

Alabama Rules of Disciplinary Procedure

Rule 26.

Disbarred or suspended lawyers or lawyers on disability inactive status.

(a) *Notification to Clients Involved in Matters Other Than Litigation or Administrative Proceedings.* A disbarred or suspended lawyer, a lawyer placed on disability inactive status, or a lawyer that has surrendered his or her license, shall promptly notify or cause to be notified, by both regular and certified mail, return receipt requested, all clients being represented in pending matters, other than litigation of administrative proceedings, of his or her disbarment, or suspension, or disability inactive status, or surrender of license and his or her consequent inability to act as a lawyer after the effective date of his or her disbarment, suspension, disability inactive status, or surrender of license, and shall advise such clients to seek legal advice of the clients' own choice elsewhere.

(b) *Notification to Clients Involved in Litigation or Administrative Proceedings.* A disbarred or suspended lawyer, a lawyer placed on disability inactive status, or a lawyer that has surrendered his or her license, shall promptly notify or cause to be notified, by both regular and certified mail, return receipt requested, each of his or her clients who is involved in pending litigation or administrative proceedings, and the lawyer or lawyers for each adverse party in such proceedings, of his or her disbarment or suspension or placement on disability inactive status or surrender of license and consequent inability to act as a lawyer after the effective date of his or her disbarment or suspension or placement on disability inactive status or surrender of license. The notice to be given to the client shall advise the client of the desirability of the prompt substitution of another lawyer or lawyers of the client's own choice in his or her place.

If the client does not obtain substitute counsel before the effective date of the disbarment or suspension or placement on disability inactive status or surrender of license, it shall be the responsibility of the disbarred, suspended, or disabled lawyer or the lawyer who has surrendered his or her license to move in the court or agency in which the proceeding is pending for leave to withdraw.

The notice to be given to the lawyer or lawyers for an adverse party shall state the place of residence of the client of the disbarred, suspended, or disabled lawyer or the lawyer who has surrendered his or her license.

(c) *Orders of Suspension or Disbarment.* Orders imposing suspension or disbarment by the Disciplinary Board or the Disciplinary Commission shall be effective fourteen (14) days after entry, unless a different period is specified in the order of suspension or disbarment. The disbarred or suspended lawyer, after entry of the disbarment or suspension order, shall not accept any new retainer or engage as a lawyer for another client in any new case or legal matter of any nature. However, during the period from the entry date of the order by the Disciplinary Board or the Disciplinary

Commission and the effective date of the order of disbarment or suspension by the Supreme Court of Alabama, he or she may wind up and complete, on behalf of any client, all matters that were pending on the entry date. An order placing a lawyer on disability inactive status or an order of interim or summary suspension pursuant to Rule 20 shall be effective on the date of entry. The effective date of a surrender of license shall be the date a lawyer tenders his or her license to the Disciplinary Commission of the Alabama State Bar.

(d) *Affidavit Filed with Disciplinary Board.* Within fourteen (14) days after the effective date of the disbarment or suspension order, or an order placing a lawyer on disability inactive status, or the date a lawyer surrenders his or her license, the disbarred, suspended, or disabled lawyer shall file with the Disciplinary Board an affidavit showing:

- (1) That he or she has fully complied with the provisions of the order and with these rules;
- (2) All other state, federal, and administrative jurisdictions to which he or she is admitted to practice; and
- (3) That he or she has served a copy of such affidavit upon the General Counsel.

Such affidavit shall also set forth the residence or other address of the disbarred lawyer where communications may thereafter be directed to him or her.

(e) *Publication of Notice.* The Disciplinary Board or Disciplinary Commission shall cause a notice of the surrender of license, disbarment, or suspension to be published in the official Bar publication and in a newspaper of general circulation in each judicial circuit of the State of Alabama in which the disciplined lawyer or the lawyer who has surrendered his or her license maintained an office for the practice of law. A notice of a lawyer's transfer to disability inactive status shall be published in the same manner. However, the notice shall indicate only that the lawyer has been transferred to inactive status.

(f) *Maintenance of Records.* A disbarred, suspended, or disabled lawyer, or lawyer that has surrendered his or her license, shall keep and maintain records of the various steps taken by him or her under these rules so that, upon any subsequent proceeding instituted by or against him or her, proof of compliance with these rules and with the disbarment or suspension order or order placing the lawyer on disability inactive status will be available.

(g) *Perfection of Appeal.* The perfection of an appeal, except as provided in Rules 20 and 21 of these rules, shall operate as a stay of any discipline, sanction, duty, requirement, or other act imposed or required by these rules, and such stay shall continue until the appeal is finally determined; provided, however, that the General

Counsel may, for good cause shown, petition the Alabama Supreme Court to terminate the stay before the final determination of the appeal.

(h) *Employment of Lawyers on Disability Inactive Status or Lawyers Who Have Been Suspended or Disbarred.*

- (1) A disbarred lawyer may not engage in the practice of law or in any employment in the legal profession.
- (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.
- (3) A law firm may not employ, retain, contract with, or hire a disbarred lawyer to provide services, advice, or labor of the type customarily related to the provision of legal services. This specifically includes, but is not limited to, paralegal services, law-clerk services, research assistance, clerical assistance, secretarial services, office-management services, administrative-support services or any other services where the subject lawyer could have access to clients, clients' files, or client confidences. If, however, permission has been granted to a suspended lawyer or a lawyer on disability inactive status as provided in paragraph (h)(2) of this rule, a law firm may employ the lawyer for purposes that do not conflict with paragraph (h)(2).

[Amended eff. 10-9-91; Amended eff. 8-1-2000; Amended 9-20-2016, eff. 1-1-2017; Amended 4-11-2018.]

Note from the reporter of decisions: The order amending Rule 26, 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 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 199 So. 3d.

Note from the reporter of decisions: The order amending Rule 26(e), Rule 27(j), and Rule 30(b), Ala. R. Disc. P., effective April 11, 2018, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.