

**AFELA Listserv**  
Terms of Use • REVISED 2021

**Purpose**

The purpose of the AFELA Listserv (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 Listserv You Agree**

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

**Access**

The AFELA listserv is restricted to elder law attorneys who are members of AFELA who are in private practice, 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 Listserv. NAELA has the following categories of membership: **Private attorney**; **Professor/Judge** (any licensed attorney who is a professor of law or judge 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 participate on committees etc.)

By joining or otherwise utilizing the AFELA Listserv in any way, you agree to the following:

1. Not to allow nonmembers (including your associates, paralegals, assistants, etc.) to use your user name to access, join or utilize the AFELA Listserv;
2. Not to allow nonmembers (including your associates, paralegals, assistants, etc.) to post or otherwise use the AFELA Listserv;
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 Listserv replies, posts, conversations, or announcements with anyone, any entity or any other listserv outside the AFELA Listserv, except for those posts or information specifically marked for public disclosure;
5. Adhere to all other General Guidelines of Use.

### **General Guidelines on Use**

AFELA listserv members are unique, diverse, welcome, and valuable contributors, representing a broad spectrum of views. Each listserv member is worthy of respect. All listserv members are welcome and should be included in participation in listserv posts and responses thereto, regardless of their own personal political affiliations or views. The listserv is not the forum to alienate your fellow listserv members who do not hold your own personal political, social, and/or religious views. Please refrain from using the listserv as a platform to editorialize your own personal political opinions and judgments. Please act and post in a professional manner, to promote positive engagement and participation in important discussions of law, public policy, and practical issues affecting our Elder Law practices and the public we represent. Statements or public policy assertions should be grounded in fact and absent of partisan or political bias. Please do contribute your own valuable input and insights, but do it the right way, being inclusive of all of our listserv members, and acting with respect for your fellow listserv members.

- 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 listserv. 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 Listserv 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 Listserv 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 Listserv. Please REPLY to this message to me directly and not to the listserv.**

- 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, physical address 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.

## **GUIDELINES FOR POSTING NOTICES OF EVENTS ON THE AFELA LISTSERV**

In order to provide uniformity of decision making, objective guidelines to be applied in ruling on requests to post advertisement of events on the AFELA Listserv, and eliminate claims of favoritism and/or nepotism, the following guidelines must be applied to requests and a request must satisfy all of the recommended guidelines before the AFELA Executive Committee may approve the posting of an advertisement for an event on the Listserv.

The Guidelines are:

1. Request must come from a not-for-profit or an educational institution or a representative of such an institution,
2. Event must be germane to Elder Law (i.e., government benefits, guardianship, estate planning, probate, special needs, etc.),
3. Event must not be geographically limited and it should be a statewide event, and
4. Posting must otherwise comply with AFELA Listserv protocol.

### **Restrictions on Transmitting Materials**

AFELA Listserv 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 Listserv 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 Listserv 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 LISTSERV HAVE 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 IS 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 LISTSERV 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 Listserv 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 Listserv, 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 Listserv may obtain an injunction to enforce these provisions without proof of damages. You further agree to notify the Listserv Manager and request that AFELA and NAELA and the Listserv users have an opportunity to respond if you are requested or ordered by any governmental entity to disclose confidential information obtained through the Listserv, 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 Listserv 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 delegate of the President at least seven (7) days prior to the meeting.

### **AFELA Listserv Manager**

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

### **NAELA Listserv 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 Listserv 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 Listserv may be terminated at any time by AFELA without advance notice.

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