

IN THE SUPREME COURT OF ALABAMA
September 20, 2016

ORDER

IT IS ORDERED that Rule 8(a) and (b), Rule 10(a) and (b), Rule 17(f), Rule 18, Rule 26(h)(2), Rule 28(e), and Appendix A, Alabama Rules of Disciplinary Procedure, be amended to read in accordance with Appendices A, B, C, D, E, F, and G, respectively, to this order;

IT IS FURTHER ORDERED that these amendments are effective January 1, 2017;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 8, Rule 10, Rule 17, Rule 18, Rule 26, Rule 28, and Appendix A:

"Note from the reporter of decisions: The order amending Rule 8(a) and (b), Rule 10(a) and (b), Rule 17(f), Rule 18, Rule 26(h)(2), Rule 28(e), and Appendix A, Ala. R. Disc. P., effective January 1, 2017, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Stuart, Bolin, Parker, Murdock, Shaw, Main, Wise, and Bryan, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 20th day of September, 20 16

Julia Jordan Weller

Clerk, Supreme Court of Alabama

APPENDIX A

Rule 8(a) and (b), Alabama Rules of Disciplinary Procedure

(a) Disbarment. Disbarment terminates the individual's status as a lawyer and may result from a hearing or by consent as provided in Rule 23. A person who has been disbarred may not apply for reinstatement until the expiration of at least five (5) years from the effective date of disbarment. A lawyer shall remain disbarred until reinstated to the practice of law pursuant to Rule 28. A lawyer who has been disbarred after reinstatement following a prior disbarment shall not be reinstated.

(b) Suspension. Suspension is the removal of a lawyer from the practice of law for a specified period of time not less than forty-five (45) days and not more than five (5) years, unless the suspension is conditioned upon the satisfaction of some condition, such as restitution of client funds, in which case the suspension shall continue until the condition is satisfied. Suspension may result from a hearing or by consent as provided in Rule 24. A lawyer who has been suspended for ninety (90) days or less will be automatically reinstated upon expiration of the period of suspension and the filing of an affidavit that he or she has complied with all applicable discipline or disability orders and rules. A lawyer who has been suspended for more than ninety (90) days must apply for reinstatement pursuant to Rule 28, unless the order of suspension expressly provides otherwise, and will remain suspended until reinstated.

APPENDIX B

Rule 10(a) and (b),
Alabama Rules of Disciplinary Procedure

(a) Suspension for Noncompliance.

(1) A lawyer is subject to the continuing legal education (CLE) requirement of Rule 3, Alabama State Bar Rules for Mandatory Continuing Legal Education, and to the professionalism requirement of Rule 9.A, Alabama State Bar Rules for Mandatory Continuing Legal Education, and will be deemed to not be in compliance with those rules if the lawyer:

(A) Fails to earn twelve (12) approved CLE credits by December 31 of a particular year;

(B) Fails to certify an annual report of compliance as required by Rule 7, Alabama State Bar Rules for Mandatory Continuing Legal Education;

(C) Fails to complete an approved plan for making up CLE credit deficiencies as required by Rule 8, Alabama State Bar Rules for Mandatory Continuing Legal Education;
or

(D) Fails to complete the professionalism course as required by Rule 9.A, Alabama State Bar Rules for Mandatory Continuing Legal Education.

(2) As soon as is practicable after January 31 of each year, the Chairman of the Commission on Continuing Legal Education shall furnish to the Secretary of the Alabama State Bar the list of those lawyers deemed not in compliance with Rule 3, Alabama State Bar Rules for Mandatory Continuing Legal Education.

(3) As soon as is practicable after the first anniversary of the lawyer's admission to the Bar or of a lawyer's being licensed to practice law in Alabama, the Chairman of the Commission on Continuing Education shall furnish to the Secretary of the Alabama State Bar the list of those lawyers deemed not in compliance with Rule 9, Alabama State Bar Rules for Mandatory Continuing Legal Education.

(4) The Chairman of the Disciplinary Commission shall then serve, by certified mail, each lawyer whose name appears

on the lists compiled pursuant to paragraphs (a)(2) and (a)(3) above with an order to show cause, within sixty (60) days, why the lawyer's license should not be suspended at the expiration of the sixty (60) days. Any lawyer so notified may, within the sixty (60) days, furnish to the Disciplinary Commission an affidavit (a) indicating that the lawyer has complied with the CLE requirement before the expiration of the sixty (60) days, or (b) indicating that the attorney has completed the professionalism course required by Rule 9.A., or (c) setting forth a valid excuse for failure to comply with either requirement because of illness or other good cause. Payment of a fee in the amount of \$300.00 must accompany the affidavit. This sum is in addition to all late fees incurred before compliance.

(5) At the expiration of sixty (60) days from the date of the order to show cause, the Disciplinary Commission shall enter an order suspending the license to practice law of each lawyer who fails to file an affidavit satisfactory to the Disciplinary Commission as described in paragraph (a)(4) above.

(b) Reinstatement.

(1) At any time within ninety (90) days after the order of suspension, a lawyer may file with the Disciplinary Commission an affidavit indicating compliance with Rule 3 or Rule 9.A., Alabama State Bar Rules for Mandatory Continuing Legal Education, and, if the affidavit is satisfactory to the Disciplinary Commission, the Disciplinary Commission shall forthwith enter an order reinstating the lawyer.

(2) If the lawyer has been suspended by the Disciplinary Commission for more than ninety (90) days, the lawyer shall be required to file with the Disciplinary Board an affidavit, as described in paragraph (a)(3) above, together with a petition for reinstatement as provided in Rule 28 of these Rules and Appendix A to these Rules.

APPENDIX C

Rule 17(f), Alabama Rules of Disciplinary Procedure

(f) Taking of Testimony. With the approval of the Disciplinary Hearing Officer or the chair of the Disciplinary Commission, testimony may be taken by deposition and used pursuant to the provisions of Rule 32(a)(3), Alabama Rules of Civil Procedure. Additionally, at the discretion of the Disciplinary Hearing Officer or the chair of the Disciplinary Commission, testimony may be taken by telephone or video conferencing.

APPENDIX D

RULE 18. CONDUCT NOT SUBJECT TO DISCIPLINARY ACTION

If, before engaging in a particular course of conduct, a lawyer makes a full and fair disclosure, to the Office of General Counsel, said inquiry shall be considered confidential. Additionally, if said lawyer receives a formal or informal opinion from the Office of General Counsel that the proposed conduct is permissible, such conduct shall not be subject to disciplinary action.

APPENDIX E

Rule 26(h)(2), Alabama Rules of Disciplinary Procedure

(2) A lawyer on disability inactive status or a suspended lawyer may seek permission from the Disciplinary Commission to seek employment in the legal profession. Permission will be granted only if the lawyer has complied with all the conditions of suspension or disability and has demonstrated exemplary conduct indicative of reinstatement. In the event that permission is granted, the lawyer shall not have any contact with the clients of the office either in person, by telephone, or in writing. A lawyer who has been suspended shall be subject to this rule until such time as the lawyer has been reinstated to the practice of law pursuant to Rule 28 of these Rules.

APPENDIX F

Rule 28(e), Alabama Rules of Disciplinary Procedure

(e) Costs. Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Disciplinary Board to cover anticipated costs of the reinstatement proceedings. All costs associated with the reinstatement proceeding must be paid by the petitioner within thirty (30) days of the conclusion of the reinstatement hearing. In the event the petitioner's reinstatement is denied, the petitioner shall not be eligible to petition for reinstatement until all costs of the prior reinstatement proceeding have been paid.

APPENDIX G

Appendix A, Alabama Rules of Disciplinary Procedure

Petitions for reinstatement shall be addressed to the General Counsel and eight (8) copies filed with the Disciplinary Clerk of the Alabama State Bar.

(a) The petition shall be sworn and shall contain the following information:

(1) Name, age, residence, address, and number and relation of dependents of the petitioner;

(2) A statement showing all residences maintained since the effective date of the petitioner's suspension, or disbarment, or disability inactive status, with names and addresses of landlords, if any;

(3) The nature of the petitioner's occupation in detail since the effective date of the petitioner's suspension, disbarment, or disability inactive status, with names and addresses of all partners, associates in business, and employers, if any, and exact dates and duration of all such relations and employments;

(4) A statement showing the approximate monthly earnings and other income of the petitioner, and the sources from which all such earnings and income were derived since the effective date of the petitioner's suspension, disbarment, or disability inactive status;

(5) Copies of federal and state income-tax returns filed by the petitioner since the effective date of his or her suspension, disbarment, or disability inactive status, including all tax returns filed within one year prior to the filing or hearing of the petition, whichever is later, together with the petitioner's written consent to the Disciplinary Board to secure the originals of said returns from the proper agency of the Treasury Department of the United States or the Department of Revenue of the State;

(6) A statement showing all claimed or admitted financial obligations of the petitioner at the date of filing the petition, together with the dates when the obligations were incurred and the names and addresses of all creditors;

(7) A statement showing the dates, general nature, and final disposition of every civil action wherein the petitioner was either a plaintiff or a defendant or in which he or she had or claimed an interest, together with the dates of filing of complaints, titles of courts and causes, and the names and addresses of all plaintiffs and defendants, names and addresses of lawyers for such parties and of the trial judge, or judges, and the names and addresses of all witnesses who testified in such action or actions;

(8) A statement showing dates, general nature, and ultimate disposition of every matter involving the arrest or prosecution of the petitioner since the effective date of his or her suspension, disbarment, or disability inactive status for any crime, whether felony or misdemeanor, together with the names and addresses of complaining witnesses, prosecutors, and trial judges;

(9) A statement as to whether any applications were made since the effective date of the petitioner's suspension, disbarment, or disability inactive status for a license requiring proof of good character for its procurement; and, as to each application, the dates, the names, and the addresses of the authorities to whom each application was addressed and the disposition thereof;

(10) A statement of any procedure or inquiry since the effective date of the petitioner's suspension, disbarment, or disability inactive status concerning the petitioner's standing as a member of any profession or organization, or holder of any license or office, which involved the censure, removal, suspension, revocation of license, or discipline of the petitioner; and, as to each, the dates, facts, and disposition thereof, and the name and address of the authority in possession of the records thereof;

(11) A statement of facts claimed by the petitioner to justify reinstatement.

(b) The petition for reinstatement shall be accompanied by affidavits of the clerks and registers of the courts in the several counties in which the petitioner has resided since the effective date of his or her suspension, disbarment, or disability inactive status, establishing that he or she has not practiced in their respective courts during and since the period of his or her suspension, disbarment, or disability inactive status.