

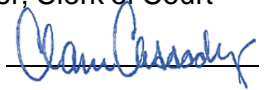
United States District Court  
Southern District of Texas  
ENTERED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

August 18, 2023

Nathan Ochsner, Clerk of Court

By Deputy Clerk



IN THE MATTER OF  
AMENDMENTS TO THE  
LOCAL RULES OF DISCIPLINE

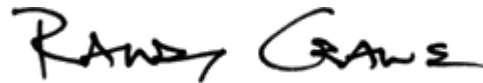
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GENERAL ORDER NO. 2023-16

ORDER

The Court proposed the amendments included in the attached Local Rules of Discipline, Appendix A of the Southern District of Texas Local Rules. The rules have been approved by the Judicial Council of the Fifth Circuit through its Rules Committee. The Rules of Discipline are ADOPTED by the court effective August 18, 2023.

Signed the 18th day of August, 2023.



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RANDY CRANE  
CHIEF JUDGE

## APPENDIX A

### RULES OF DISCIPLINE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS (Effective August 18, 2023)

#### Rule 1. *Standards of Conduct.*

- A. Lawyers who practice before this court are required to act as mature and responsible professionals, and the minimum standard of practice is the Texas Disciplinary Rules of Professional Conduct.
- B. Violation of the Texas Disciplinary Rules of Professional Conduct will be grounds for disciplinary action, but the court is not limited by that code.

#### Rule 2. *Conviction of Crime.*

- A. A lawyer convicted of a felony or a misdemeanor involving moral turpitude or controlled substance must notify this court in writing within 30 days and furnish to the clerk of court a certified copy of the judgment of conviction. A lawyer convicted of a felony must immediately cease practicing before this court pending further action by the court.
- B. After the court has notice that a lawyer practicing before it has a conviction described in Rule 2 (A), it will follow the due process procedure in these rules to determine whether discipline should be imposed on the lawyer.

#### Rule 3. *Discipline by A Licensing Authority.*

- A. A lawyer disciplined by a licensing authority of one of the fifty states, the District of Columbia, or a Territory of the United States must notify this court in writing within 30 days and furnish to the clerk of the court a certified copy of the order of discipline. A lawyer who receives a suspension, either active or probated, by a licensing authority will be suspended by the Southern District of Texas and must immediately cease practicing before this court. It is within the discretion of each Judge to allow an attorney under a probated suspension to appear in their court.

- B. A lawyer who is disbarred by consent or agreement or who resigns from the bar of a licensing authority of one of the fifty states, the District of Columbia, or a Territory of the United States to avoid further discipline must advise this court in writing within 30 days and immediately cease to practice before this court. The lawyer must furnish a certified copy of the disciplinary order or letter of resignation to the clerk. A lawyer who resigns or is disbarred by a licensing authority will be suspended by the Southern District of Texas.
- C. Upon request by the lawyer, the court will follow the due process procedures in these rules to determine under what conditions the lawyer might continue to practice in this court.

Rule 4. *Discipline by Another Court.*

- A. A lawyer disciplined by another court in the United States must notify this court in writing within 30 days and furnish to the clerk of the court a certified copy of the order of discipline. A lawyer suspended or disbarred by another court in the United States will be suspended by the Southern District of Texas and must immediately cease to practice before this court. It is within the discretion of each Judge to allow an attorney under a probated suspension to appear in their court.
- B. A final adjudication in another court that the lawyer is guilty of an offense leading to the action referred to in Rule 4A will conclusively establish the conduct for the purposes of proceeding in this court unless the lawyer requests a hearing and carries the burden of showing that the prior action lacked due process.

Rule 5. *Disbarment by Consent or Resignation in Other Courts.*

- A. A lawyer who is disbarred or suspended by consent or agreement or who resigns from the bar of another court in the United States to avoid further discipline must notify this court in writing within 30 days and furnish to the clerk of the court a certified copy of the disciplinary order or letter of resignation. A lawyer suspended or disbarred by another court in the United States will be suspended by the Southern District of Texas and must immediately cease to practice before this court.
- B. Upon request by the lawyer, the court will follow the due process procedure in these rules to determine under what conditions the lawyer might continue to practice in this court.

Rule 6. *Charges of Misconduct Warranting Discipline.*

- A. Charges that any lawyer of this bar has engaged in conduct which might warrant disciplinary action must be brought to the attention of the court by a writing addressed to the chief judge with a copy to the clerk of court.
- B. Upon receipt of a charge that is not frivolous, the chief judge will order the clerk to file the charge and randomly assign it to a district judge for review to determine whether further disciplinary proceedings should be held. The reviewing judge will notify the charged lawyer of the charges made and give that lawyer an opportunity to respond. If the charge is made by a bankruptcy judge or is one occurring in bankruptcy court, the clerk may assign the charge to a bankruptcy judge, who may serve as reviewing judge. The chief judge may elect to forego the review procedures of this paragraph if, in the judgment of the chief judge, the information provided to the chief judge with the charge is sufficiently clear to warrant further disciplinary proceedings of paragraph 6(c), et seq.
- C. After review, the judge will, by written report, recommend to the chief judge whether further disciplinary proceedings should be heard and the charges to be heard. If further proceedings are recommended, the chief judge will order further hearings to be held before a district judge, who may have been the reviewing judge.
- D. The hearing judge will give at least 14 days notice to the charged lawyer of the time of the hearing, the charges, and the right to counsel at the hearing. The hearing will be held on the record in open court as a miscellaneous proceeding. Rule 1101(d)(3), Federal Rules of Evidence applies, and all witnesses must be sworn.
- E. In the hearing of charges before the hearing judge, the prosecution will be by an attorney specially appointed by the hearing judge. Costs of the prosecutor and fees allowed by the hearing judge may be paid from the Attorney Admissions Fund.
- F. The hearing judge will file his or her judgment, providing a copy to the chief judge and the lawyer. If the hearing judge determines that disciplinary action should be taken, the judge will make findings of violations and order either permanent disbarment, a suspension, a written or oral reprimand and whether such should be public or private with such conditions as the judge may order.
- G. The decision of the hearing judge is final, except that, within 14 days, the lawyer may appeal the judgment by filing a notice of appeal. A panel of three district judges of the court, randomly assigned, will hear the appeal. The appeal will be on the

record developed at the hearing. Facts found by the hearing judge are not reviewable unless clearly erroneous. The law determined by the hearing judge is reviewable de novo. The decision of the panel is final. There is no en banc review. (Amended by General Order 2009-17, effective December 1, 2009).

- H. If the membership in the Southern District Bar of the lawyer being disciplined was not current at the time of the court order imposing discipline, the order can include that the lawyer may not reapply for admission except under such conditions as the court may impose.

#### Rule 7. *Reinstatement.*

- A. A suspended or disbarred lawyer must apply to this court for reinstatement before resuming practice before this court. A lawyer who has been suspended may apply for reinstatement before the end of his or her suspension, but reinstatement will not occur until the suspension has been fully served. The term of suspension includes all conditions and periods of suspension, including probated and inactive suspension. A lawyer who has been disbarred may apply for reinstatement, but not before five years from the effective date of the disbarment.
- B. All petitions for reinstatement will be filed with the clerk of the court who will promptly refer the petition to the Attorney Admissions Committee for its recommendation on the petition to the chief judge. The chief judge may make the final decision of the court on the petition.
- C. Petitions for reinstatement must be accompanied by all documents related to any and all discipline ever received by the attorney, including but not limited to the Petition, the Judgment, and all documentation proving all requirements of each discipline have been met (i.e., receipts for fines paid, CLE classes taken, etc.). A short narrative is recommended to provide the Attorney Admission Committee any additional information relevant to the discipline received.
- D. No petition for reinstatement may be filed within one year following an adverse ruling on a previous petition.

#### Rule 8. *Lawyers Specially Admitted.*

An appearance by a lawyer before the court, by writing, or in person, confers disciplinary jurisdiction upon the court under these rules.

Rule 9. *Service of Papers.*

Service of papers under these rules must be by personal service or by first class mail addressed to the respondent or respondent's attorney.

Rule 10. *Special Duties of the Clerk.*

Upon final disciplinary action by the court, the clerk will send certified copies of the court's order to the State Bar of Texas.

Rule 11. *Inherent Power of Judges.*

The existence of these rules does not limit the power of district judges to exercise their inherent powers over lawyers who practice before them, and the chief judge has the right to designate another district judge to serve under these rules in the place of the chief judge.

Rule 12. *Effective Date.*

These rules are effective immediately; all pending disciplinary matters will be concluded under these rules; and the rules effective June 19, 2007 are superseded by them.