

General Order No. 94-30

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

OCT 28 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

DAVID J. MALAND, CLERK

BY
DEPUTY



ORDER ADOPTING AMENDED ATTORNEY DISCIPLINARY RULE

It is hereby ORDERED that the following amendments to Local Rule 3 concerning attorney discipline, having been approved by the Court, are adopted for immediate implementation (see 28 U.S.C. §2071(e)):

RULE 3

ATTORNEYS: DISCIPLINE, DISBARMENT

(a) *Generally.* The standards of professional conduct Code of Professional Responsibility, both as promulgated by the American Bar Association, and as adopted as part of the Rules Governing the State Bar of Texas shall serve as a guide governing the obligations and responsibilities of all attorneys appearing in this Court. It is recognized, however, that no set of rules may be framed which will particularize all the duties of the attorney in the varying phases of litigation or in all the relations of professional life. Therefore, the attorney practicing in this Court should be familiar familiarize himself with the duties and obligations imposed upon members of this Bar by the Texas Disciplinary Rules of Professional Conduct Code of Professional Responsibility (including the Canons of Ethics, Disciplinary Rules, and Ethical Considerations), court decisions, statutes, and the usages customs and practices of this Bar.

(b) *Disbarment, Suspension.* When it is shown to this Court, or a Judge thereof, that any member of the Bar of this Court has been suspended or disbarred from practice in any other court, or has been guilty of conduct unbecoming a member of the Bar, he will be subject to suspension or disbarment by this Court. The member, upon reasonable notice, shall be afforded an opportunity to show good cause, within such time as this Court, or a Judge thereof, shall prescribe, why he should not be suspended or disbarred. Upon his response to the order to show cause, and after a hearing if requested, or upon expiration of the time prescribed for a response if no response is made, this Court, or a Judge thereof, shall enter an appropriate order Disciplinary Action Initiated in Other Courts.

(1) A member of the bar of this court shall automatically lose his or her membership if he or she loses, either temporarily or permanently, the right to practice law before any state or federal court for any reason other than nonpayment of dues, failure to meet continuing legal education requirements or voluntary resignation unrelated to a disciplinary proceeding or problem.

(2) When it is shown to the court that a member of its bar has been either disbarred or suspended, the clerk shall enter an order for the court, effective ten days after issuance unless sooner modified or stayed, disbaring or suspending the member from practice in this court upon terms and conditions identical to those set forth in the order of the other court.

~~(c) Discipline. This Court, or a Judge thereof, may, after reasonable notice and an opportunity to show cause to the contrary, and after a hearing, if requested, take any appropriate disciplinary action against any attorney who practices before it for conduct unbecoming a member of the Bar.~~ *Conviction of a Crime.* A member of the bar of this court who is convicted of a felony offense in any state or federal court will be immediately and automatically suspended from practice and thereafter disbarred upon final conviction.

(d) Disciplinary Action Initiated in This Court.

(1) *Grounds for Disciplinary Action.* This court may, after the member has been given an opportunity to show cause to the contrary, take any appropriate disciplinary action against any member of its Bar:

(A) for conduct unbecoming a member of the Bar;

(B) for failure to comply with these local rules, the court's Civil Justice Expense and Delay Reduction Plan or any other rule or order of this court;

(C) for unethical behavior;

(D) for inability to conduct litigation properly; or

(E) because of conviction by any court of a misdemeanor offense involving dishonesty or false statement.

(2) *Disciplinary Procedures.*

(A) When it is shown to a judge of this court that a member of this bar has engaged in conduct which might warrant disciplinary action, the judge receiving the information shall bring the matter to the attention of the full court as to whether disciplinary proceedings should be held. If the court determines that further disciplinary proceedings are necessary, the court will notify the lawyer of the charges and give the lawyer opportunity to show good cause why he or she should not be suspended or disbarred. Upon the charged lawyer's response to the order to show cause, and after a hearing if requested or upon expiration of the time prescribed for a response if no response is made, the court shall enter an appropriate order.

(B) At any hearing, the charged lawyer shall have the right to counsel and at least fourteen days' notice of the time and charges. Prosecution of the charges may be conducted by an attorney specially appointed by the court. Costs of the prosecutor and any fees allowed by the court shall be paid from the attorney admission fee fund.

(e) Notification of Disciplinary Action. Upon final disciplinary action by the court, the clerk shall send certified copies of the court's order to the State Bar of Texas, the Fifth U.S. Circuit Court of Appeals and the National Discipline Data Bank operated by the American Bar Association.

(f) Reinstatement. Any lawyer who is suspended by this court is automatically reinstated to practice at the end of the period of suspension. Any lawyer who is disbarred by this court may not apply for reinstatement for at least three years from the effective date of his or her disbarment. Petitions for reinstatement shall be sent to the clerk and assigned to the chief judge for a ruling. Petitions for reinstatement must include a full disclosure concerning the attorney's loss of bar membership in this court and any subsequent felony convictions or disciplinary actions that may have occurred in other federal or state courts.

A "straight text" version of Local Rule 3 as amended is attached to this order.

Signed this 26th day of October, 1994.

FOR THE COURT:

Richard A. Schell

RICHARD A. SCHELL
CHIEF U.S. DISTRICT JUDGE

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