of the Florida Bar events
- Other events as the executive committee specifically authorizes in writing

- Do not use the AFELA List Serv to recruit new associates, partners, or legal staff.

UNLESS YOU HAVE OBTAINED PERMISSION FROM AFELA'S EXECUTIVE COMMITTEE AND THE APPROVED POST INCLUDES THE FOLLOWING NOTICE: This notice has been approved by the AFELA Executive Committee for posting on the List Serv. Please REPLY to this message to me directly and not to the list serve.

- Do not post any comments that disparage or defame any person or product or that constitute an invasion of privacy.
- Do not post any material that is a trade secret or infringes the copyright, trademark or other ownership rights of any person or entity.
- Keep paragraphs and messages short.
- Focus on one subject per message and always include a pertinent subject title for the message.
- Always sign your message with your name and preferred e-mail address.
- The most appropriate and confidential way to respond to most messages is to reply to the List. If your reply is not of interest to the entire List, you should choose the option 'Reply to Sender' and your reply will not be posted to the entire List.

Restrictions on Transmitting Materials

AFELA List Serv users are responsible for all content they upload, post, e-mail or otherwise transmit. Although AFELA does not generally control transmissions, the Executive Committee and Board of Directors of AFELA retain the right to sanction or bar any user who violates any of the List Serv Terms of Use. Sanctions can include, notifying the offending user of the violation, temporary suspension of List Serv use, removal of objectionable materials, or permanent termination of use of the AFELA List Serv.

Warning of Possible Third Party Access

Even though the AFELA List Serv is private and intended only for the use of AFELA members and AFELA prohibits transmission of materials to non- members, there is no guarantee of confidentiality. E-mail is easily forwarded and in some offices e-mail is accessible to a variety of people despite the users' commitment to the AFELA List Serv

Terms of Use. Consider your comments to be public. Therefore, be professional and careful about what you say.

Indemnity

You agree to indemnify (including reasonable attorney's fees incurred), defend, and hold NAELA, its officers, employees and agents and AFELA, its officers, employees and agents harmless from all claims and demands made by any third party due or related to (i) any material you transmit, (ii) your violation of these AFELA List Serv Terms of Use, or (iii) your violation of any rules of specific Lists (such as restrictions on length or number of e-mail messages per transmission).

Disclaimer

UNLESS OTHERWISE STATED, VIEWS AND OPINIONS EXPRESSED ON THE LIST Serv HAS NOT BEEN APPROVED BY AFELA OR NAELA AND DO NOT NECESSARILY REPRESENT THE POLICY OF AFELA OR NAELA. AFELA OR NAELA MAKES NO WARRANTY OR GUARANTEE CONCERNING THE ACCURACY OR RELIABILITY OF THE CONTENT. AFELA AND NAELA DO NOT SCREEN USER-GENERATED MATERIAL, NOR VERIFY THE SOURCE. AFELA SUGGESTS YOU NOT RELY ON THE STATED IDENTITY, CONTENT OR SOURCE OF SUCH MATERIAL WITHOUT YOUR INDEPENDENT CONFIRMATION.

AFELA AND NAELA ARE NOT LIABLE IN ANY WAY FOR ANY CONTENT, INCLUDING ANY ERRORS, OMISSIONS OR CONTAMINANTS IN ANY CONTENT. AFELA AND NAELA DO NOT WARRANT THAT THE FUNCTIONS OR MATERIALS OF THE LIST SERV WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVER THAT MAKES SUCH MATERIALS AVAILABLE ARE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE RECEIPT OF LIST Serv MATERIAL.

Confidentiality and Nondisclosure

These Terms of Use contain provisions addressing the confidentiality of the transmissions through this List and obligations of nondisclosure by users. By utilizing the AFELA List Serv in any manner you agree to abide by the confidentiality and nondisclosure terms. This obligation continues in effect until and unless you receive permission from the source of the information to disclose it and you abide by the permitted terms and scope of disclosure. Whenever you disclose confidential information received through this List, it must be disclosed only as permitted by these terms and you must receive an enforceable commitment from the recipients to abide by the

nondisclosure terms.

By utilizing the AFELA List Serv, you also acknowledge that remedies at law may be inadequate to protect against breach of the nondisclosure provisions and that AFELA and NAELA and the users of this List Serv may obtain an injunction to enforce these provisions without proof of damages. You further agree to notify the List Serv Manager and request that AFELA and NAELA and the List Serv users have an opportunity to respond if you are requested or ordered by any governmental entity to disclose confidential information obtained through the List Serv, and you will seek an appropriate protective order for the confidential information. Information that becomes generally known to the public or the legal community without disclosure by you is no longer deemed confidential information.

Procedure to Exit List or for Vacation

If you decide to leave the list temporarily or for vacation, please follow the procedures set forth in the confirming email that you will receive upon joining the list.

Protocol Violations

The AFELA Manager shall monitor use of the AFELA List Serv and in the event of a violation or apparent violation may suspend the rights of a member to participate in the List Serv until the matter is reviewed by the Board of Directors of AFELA. *In the sole discretion of the Board of Directors at any regularly scheduled meeting any List Serv member may be removed for one or more violations of the above policies or protocols which will be set forth in your confirming email.* Any List Serv member removed from the list will be advised of the removal by the Board of Directors and may submit in writing a request for reconsideration by the Board of Directors of AFELA at its next regularly scheduled meeting if such notice is received by the President or delagee of the President at least seven (7) days prior to the meeting.

AFELA List Serv Manager

The Board of Directors of AFELA shall designate the President Elect, Vice President or other member to serve as List Serv Manager. The List Serv Manager shall make reasonable efforts to regularly read all messages posted on the list serv. In the event the List Serv Manager determines a violation of the policies set forth above, the List Serv Manager shall notify the member directly of the offending postings, provide copies of the offending postings to the Board of Directors of AFELA for consideration at a regularly scheduled meeting. The List Serv Manager shall make a recommendation to the Board however the Board of Directors shall have sole discretion to remove any list serv member for one or more violations of the above policies.

NAELA List Serv Administrator

NAELA has agreed to provide a Primary List Administrator and Backup List Administrator. Their names and email addresses will be provided to you by confirming email upon your acceptance onto the AFELA List Serv. Please report any problems with the list directly to the List Administrators. *Any violations or concerns of violations of the above policies should be reported to the AFELA List Serv Manager who is the currently serving President-Elect or Vice President of AFELA, unless otherwise designated by the AFELA Board of Directors.*

List Serv Termination

The AFELA List Serv may be terminated at any time by AFELA without advance notice.

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