

## **Alabama Rules of Disciplinary Procedure**

### **Rule 20.**

#### **Interim suspension and summary suspension.**

*(a) Grounds for Suspension -- With and Without Notice.*

(1) **CONVICTION OF A SERIOUS CRIME.** The Disciplinary Commission may issue an order temporarily suspending a lawyer without written or oral notice to the lawyer on petition of the General Counsel, supported by an affidavit demonstrating facts personally known to the affiant, or a verified complaint, showing that a lawyer has been convicted of a serious crime, as defined in Rule 8 of these Rules.

(2) **OTHER CIRCUMSTANCES WITHOUT NOTICE.** The Disciplinary Commission may issue an order temporarily suspending a lawyer without written or oral notice to the lawyer on petition of the General Counsel, only if:

(i) it clearly appears from specific facts shown by an affidavit demonstrating facts personally known to the affiant or by a verified complaint that the lawyer's continuing conduct is causing, or is likely to cause, immediate and serious injury to a client or to the public, or showing that grounds for summary suspension as defined in Rule 8(e) exist, and

(ii) General Counsel certifies to the Disciplinary Commission in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required.

Unless the Disciplinary Commission is satisfied by the showing made pursuant to subsection (ii) above that suspension without notice is warranted under the circumstances, a lawyer, other than one convicted of a serious crime, shall not be suspended without notice and an opportunity to be heard as provided in subsection (3).

(3) **OTHER CIRCUMSTANCES WITH NOTICE AND PRELIMINARY HEARING.** The Disciplinary Commission may issue an order temporarily suspending a lawyer with written or oral notice to the lawyer on petition of the General Counsel if it clearly appears from specific facts shown by an affidavit demonstrating facts personally known to the affiant or by a verified complaint that the lawyer's continuing conduct is causing, or is likely to cause, immediate and serious injury to a client or to the public. The written or oral notice required by this subsection is notice that is reasonable under the circumstances. Reasonable notice shall be presumed if written or oral notice was attempted upon the lawyer at the address, telephone or facsimile number, or e-mail address on file with the membership department of the Alabama State Bar. The Disciplinary Commission may conduct

a preliminary hearing on the petition for interim suspension with forty-eight (48) hours' notice to the parties. The preliminary hearing shall not include a trial of the merits of the petition, but shall include only an inquiry into whether there is probable cause to believe that the lawyer's continuing conduct is causing, or is likely to cause, immediate and serious injury to client or to the public. The respondent lawyer or his attorney shall be allowed to cross-examine witnesses and present evidence on his or her own behalf at the preliminary hearing. A lawyer suspended with notice and after a preliminary hearing shall not be entitled to a hearing under subsection (d) of this rule.

(b) *Effect of Interim Suspension.* An order suspending a lawyer under this rule immediately suspends his or her right to practice as of the effective date stated in the order. Simultaneously with the issuance of the suspension order, a trustee may be appointed pursuant to Rule 29 of these Rules to protect the interest of the lawyer and his or her clients.

(c) *Termination of Interim or Summary Suspension.* A suspension must be terminated by the Disciplinary Commission:

(1) Upon reversal or vacation of the judgment of conviction that gave rise to the suspension;

(2) Upon the effective date of the order of final discipline;

(3) Upon transfer to disability inactive status;

(4) Upon dissolution of the order of suspension by the Disciplinary Board, the Disciplinary Commission, or the Alabama Supreme Court; or

(5) In the case of an interim suspension, upon failure of the General Counsel to file formal charges within twenty-eight (28) days after the date of interim suspension.

(d) *Dissolution or Amendment of Interim Suspension or Summary Suspension.* The lawyer may request dissolution or amendment of an order of suspension or summary suspension entered without notice by filing a petition with the Disciplinary Commission, a copy of which petition shall be served on the General Counsel. The petition shall be set for hearing before the Disciplinary Commission within seven (7) days of its filing. The scope of the hearing shall be as defined in subsection (a)(3) above. The Disciplinary Commission shall decide the petition with the utmost speed consistent with due process. The Disciplinary Commission may modify the order of suspension, if appropriate, and continue such provisions of that order as may be appropriate until final disposition of all disciplinary charges against the lawyer. An appeal may be taken from decisions of the Disciplinary Commission as provided in Rule 12(f); however, the suspension will not be stayed during the appeal process.

(e) *Surrender of License.* A lawyer who is suspended by action of the Disciplinary

Commission pursuant to this rule shall promptly surrender his or her license to the Secretary of the Alabama State Bar within ten (10) days after issuance of the order of suspension.

(f) *Notice to Clients and Court.* A lawyer suspended pursuant to this rule shall immediately provide notices as required by Rule 26 of these rules.

(g) *Trust Accounts.* An order of suspension pursuant to this rule, when served on a bank maintaining a trust account for the suspended lawyer, shall prevent the bank from making further payments from that account.

(h) *Advertising.* A lawyer suspended under this rule shall, to the extent possible, immediately cancel and cease any advertising activities in which the lawyer is engaged.

[Amended eff. 8-1-2000; Amended eff. 10-14-2005; Amended 9-12-2008, eff. 10-6-2008.]

**Note from the reporter of decisions:** The order amending Rule 20, effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

**Note from the reporter of decisions:** The order amending Rule 20(a) and Rule 20(d), Alabama Rules of Disciplinary Procedure, effective October 14, 2005, is published in that volume of *Alabama Reporter* that contains Alabama cases from 911 So.2d.

**Note from the reporter of decisions:** The order amending Rule 4, Rule 4.1, Rule 4.2, Rule 5, Rule 8, Rule 12, Rule 15, Rule 20, Rule 21, Rule 22, Rule 23, Rule 27, Rule 28, Rule 29, Rule 32, Rule 33, and Rule 35, and adopting Rule 12.1, effective October 6, 2008, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So.2d.