



U.S. DISTRICT COURT DISTRICT OF NEW JERSEY

OFFICE OF THE CLERK
*Martin Luther King Building and U.S. Courthouse
50 Walnut Street, Room 4015
Newark, New Jersey 07101*

CAMDEN OFFICE
Mitchell H. Cohen Building and
U.S. Courthouse
One John F. Gerry Plaza
Fourth & Cooper Streets, Room 1050
Camden, New Jersey 08101

TRENTON OFFICE
Clarkson S. Fisher Building and
U.S. Courthouse
402 East State Street, Room 2020
Trenton, New Jersey 08608

NOTICE TO THE BAR

March 27, 2024

PROPOSED AMENDMENTS TO LOCAL CIVIL RULE 104.1

Notice is hereby given to the Bar and all interested parties that the United States District Court for the District of New Jersey proposes to amend Local Civil Rules 104.1. The proposed amendments are posted for public comment as required by 28 U.S.C. §2071(b) at <http://www.njd.uscourts.gov>. New text underlined. Strikethroughs indicate deleted text.

LOCAL CIVIL RULE 104.1 DISCIPLINE OF ATTORNEYS

The Court, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it or admitted for the purpose of a particular proceeding (*pro hac vice*), and in furtherance of its overarching responsibility and need to ensure and protect the interests of the general public, promulgates the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement heretofore promulgated.

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(a) Attorneys Convicted of Crimes Guilty of a “Serious Crime”

(1) Upon receipt of notice that an attorney admitted to practice before this Court has pleaded guilty or pleaded nolo contendere to a “serious crime” as defined below or has been found guilty of a “serious crime” as a result of a trial before a judge or jury, the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, or the District of Columbia, or any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, the Chief Judge shall immediately enter an order temporarily suspending that attorney from the practice of law in this District, pending a final whether the conviction resulted from a plea of guilty or *nolo contendere*, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding, which shall to be commenced after a judgment of conviction is entered and all challenges (including appeals and motions for post-conviction relief), if any, to the conviction are exhausted, and upon notice of same submitted by the attorney or upon the Court’s receipt of same. upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the The Court, in its discretion, may set aside a temporary suspension such order upon good cause shown and when the interest of justice requires.

(2) The term "serious crime" shall include, regardless of the jurisdiction in which the crime occurs (foreign or domestic), any: (a) crime of violence, which is defined as (i) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or (ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing any offense; (b) felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a "serious crime;" and (c) any other crime that is not described, defined, or identified in subsections (a) and (b) herein, but which, in the Court’s discretion, poses a substantial threat or risk of harm to others or the general public.

(3) Upon pleading or otherwise being found guilty of a “serious crime,” as defined above, in this Court or in any jurisdiction (foreign or domestic), an Any attorney admitted to practice before this Court shall notify upon being convicted of a crime in this Court or any other court of the United States or the District of Columbia, or by the court of any state, territory, commonwealth or possession of the United States, inform the Clerk and the Chief Judge in writing of same such conviction within 20 days, of the date of conviction (the earliest of the date of entry of a plea of guilty or *nolo contendere*, or verdict by a judge or jury, or sentencing). Failure to comply with this notice provision shall result in additional discipline in this Court, unless excused by the Court for good cause.

(4) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(5) After the entry of ~~the temporary suspension,~~ a final judgment of conviction and receipt of notice as provided in (a)(1), the Court shall enter an Order to Show Cause as to why the temporary suspension should not be made permanent. If the suspended attorney does not contest the matter by the return date of the Order to Show Cause, the Court shall enter an Order of Disbarment barring the attorney from the practice of law before the Court. If the attorney does contest the matter, the Court ~~can~~ may refer the matter ~~to counsel~~ in accordance with subsections (6) and (7).

(6) In a contested matter, the Court may assign the matter to its legal advisory staff, who shall ~~Where the conviction of an attorney is for a serious crime, the Court shall refer the matter to counsel~~ represent the interests of the court. That staff shall investigate and review the matter and then provide a recommendation to the Chief Judge and her/his delegated representatives as to the extent of final discipline to be imposed. No recommendation shall be made unless and until all challenges to the conviction (including appeals and motions for post-conviction relief) have been exhausted as provided in (a)(1). If the Chief Judge determines that the matter requires appointment of outside investigative counsel to further investigate the matter, including but not limited to the taking of discovery, then the Chief Judge shall appoint outside investigative counsel to act in the interests of the Court. ~~for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded. Counsel shall investigate and research the matter, and make a recommendation to the Court as to the appropriate sanction to be imposed in accordance with subsection (e)(4).~~

(7) Where the conviction of an attorney is for a crime not constituting a serious crime, the Court may, in its discretion, refer the matter to its legal advisory staff or outside investigative counsel to make ~~counsel for~~ a recommendation as to what action, if any, should be taken, including the institution of a disciplinary proceeding before the Court.

(8) An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not automatically terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court. ~~on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.~~

(b) Discipline Imposed by Other Courts

(1) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline (including but not limited to disbarment, temporary or permanent suspension, censure, reprimand or admonition) by any court or by any jurisdiction (foreign or domestic), other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, inform the Clerk and Chief Judge of this Court of such action within 20 days of the date of such order of discipline. Failure to comply with this notice provision

shall result in the automatic imposition of the same discipline in this Court, unless excused by the Court for good cause.

(2) Upon receipt by the Court of such notice under L. Civ. R. 104.1(b)(1) or the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court, this Court, unless this Court determines that L. Civ. R. 104.1(a) governs, or unless this Court determines that the discipline resulted from an attorney's excusable failure to pay the annual fee to a court's client protection fund, shall forthwith issue a notice directed to the attorney containing:

(A) a copy of the judgment or order from the other court; and

(B) an order to show cause directing that the attorney inform this Court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in L. Civ. R. 104.1(b)(4), that the imposition of the identical discipline by the Court would be unwarranted, and the reasons therefor.

(3) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.

(4) Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of L. Civ. R. 104.1(b)(2), this Court shall impose the identical discipline unless the respondent-attorney ("respondent") demonstrates or this Court finds that, upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

(A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(B) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or

(C) that the imposition of the same discipline by this Court would result in grave injustice; or

(D) that the misconduct established is deemed by this Court to warrant substantially different discipline.

Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate, provided that the attorney has also demonstrated that the attorney has complied with all rules for disciplined attorneys in the other court of the United States or the District of Columbia, or the court of any state, territory, commonwealth or possession of the United States in which the discipline was administered.

In addition, the Court has the power to order additional and/or harsher discipline than that imposed by the other jurisdiction, provided the Court has given respondent written notice of its intention to do so, the opportunity to further develop the record, and an opportunity to be heard.

(5) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purposes of a disciplinary proceeding in this Court.

(6) This Court may, at any stage, appoint counsel to prosecute the disciplinary proceedings.

(c) Disbarment on Consent or Resignation in Other Courts

(1) Any attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

(2) Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

(d) Standards for Professional Conduct

(1) For misconduct defined in these Rules and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be subject to private reprimand and to the following forms of public discipline: admonition, public reprimand and censure (letter or decision detailing the attorney's misconduct; admonition being the least serious, censure being the most serious); suspension (period of time during which the attorney is prohibited from practicing law); and disbarment (loss of license to practice law before this Court). In its discretion, the Court may also take such other disciplinary action as the circumstances may warrant, including the imposition of fees and expenses incurred by the Court and/or counsel appointed by the Court, as set forth in L. Civ. R. 104.1(k).

(2) An act or omission by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violates the applicable Rules of Professional Conduct referred to in L. Civ. R. 103.1 shall constitute misconduct and be grounds for discipline whether or not the act or omission occurred in the course of an attorney-client relationship.

(e) Disciplinary Proceedings

(1) Every attorney authorized to practice law or appearing before this Court, including those specially authorized for a limited purpose or in connection with a particular proceeding pursuant to L. Civ. R. 101.1, shall be subject to the disciplinary jurisdiction of this Court.

(2) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline of an attorney, shall come to the attention of a Judge of this Court, and the applicable procedure is not otherwise mandated by these Rules, that Judge shall refer the matter in writing to the Chief Judge. The Chief Judge may refer the matter to the appropriate State disciplinary body or, if the Chief Judge concludes that further investigation is warranted, he or she shall may direct the Clerk to refer the matter to ~~an attorney ("investigating counsel") who is admitted to practice before this Court to conduct such an investigation in order~~ his/her legal advisory staff or outside investigative counsel to determine whether a formal order to show cause should issue.

(3) The Clerk's order of reference to ~~investigating counsel~~ his/her legal advisory staff or outside investigative counsel and all other papers filed in the matter shall be placed under seal and shall remain under seal unless and until an order to show cause and complaint are issued under L. Civ. R. 104.1(e)(7), at which point an order shall be entered unsealing those portions of the record deemed appropriate; provided, however, that disclosure may be sooner in the event that the Chief Judge determines that disclosure is warranted for the protection of the public and/or in the administration of justice. ~~Investigating~~ Investigative counsel shall have no obligation to disclose to the respondent any portion of the investigation file, including discovery conducted pursuant to L. Civ. R. 104.1e(4), except if the ~~investigating~~ investigative counsel intends to use a deposition transcript from the investigation at a future hearing as set forth in subsection (4)(B)(ii) below.

(4) ~~Investigating~~ Investigative counsel shall promptly, and with reasonable particularity, notify the respondent in writing of the pendency and nature of the investigation and solicit comments thereon in furtherance of the preliminary investigation. Every attorney, as set forth in L. Civ. R. 104.1(e)(1), has the affirmative obligation to cooperate in an investigation. Such cooperation shall include the production of documents and submission to interviews conducted by the ~~investigating~~ investigative counsel as follows:

(A) Respondent shall serve upon ~~investigating~~ investigative counsel a response to the inquiry within 30 days of service of the inquiry.

(B) ~~Investigating~~ Investigative counsel may conduct such discovery as is reasonably necessary to complete the investigation, which may include, but is not limited to, interviews of the respondent, depositions, requests for production of documents and requests for admissions.

(i) If respondent is deposed during the investigation, ~~his/her~~ her/his counsel may participate fully in that deposition, including lodging objections and cross-examining respondent. However, neither respondent nor ~~his/her~~ her/his counsel shall be entitled to notice of, or to attend or participate in, non-party depositions taken by the

~~investigating~~ investigative counsel pursuant to subpoena prior to the issuance of an order to show cause and complaint.

- (ii) After the issuance of an order to show cause and complaint under L. Civ. R. 104.1(e)(7), ~~investigating~~ investigative counsel and respondent shall be permitted to depose witnesses, and shall be entitled to cross-examine such witnesses, regardless of whether the ~~investigating~~ investigative counsel has deposed that witness previously during the investigation. If the ~~investigating~~ investigative counsel intends to use a deposition transcript from the investigation at a future hearing, a copy of that transcript must be provided to the respondent within a reasonable time in advance of the hearing.

(C) Respondent shall serve upon ~~investigating~~ investigative counsel a response to any request for production of documents or request for admissions within 30 days of service of the request.

(D) The time within which to respond pursuant to (A) and (C) above may be extended by ~~investigating~~ investigative counsel for good cause shown.

(E) If respondent fails to respond or otherwise fails to cooperate with ~~investigating~~ investigative counsel, ~~investigating~~ investigative counsel shall apply to the Chief Judge for appropriate relief which may include, but is not limited to, temporary suspension, pending compliance with this rule.

(F) Failure to cooperate may constitute an independent basis for the imposition of discipline unless it is based upon the proper assertion of a legal or constitutional right.

(5) Conclusion of No Formal Disciplinary Proceeding. Should ~~investigating~~ investigative counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent because (A) clear and convincing evidence of misconduct is not present, or (B) there is pending another proceeding against the respondent, the disposition of which in the judgment of the ~~investigating~~ investigative counsel should be concluded before further action by this Court, or (C) any other valid reason exists, ~~investigating~~ investigative counsel shall submit a written report to the Chief Judge containing his or her findings and recommendations for disposition of the matter. If the Chief Judge concludes that no further action is required or that the matter should be deferred pending conclusion of another proceeding against the respondent, the Chief Judge shall instruct ~~investigating~~ investigative counsel to so notify the respondent in writing. If the Chief Judge concludes that further investigation is required, he or she shall remand the matter to ~~investigating~~ investigative counsel for further investigation in accordance with the Chief Judge's directive.

(6) Conclusion of Discipline by Consent. Should ~~investigating~~ investigative counsel conclude after investigation and review that a private reprimand or public discipline should be issued to the respondent based on clear and convincing evidence, and the respondent consents to the recommendation of ~~investigating~~ investigative counsel, the ~~investigating~~ investigative counsel shall submit a written report to the Chief Judge containing his or her findings and recommendations. If the Chief Judge approves the recommendation of ~~investigating~~ investigative counsel, he or she shall submit the report to the full Court for review and disposition. If the Chief Judge or the full Court concludes that further investigation is required, the matter shall be remanded to ~~investigating~~ investigative counsel for further investigation in accordance with the Chief Judge's or the full Court's directive. If the respondent does not consent to the issuance of either a private reprimand or public discipline as recommended by the ~~investigating~~ investigative counsel, the ~~investigating~~ investigative counsel shall proceed in accordance with the provisions of L. Civ. R. 104.1(e)(7).

(7) Conclusion of Public Discipline Absent Consent. Should ~~investigating~~ investigative counsel conclude that clear and convincing evidence of misconduct exists warranting the imposition of public discipline, ~~investigating~~ investigative counsel shall submit a confidential written report, which shall not be shared with any individual, and application to the Chief Judge for the issuance of a Complaint and an order to show cause signed by the Chief Judge requiring the respondent to show cause why such discipline should not be imposed.

(8) Upon the Chief Judge's issuance of a complaint and order to show cause as set forth in L. Civ. R. 104.1(e)(7), the respondent shall file an answer within 21 days of the receipt of the complaint and order to show cause. In the answer, respondent may set forth all affirmative defenses, including all claims of mental and physical disability, if any, and whether the affirmative defenses are alleged to be causally related to the offense charged. Within 30 days of the filing of an answer, the respondent and ~~investigating~~ investigative counsel may serve demands for discovery.

(9) Upon the filing of a complaint and order to show cause, as set forth in L. Civ. R. 104.1(e)(7), the Chief Judge shall set the matter for prompt hearing before a District Judge, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a District Judge of this Court, the hearing shall be conducted before a different District Judge appointed by the Chief Judge, or if the Chief Judge is the complainant, by the next active District Judge senior in commission.

(10) The hearing referred to in L. Civ. R. 104.1(e)(9) shall be presented by the ~~investigating~~ investigative counsel. A stenographic record shall be made of the proceeding. At the conclusion of the hearing, the District Judge assigned to the matter shall submit his or her findings of fact, conclusions of law and recommendations, if any, to the full Court for action, with a copy to the respondent and to ~~investigating~~ investigative counsel.

(11) The full Court shall review the findings of fact, conclusions of law and recommendations of the District Judge designated by the Chief Judge to hear the matter, the transcript of the hearings and the briefs previously filed with the Court, if any. The record may be supplemented by the filing of briefs pursuant to a schedule fixed by the Chief Judge for

review on the record and briefs, without oral argument, by the full Court. The full Court shall take whatever action it deems appropriate including, but not limited to, the dismissal of the action, private reprimand, the issuance of public discipline, as set forth in L. Civ. R. 104.1(d)(1), and the imposition of fees and expenses of the Court and/or ~~investigating~~ investigative counsel, as set forth in L. Civ. R. 104.1(k).

(12) Respondent may have legal representation throughout the disciplinary proceeding, including to aid the respondent in responding to ~~investigating~~ investigative counsel's inquiry and/or discovery demands, or may proceed *pro se*. ~~If a respondent desires legal representation, but claims to be unable to retain counsel by reason of indigence, the respondent may make application to the Chief Judge for appointment of counsel at any point in the proceedings. Upon exceptional circumstances having been shown, the Chief Judge or the District Judge to whom the matter has been assigned shall designate an attorney who is admitted to practice before this Court to represent respondent in the matter.~~

(13) In furtherance of the investigation proceeding pursuant to L. Civ. R. 104.1(e)(4), ~~investigating~~ investigative counsel may seek the issuance of a subpoena *ad testificandum* or a subpoena *duces tecum* by making an application to the Chief Judge. After an order to show cause has been issued by the Chief Judge pursuant to L. Civ. R. 104.1(e)(7), ~~investigating~~ investigative counsel and respondent may seek the issuance of a subpoena *ad testificandum* or a subpoena *duces tecum* by way of application to the District Judge designated to hear the matter.

(14) The standard of proof in proceedings before the District Judge designated to hear the matter and the full Court shall be clear and convincing evidence, and the burden of proof under that standard shall be on the ~~investigating~~ investigative counsel.

(15) Public Disclosure of Discipline by the Court. Where ~~investigating~~ investigative counsel recommends private disciplinary action, respondent consents to that recommendation, and the Chief Judge or full Court approves the recommendation, ~~no public disclosure of that private reprimand will be made. Where investigating counsel recommends any other form of disciplinary action, respondent consents to that recommendation, and the Chief Judge or full Court approves the recommendation,~~ respondent may provide comments in advance of publication to a summary public disclosure to be made by the Court announcing such discipline. The content of the summary public disclosure shall be in the discretion of the Court. The summary public disclosure shall be published in *The New Jersey Law Journal* in four consecutive issues of that publication, and it shall appear on the Court's website for one year from the date of first publication.

(f) Disbarment on Consent While Under Disciplinary Investigation or Prosecution

(1) Any attorney admitted to practice before this Court who is the subject of an investigation into or a pending proceeding involving allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit or other document complying with 28 U.S.C. § 1746 stating that the attorney desires to consent to disbarment and that:

(A) the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of such consent;

(B) the attorney is aware that there is presently pending an investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(C) the attorney acknowledges that the material facts so alleged are true; and

(D) the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend.

(2) Upon receipt of the required affidavit or other document complying with 28 U.S.C. § 1746, this Court shall enter an order disbarring the attorney signed by the Chief Judge, unless unavailable, at which time the order shall be signed by the next active District Judge senior in commission.

(3) The order disbarring the attorney on consent shall be a matter of public record; however, the affidavit or other document complying with 28 U.S.C. § 1746 required by this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(g) Reinstatement

(1) After Disbarment or Suspension

An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Court an affidavit or other document complying with 28 U.S.C. § 1746 of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court.

(2) Time of Application Following Disbarment

A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(3) Hearing on Application

Filing, service and notice of the petition shall be in accordance with the rules and regulations promulgated by the Disciplinary Review Board appointed by the Supreme Court of New Jersey. See New Jersey Court Rule 1:20-21. Petitions for reinstatement under this Rule by a disbarred or suspended attorney shall be filed with the Clerk. Upon receipt of the petition, the Clerk shall refer the petition to the Chief Judge, who shall determine whether it should be resolved on the papers or requires a hearing before a District Judge. ~~counsel. If a hearing is required and shall assign the matter for prompt hearing before a District Judge, provided however that if the disciplinary proceeding was predicated upon the complaint of a District Judge~~

of this Court, the hearing shall be conducted before a different District Judge appointed by the Chief Judge, or if the Chief Judge was the complainant, by the next active District Judge senior in commission. ~~The District Judge assigned to the matter shall, within 30 days after referral, schedule a hearing at which~~ Regardless of whether a matter is resolved on the papers or through a formal hearing, the attorney seeking reinstatement ~~the petitioner~~ shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

(4) Duty of Counsel

In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the petitioner and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

(5) Conditions of Reinstatement

If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate that person, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. If the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the District Judge before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(6) Successive Petitions

No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(h) Attorneys Specially Admitted

Whenever an attorney applies to be admitted or is admitted to practice before this Court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

(i) Service of Papers and Other Notices

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent at the address shown in the roll of attorneys of this Court or the most recent edition of the New Jersey Lawyers Diary and Manual. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the respondent at the address shown on the roll of attorneys of this Court or the most recent edition of the New Jersey Lawyers Diary and

Manual, or to the respondent's attorney at the address indicated in the most recent pleading or other document filed in the course of any proceeding.

(j) Appointment of Counsel

Whenever counsel is to be appointed pursuant to these Rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this Court may appoint as counsel the disciplinary agency of the Supreme Court of New Jersey, or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, this Court shall appoint as counsel one or more members of the bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these Rules, provided, however, that the respondent may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent in any matter. Counsel, appointed under this paragraph or paragraph (e)(12) above, may not resign without permission from the Court. Counsel may use reasonable services as needed to assist in the appointment, such as an associate and/or paralegal in the firm and be compensated for reasonable services under L. Civ. R. 104.1(k).

(k) Payment of Fees and Costs

At the conclusion of any disciplinary investigation or prosecution under these Rules, counsel appointed by the Court to either investigate or prosecute ~~or defend~~ the respondent in these disciplinary proceedings shall submit to the Court an itemized affidavit or other document complying with 28 U.S.C. § 1746 of expenses incurred in the course of such disciplinary investigation or prosecution. Any such appointed counsel may also submit an itemized affidavit or other document complying with 28 U.S.C. § 1746 of fees, at such rate as may be allowable to counsel for indigent defendants under the federal Criminal Justice Act. Any attorney who is disciplined because of misconduct may be directed by the Court to pay all or part of the fees and expenses incurred by the Court and/or by any counsel appointed by the Court to investigate allegations of misconduct and/or to prosecute or defend the disciplinary proceedings. If the disciplinary proceedings result in the imposition of no discipline upon the respondent, counsel appointed to investigate and/or prosecute the proceedings may seek from the Court an order that ~~his/her~~ her/his expenses be reimbursed from the Court's Attorney Admissions Fee Fund. If the respondent is determined to be indigent, any attorney appointed to either investigate or prosecute ~~or defend~~ the respondent may seek from the Court an order that ~~his/her~~ her/his expenses be reimbursed from the Court's Attorney Admissions Fee Fund, without regard to whether the proceedings resulted in the imposition of discipline. Upon receipt of affidavits or other documents complying with 28 U.S.C. § 1746 regarding attorney's fees as described above, the Court may, in exceptional circumstances and if specifically requested by the applicant, order payment from the Court's Attorney Admissions Fee Fund of all or part of the fees of any appointed counsel. Any of the foregoing applications shall be made to the District Judge appointed pursuant to paragraph (e)(9) hereof or, if no such District Judge has been appointed, to the Chief Judge.

(l) Duties of the Clerk

(1) Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk shall promptly obtain a certificate and file it with this Court.

(2) Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

(3) Whenever it appears that any person convicted of any crime or disbarred, suspended, censured, publicly reprimanded, admonished or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk shall, within 14 days of that conviction, disbarment, suspension, censure, public reprimand, admonition or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified copy of the judgment or order of disbarment, suspension, censure, public reprimand, admonition or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

(4) The Clerk shall also promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.

(m) Jurisdiction

Nothing contained in these Rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.

Comments must be received by the Clerk of the Court by April 29, 2024, and should be addressed to:

Melissa E. Rhoads, Clerk of Court
United States District Court
Martin Luther King, Jr., Bldg. & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

or by e-mail to: localrules@njd.uscourts.gov

For the Court

Renée Marie Bumb
Chief U.S. District Judge