

Alabama Rules of Disciplinary Procedure

Rule 36.

Unauthorized practice of law proceeding.

When it comes to the attention of the Office of General Counsel, the Disciplinary Commission, the Disciplinary Board, or Committee on the Unauthorized Practice of Law that any person or entity not admitted to practice law in the State of Alabama is directly or indirectly practicing law, the Office of General Counsel, the Disciplinary Commission, the Disciplinary Board, or the Committee on the Unauthorized Practice of Law shall have the authority to call for investigation of the matter. The Office of General Counsel may participate in any such investigation, even if it did not instigate the investigation. The Office of General Counsel, the Disciplinary Board, the Disciplinary Commission, or the Committee shall have the authority to subpoena any person or entity to produce any evidence relevant to the investigation, including testimony by deposition pursuant to the Alabama Rules of Civil Procedure. Any motion to quash a subpoena shall be filed with, and decided by, the Disciplinary Commission, subject to review by the Alabama Supreme Court. If it is determined that any person or entity has engaged in the unauthorized practice of law, a cease-and-desist letter shall be sent by certified mail, return receipt requested, to the person's or entity's last known address, requesting that the person or entity discontinue the unauthorized practice of law and requiring that the person or entity execute an affidavit indicating that they have ceased the unauthorized practice. If a future violation occurs, and the Office of General Counsel, the Disciplinary Board, the Disciplinary Commission, or the Committee on the Unauthorized Practice of Law believe that action should be taken, a petition shall be filed in the name of the Alabama State Bar for an order to show cause why the person or entity should not be held in contempt for the unauthorized practice of law with the circuit court in the county where the person resides or the entity has its main office or where the conduct constituting the unauthorized practice of law occurred. The circuit court shall docket the petition and issue an order against the alleged offender to show cause why the offender should not be held in contempt for the unauthorized practice of law.

- (1) A response to the order to show cause shall be filed not later than fifteen (15) days following service.
- (2) If the respondent fails to file a response on the order's return day or files a response admitting the offense, the order shall be made absolute and the circuit court shall enter such orders as it deems appropriate to deter and punish, which may include injunctive relief or punishment for contempt.
- (3) If the respondent timely files a response denying the offense, the circuit court shall within twenty (20) days refer the case to a Disciplinary Board, which shall thereupon hold a hearing within sixty (60) days at such time and place as may be fixed by order of the Disciplinary Board. At that hearing the Alabama State Bar shall be represented by the Office of General Counsel. The parties may obtain

compulsory attendance of witnesses and the production of documents as provided in these Rules. The Disciplinary Board, at the conclusion of the hearing, may permit the parties to file briefs, which briefs shall be filed within thirty (30) days, and shall submit a report to the circuit court containing written findings of fact and recommendations as to disposition and punishment within thirty (30) days after the briefs are filed.

(4) Upon the filing of the Disciplinary Board's report, the circuit court may permit the parties to file briefs or it may dispose of the matter summarily and it shall enter such orders as may be appropriate.

(5) If the respondent is adjudged guilty, the respondent shall be liable for all court costs and shall be subject to the injunctive and/or contempt powers of the circuit court.

(6) Unless otherwise provided by these rules, the proceedings shall be governed by the Alabama Rules of Civil Procedure.

(7) Appeals of a decision of the circuit court in a proceeding brought under this rule shall be taken in accordance with the Alabama Rules of Appellate Procedure.

[Added eff. 8-1-2000.]

Note from the reporter of decisions: The order adopting Rule 36, effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.