

## **RAPID RESPONSE TEAM RULES & PROCEDURE**

**Purpose:** There is hereby established the Rapid Response Team of the Arkansas Judicial Campaign Conduct & Education Committee, Inc., (the Rapid Response Team or Team), consisting of 5 persons. The Rapid Response Team shall review complaints pertaining to judicial advertising of which it becomes aware by written communications from candidates seeking election to the Supreme Court of Arkansas or Arkansas Court of Appeals, or their campaign committees. The Arkansas Administrative Office of the Courts will explain the Rapid Response Team's purpose, objectives, and procedures to each candidate seeking election to the Supreme Court of Arkansas and the Arkansas Court of Appeals.

### **Definitions**

*Judicial advertising.* Judicial advertising is any media communication pertaining to a candidate for the Supreme Court of Arkansas or Arkansas Court of Appeals issued by a candidate or the candidate's campaign committee, or by an independent campaign committee (such as a 527 group or Super PAC), or other organization, that is intended to influence the outcome of a judicial election.

*Media communication.* Media communication is any public communication by, or in the form of, newspaper, radio, television, website, social media or other electronic communication, press release, brochure, flier, sample ballot, yard sign, or other printed material.

*Standing to complain.* Only judicial candidates of the Supreme Court of Arkansas or Arkansas Court of Appeals and their campaign committees shall have standing to have a complaint reviewed by the Rapid Response Team.

*Jurisdiction.* Jurisdiction is limited to complaints alleging false or misleading judicial advertisements in the Supreme Court and Court of Appeals elections.

*Burden of Proof.* The complaining party (Complainant) has the initial burden to state facts to support its complaint that a Judicial Advertisement is false or misleading. The Rapid Response Team shall have sole discretion in deciding whether the burden has been met.

*Reasonable cause.* Reasonable cause is a reason that would motivate a person of ordinary intelligence under the circumstances to believe a fact asserted is false or misleading.

*Notice to candidates.* Notice to candidates and proponents of judicial advertising includes email communications to their campaign committee websites, by registered mail, or by any other means so long as the notice is evidenced by a writing.

### **Rules**

*Membership of Team.* The members of Rapid Response Team shall be appointed by the Board of Directors of the Arkansas Judicial Campaign Conduct & Education Committee, Inc. The Board shall consider the inclusion of retired judges, lawyers, members of the media, and non-lawyer Arkansas voters. The Board shall also consider racial, gender, and geographic diversity in making the appointments. The members of the Rapid Response Team shall elect one member to be Chair of the Team and one member to be the Team's Reporter.

*Meetings.* Meetings may be called by the Rapid Response Team's Chair or any 2 members of the Team. The Team may meet in person, by conference call, or by other means of electronic communication, as decided by the Chair. The Team meets as needed during the Supreme Court of Arkansas's and the Arkansas Court of Appeals's election cycle, and as otherwise agreed. For purposes of these rules, the election cycle is the period of time defined in the Arkansas Code of Judicial Conduct, Canon 4.4, for soliciting and receiving contributions for a judicial campaign. Notice of the meetings may be made by any form of written, oral, or electronic communication; however, failure to notify a Team member in any manner shall not invalidate an action of the Rapid Response Team.

*Prohibited Conduct.* No member of the Rapid Response Team shall, during the period of membership on the Team, make any contribution to, or actively participate in any way in promoting the election campaign of any candidate for the Supreme Court of Arkansas or the Arkansas Court of Appeals. Members shall not promote the effort of any person to be appointed to fill a judicial vacancy to either court. Members may attend events or activities sponsored by political parties where candidates for all levels of judicial office are invited. Members shall not attend events sponsored on behalf of an individual candidate for either court.

*Quorum.* An official response from the Rapid Response Team requires the presence of a quorum. A quorum consists of 3 members. The Team shall act officially only upon a vote of at least 3 members present in person or by conference call at a meeting of the Team.

*Confidentiality.* Only the Chair or the Chair's designee may communicate with the press or issue statements on behalf the Rapid Response Team. The Team's deliberations, discussions, and records shall be kept confidential. Individual remarks of Team members shall not be divulged to anyone beyond other Team members. Complaints submitted to the Team for review are not confidential records.

## **Procedure**

1. Complaint. The Arkansas Judicial Campaign Conduct & Education Committee, Inc.'s website will contain a link for persons wishing to submit a complaint to the Rapid Response Team alleging a false or misleading judicial advertisement. The link will connect to a distribution list consisting of the email addresses of Team members. Upon receiving an email notification of a complaint, each member will acknowledge receipt of the complaint to the Team,

and those members not responding will be sent a text message by any other member, to check their emails for the complaint.

The Complainant shall attach a copy or recording of the allegedly false or misleading judicial advertisement, or a link to such judicial advertisement; and further materials in support of its complaint sufficient to meet its evidentiary burden.

2. Acknowledgment. The Team's Chair will email an acknowledgment of receipt of the complaint to the Complainant.

3. Notification of complaint. If the Rapid Response Team decides that reasonable cause exists to consider a complaint concerning a judicial advertisement, it will notify the proponent of the advertisement; the candidate who is the subject of the advertisement, if that subject is not the complaining party; and the subject candidate's opponent if that person is not the proponent of the alleged false or misleading judicial advertisement. Notice may be made to the candidates' campaign committees in lieu of notice to the individual candidate.

a. Notifications may be made to the candidates' campaign committees through their websites, and also by registered mail.

b. Notifications will contain instructions for responding to the complaint.

c. The proponent of the allegedly false or misleading judicial advertisement shall have 24 hours, or other time as permitted in writing by the Rapid Response Team, to respond to the allegations in the complaint and, either agree to withdraw the advertisement immediately, or submit evidence in defense showing that the allegations are without merit.

d. If the proponent fails to respond to the complaint within the allotted time period, the Rapid Response Team may take any of the Actions, or combinations of Actions, in any order, stated in paragraph 6, below.

4. Initial review. The Chair will initiate a Team conference call within 24 hours of receiving the Complaint. The Team will decide whether reasonable cause exists to consider the Complaint and take further action, request further supporting documentation from the Complainant, or dismiss the Complaint if it does not sufficiently allege facts in support of its allegations. If the Team finds that the Complaint fails to state reasonable cause, then the Chair will notify the Complainant.

5. Consideration. The Team's review may be limited to an examination of the documents before it, but may also extend beyond the allegations should the Team, in its discretion, believe further investigation is warranted.

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6. Actions. After the Rapid Response Team's consideration of the documents before it, the Team may:

- a. dismiss the complaint;
- b. request that the Judicial Advertisement be withdrawn no later than 24 hours from the time of such request;
- c. issue a Cease and Desist Letter to the Offending Party; and/or
- d. publish a Press Release

Action on the Complaint will be within the Team's sole discretion. The Chair of the Rapid Response Team will notify the candidates or their campaign committees and any other proponent of the judicial advertisement of the findings and action taken by the Team.

7. Savings clause. The foregoing Rules and Procedure may be modified at any time to reflect new or unforeseen circumstances. The Chair will give notice to the candidates' campaign committees of any changes to these Rules and Procedures immediately after the Team adopts the changes.