

APPENDIX A

RULES OF DISCIPLINE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS (Effective Month Day, Year2023)

Rule 1. *Standards of Professional Conduct.*

- A. Attorneys ~~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 member of this bar convicted of a felony offense or a misdemeanor involving moral turpitude or a controlled substance in any federal or state court 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.~~~~
- A.B. ~~A member of this bar convicted of a felony offense in any federal or state court will immediately and automatically be suspended from practice in this court.~~
- B.C. After the court has notice that a lawyer member of this bar practicing before it has a conviction other than a felony offense as described in Rule 2 (A), it will follow the ~~due process~~ procedures outlined in ~~these r~~ Rules 5 to determine whether discipline should be imposed on the lawyer attorney.

Rule 3. *Discipline by A Licensing Authority.*

- A. A lawyer member of this bar 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. A member of this bar will be suspended by the Southern District of Texas if he or she loses, either temporarily or permanently, the right to practice law before any licensing authority for any reason other than nonpayment of dues or failure to meet continuing legal education requirements. This rule shall include, but is not limited to, instances where an attorney:~~

~~i is disbarred,~~

~~ii received an active suspension,~~

~~iii resigns in lieu of discipline,~~

~~iv received a probated suspension, or~~

~~v has any other discipline affecting his or her right to practice law imposed, by agreement or otherwise, as a result of the attorney's failure to adhere to any applicable standard of professional conduct.~~

~~B. If a member of this bar voluntarily resigns from a licensing authority for reasons unrelated to a disciplinary proceeding or problem, he or she may maintain their membership to this bar as long as they retain the right to practice law with another licensing authority.~~

Rule 4. *Discipline by Another Court.*

~~A. A lawyer member of this bar disciplined by another any 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. 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. A member of this bar suspended or disbarred by another court will be suspended by the Southern District of Texas.~~

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

- ~~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. If a member of this bar receives discipline as set forth in Rule 3.B.iv or v, or Rule 4.B., the clerk will serve a notice and order upon the attorney involved which will become effective thirty days after the date of service, imposing reciprocal discipline in this district. The notice will be sent by mail and electronically to the last known address and email on file in the Southern District of Texas' CM/ECF data base.~~
- ~~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. Within twenty-one days of service of the notice and order, the attorney may file a motion for modification or revocation of the order. The motion must set forth, with specificity, the facts and principles relied upon by the attorney as to why a different disposition should be entered by this court. See Rule 5.D. The motion must identify all cases currently pending in the Southern District of Texas and include the attorney's clients in each matter. Timely filing of such a motion will stay the order until further notice by this court.~~
- ~~C. A motion seeking modification or revocation of the order will be assigned to the chief judge, or his or her designee, for review.~~
- ~~D. Discipline shall be imposed under this section unless the attorney establishes that:~~
- ~~i the procedure followed in the other jurisdiction deprived the attorney of due process,~~

- ii the proof was so clearly lacking that the court determines it cannot accept the final conclusion of the other jurisdiction,
 - iii the imposition of the identical discipline would result in a grave injustice,
 - iv the misconduct established by the other jurisdiction warrants substantially different discipline in this court, or
 - v the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this State or in this court.
- E. The chief judge, or his or her designee, will review the attorney's motion for modification or revocation and enter an order granting or denying the motion.
- F. The decision of the judge is final.
- B. —

Rule 6. *Charges of Misconduct Warranting Discipline.*

- A. Written~~C~~ charges that a member ~~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. Conduct which may warrant disciplinary action include:
 - i conduct unbecoming a member of this bar;
 - ii failure to comply with these local rules or any other rule or order of this court;
 - iii unethical behavior; or
 - A.iv inability to conduct litigation properly
- C. The chief judge, or his or her designee, will review the charge to determine whether ~~Upon receipt of a~~ charge that is not frivolous. If the charge is deemed to be not frivolous, ~~the chief judge will order the clerk to file the charge and will open a sealed, miscellaneous matter and~~ randomly assign it to an active district judge for ~~review to determine whether further further disciplinary proceedings should be held.~~

The presiding judge or the chief judge may unseal the case sua sponte or by request. The chief judge may consolidate multiple charges filed against the same attorney or charges filed against multiple attorneys stemming from the same set of facts.

B.D. The ~~reviewing~~ judge will ~~send~~ notify the charged ~~lawyer~~ attorney ~~a~~ of ~~copy of the complaint the charges made and allow~~ give the ~~at~~ lawyer attorney 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(e), 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.E. After the charged attorney has responded, or if the time allotted for a response has lapsed with no response, t~~The hearing~~ judge may dismiss the charges or continue with the proceedings. If the judge determines that a hearing is needed, the judge will give at least 14 days notice to the charged ~~lawyer~~ attorney of the time of the hearing, the charges to be heard, 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.

F. ~~In the hearing of charges before the hearing judge, the prosecution will be by an attorney specially appointed by the hearing judge. The judge may appoint an attorney to investigate and prosecute the charges.~~ Costs of the prosecutor and fees allowed by the ~~hearing~~ judge may be paid from the Attorney Admissions Fund.

E.G. If the judge determines that a mediation would be beneficial, the costs of such mediation may be paid from the Attorney Admission Fund.

H. The ~~hearing~~ judge will file his or her judgment, providing a copy to the chief judge and the ~~lawyer~~ attorney. 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.

F.I. The judge may assess costs of the proceedings incurred by the court upon the attorney if he or she is found in violation of conduct set forth in paragraph 6.B.

G.J. The ~~decision of the hearing judge is final, except that, within 14 days, the lawyer~~ attorney may appeal the judgment by filing a notice of appeal within 14 days of the judgment. A panel of three other randomly assigned active 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.K. If the membership in the Southern District Bar of the ~~lawyer~~ attorney being disciplined was not current at the time of the court order imposing discipline, the order can include that the ~~lawyer~~ attorney may not reapply for admission except under such conditions as the court may impose.

Rule 7. *Reinstatement.*

- A. A suspended or disbarred ~~lawyer~~ attorney must apply to this court for reinstatement before resuming practice before this court. An ~~lawyer~~ attorney 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.~~ An ~~lawyer~~ attorney 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 recommendation will be presented to the full court ~~chief judge may make for a~~ ~~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. Attorneys ~~Lawyers~~ *Specially Admitted.*

An appearance by an attorney ~~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 attorneys ~~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~~ August 18, 2023 are superseded by them.