

## RULES REGULATING THE FLORIDA BAR

### CHAPTER 18. MILITARY LEGAL ASSISTANCE COUNSEL RULE

#### 18-1. GENERALLY

##### RULE 18-1.1 PURPOSE

The purpose of this chapter is to expand the delivery of legal assistance services to military personnel stationed in the state of Florida. This chapter authorizes military attorneys licensed to practice law in jurisdictions other than Florida to be certified to practice before Florida courts while formally assigned as a legal assistance attorney at a military base in the state of Florida.

##### RULE 18-1.2 DEFINITIONS

**(a) Authorized Legal Assistance Attorney.** An "authorized legal assistance attorney" is any person who:

(1) is admitted to practice law by the highest court of another state, the District of Columbia, or a territory of the United States;

(2) is serving on active duty within the Department of Defense (including the National Guard while in federal service) or the Department of Transportation (with respect to the United States Coast Guard);

(3) is assigned to an installation, unit, and/or activity located within the geographic limitations of the courts of the state of Florida;

(4) has completed The Florida Bar Young Lawyers Division Practicing with Professionalism program (Basic Skills Course Requirement); and

(5) appears in connection with official duties as a legal assistance attorney.

**(b) Approved Legal Assistance Office.** An "approved legal assistance office" for the purposes of this chapter is a military command tasked with providing legal assistance as approved by the Department of Defense or Department of Transportation.

**(c) Supervising Attorney.** A "supervising attorney" as used herein is a member in good standing of The Florida Bar who supervises an authorized legal assistance attorney engaged in activities permitted by this chapter. The supervising attorney must:

(1) be employed by or be a participating volunteer for an approved legal assistance office (to specifically include military reserve attorneys); and

(2) assume personal professional responsibility for supervising the conduct of the matter, litigation, or administrative proceeding in which the authorized legal assistance attorney participates.

**(d) Authorized Legal Assistance Client.** An "authorized legal assistance client" is:

(1) an active duty military member who is assigned to an installation, unit, and/or activity located within the state of Florida and who otherwise meets current income eligibility guidelines of the Legal Services Corporation;

(2) a military retiree who resides within the state of Florida and who otherwise meets current income eligibility guidelines of the Legal Services Corporation;

(3) the dependents of any active duty military member or retiree who are otherwise residents of the state of Florida and meet current income eligibility guidelines of the Legal Services Corporation; or

(4) for purposes of settling the affairs of an active duty military member who died while in active military service, the surviving family members of such decedent who are otherwise residents of the state of Florida.

#### **RULE 18-1.3 ACTIVITIES**

**(a) Permissible Activities.** An authorized legal assistance attorney, in association with an approved legal assistance office and under the supervision of a supervising attorney, may perform the following activities:

(1) appear in any court or before any administrative tribunal in this state on behalf of an authorized legal assistance client, provided the person on whose behalf the authorized legal assistance attorney is appearing has consented in writing to that appearance and a supervising attorney has given written approval for that appearance;

(2) prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the authorized legal assistance attorney is involved, provided all notices of appearance, pleadings, and documents bear the attorney's name, the name of the bar to which admitted, that jurisdiction's bar number, and the legend "Rule 18 Military Legal Assistance Attorney"; or

(3) engage in such other preparatory activities as are necessary for any matter in which the authorized legal assistance attorney is involved.

Nothing contained herein shall limit the scope of services provided by legal assistance attorneys under Title 10, United States Code, section 1044, and applicable service regulations.

#### **RULE 18-1.4 SUPERVISION AND LIMITATIONS**

**(a) Supervision by Attorney.** An authorized legal assistance attorney must perform all activities authorized by this chapter under the supervision of a supervising attorney.

**(b) Representation of Bar Membership Status.** Authorized legal assistance attorneys permitted to perform services under this chapter are not, and shall not represent themselves to be, members in good standing of The Florida Bar licensed to practice law in this state.

**(c) Range of Legal Issues for Which Representation is Permitted.** An authorized legal assistance attorney may appear in court on behalf of authorized legal assistance clients provided the appearance is made concerning a civil matter limited to 1 of the following actions:

(1) all residential landlord/tenant disputes under applicable statutory law;

(2) all actions in small claims court;

(3) domestic relations matters limited solely to name changes, adoptions, paternity, dissolution, child custody, child/spousal support enforcement, or modification of prior judgments or orders;

(4) routine or statutory probate matters limited solely to summary administration and disposition of property without administration under applicable statutory law;

(5) all actions under the Florida Consumer Collection Practices Act; and

(6) all actions under the Florida Motor Vehicle Repair Act; and

(7) any other proceedings if otherwise permitted by applicable law regarding appearances by foreign attorneys.

#### **RULE 18-1.5 CERTIFICATION**

Permission for an authorized legal assistance attorney to perform services under this chapter shall become effective upon filing with and approval by the clerk of the Supreme Court of Florida of:

(a) a letter from the commanding officer of the approved legal assistance office stating that the authorized legal assistance attorney is currently assigned with that legal assistance office and that an attorney employed by or participating as a volunteer with that legal assistance office will assume the duties of the supervising attorney required hereunder;

(b) a certificate from the highest court or agency in the state, territory, or district in which the authorized legal assistance attorney is licensed to practice law certifying that the authorized legal assistance attorney is a member in good standing and has a clear disciplinary record, and advising of any pending complaints and/or investigations involving the authorized legal assistance attorney; and

(c) a sworn statement by the authorized legal assistance attorney that the attorney:

(1) has read and is familiar with chapter 4 of the Rules Regulating The Florida Bar as adopted by the Supreme Court of Florida and will abide by the provisions thereof;

(2) has completed The Florida Bar Young Lawyers Division Practicing with Professionalism program (Basic Skills Course Requirement); and

(3) submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes, as defined by chapter 3 and rule 18-1.7 of the Rules Regulating The Florida Bar, and authorizes the practitioner's home state to be advised of any disciplinary action taken in Florida.

#### **RULE 18-1.6 WITHDRAWAL OR TERMINATION OF CERTIFICATION**

(a) **Cessation of Permission to Perform Services.** Permission to perform services under this chapter shall cease immediately upon the earlier of the following events:

(1) the commanding officer of the approved legal assistance office filing a notice with the clerk of the Supreme Court of Florida stating that the authorized legal assistance attorney has ceased to be associated with the legal assistance office, which notice must be filed within 30 days after such association has ceased; or

(2) the filing with the clerk of the Supreme Court of Florida of a notice by the Supreme Court of Florida, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice shall be mailed by the clerk of the Supreme Court of Florida to the authorized legal assistance attorney involved and to the approved legal assistance office to which the attorney had been certified. The decertified legal assistance attorney shall have 15 days upon receipt of notice to request reinstatement for good cause.

(b) **Notice of Withdrawal of Certification.** If an authorized legal assistance attorney's certification is withdrawn for any reason, the supervising attorney shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the authorized legal assistance attorney was involved.

#### **RULE 18-1.7 DISCIPLINE**

(a) **Contempt; Withdrawal of Certification.** In addition to any appropriate proceedings and discipline that

may be imposed by the Supreme Court of Florida under chapter 3 of the Rules Regulating The Florida Bar, the authorized legal assistance attorney shall be subject to the following disciplinary measures:

(1) the presiding judge or hearing officer for any matter in which the authorized legal assistance attorney has participated may hold the authorized legal assistance attorney in civil contempt for any failure to abide by such tribunal's order, in the same manner as any other person could be held in civil contempt; and

(2) the Supreme Court of Florida or the authorized legal assistance attorney may, at any time, with or without cause, withdraw certification hereunder.

**(b) Notice to Home State of Disciplinary Action.** The Florida Bar shall notify the appropriate authority in the authorized legal assistance attorney's home state of any disciplinary action taken against the authorized legal assistance attorney.