



CHAPTER 1: GENERAL RULES REGULATING THE FLORIDA BAR

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RULES REGULATING THE FLORIDA BAR

CHAPTER: 1 GENERAL

SECTION: 3 MEMBERSHIP

RULES: 1-3.6, 1-3.10, 1-3.11



1-3.6 | DELINQUENT MEMBERS

Any person licensed to practice law in Florida is deemed a delinquent member if the member fails to:

- (a) pay membership fees;
- (b) comply with continuing legal education or basic skills course requirements;
- (c) pay the costs assessed in diversion or disciplinary cases within 30 days after the disciplinary decision or diversion recommendation becomes final, unless the time is extended by the board of governors for good cause shown;
- (d) make restitution imposed in diversion cases or disciplinary proceedings within the time specified in the order in those cases or proceedings;
- (e) pay fees imposed as part of diversion for more than 30 days after the diversion recommendation became final, unless the time is extended by the board of governors for good cause shown; or
- (f) pay an award entered in fee arbitration proceedings conducted under the authority stated elsewhere in these rules and 30 days or more have elapsed since the date on which the award became final; or
- (g) file the trust account certificate required in chapter 5 of these rules.

Delinquent members are not members of The Florida Bar in good standing and therefore are prohibited from engaging in the practice of law in Florida and are not entitled to any privileges and benefits accorded to members of The Florida Bar in good standing.

(Amended Oct. 10, 1991, effective Jan. 1, 1992 (587 So.2d 1121); Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); May 20, 2004 (875 So.2d 448); Oct. 6, 2005, effective Jan. 1, 2006 (916 So.2d 655); Nov. 19, 2009, effective February 1, 2010 (24 So.3d 63); April 12, 2012, effective July 1, 2012 (101 So.3d 807); amended March 3, 2022, effective May 2, 2022 (SC20-1467).)

1-3.10 | APPEARANCE BY NON-FLORIDA LAWYER IN A FLORIDA COURT

(a) Non-Florida Lawyer Appearing in a Florida Court. A practicing lawyer of another state may be permitted to practice as allowed by the Florida Rules of General Practice and Judicial Administration regarding foreign attorneys. That lawyer must also comply with this rule.

(1) Application of Rules Regulating The Florida Bar. Lawyers permitted to appear by this rule are subject to these Rules Regulating The Florida Bar while engaged in the permitted representation.

(2) General Practice Prohibited. Non-Florida lawyers are not permitted to engage in a general practice before Florida courts. For purposes of this rule more than 3 appearances within a 365-day period in separate representations is presumed to be a "general practice."

(3) Effect of Professional Discipline or Contempt. Non-Florida lawyers who have been disciplined or held in contempt or misconduct committed while engaged in representation that is permitted by this rule will afterwards be denied admission under this rule and the applicable provisions of the Florida Rules of General Practice and Judicial Administration.

(b) Lawyer Prohibited From Appearing. No lawyer is authorized to appear under this rule or the Florida Rules of General Practice and Judicial Administration if the lawyer is prohibited by or fails to comply with any requirement imposed by the Florida Rules of General Practice and Judicial Administration regarding foreign attorneys.

(c) Content of Verified Motion for Leave to Appear. Any motion filed under the Florida Rules of General Practice and Judicial Administration relating to foreign attorneys must comply with all requirements set forth in those rules.

(d) Nonrefundable Fee. The pro hac vice motion filed and served on The Florida Bar must be accompanied by a nonrefundable fee made payable to The Florida Bar. The lawyer granted pro hac vice admission before any court in Florida must pay an annual nonrefundable renewal fee each year after the initial filing for each year that lawyer is admitted pro hac vice before any court in Florida. The initial nonrefundable pro hac vice fee, the annual nonrefundable



renewal fee, and the date on which the annual renewal fee must be paid will be set by the bar's executive director as approved by the Board of Governors. The Florida Bar will provide the Florida Supreme Court with 30 days' notice prior to the effectiveness of any increase in the amount of a nonrefundable fee or of the imposition of any new fee.

(Amended Feb. 8, 2001 (795 So.2d 1); May 12, 2005, effective Jan. 1, 2006 (907 So.2d 1138); amended Nov. 19, 2009, effective February 1, 2010 (24 So.3d 63); April 12, 2012, effective July 1, 2012 (101 So.3d 807); amended December 9, 2021, effective February 7, 2022 (SC21-722).)

Comments

Subdivision (a)(2) defines and prohibits the general practice before Florida courts by non-Florida lawyers. For purposes of this rule, an "appearance" means the initial or first appearance by that non-Florida lawyer in a case pending in a Florida court, and includes appearing in person or by telephone in court or filing a pleading, motion or other document with the court. A non-Florida lawyer making an appearance in a Florida court is required to comply with Fla. R. Gen. Prac. & Jud. Admin. 2.510.

This rule does not prohibit a non-Florida lawyer from participating in more than 3 cases during any 365-day period; instead, it prohibits a non-Florida lawyer from making an initial or first appearance in more than 3 cases during any 365-day period.

Example:

The following example illustrates the application of this rule to a non-Florida lawyer's appearances. Assume for this example that a lawyer licensed to practice in Georgia only has been admitted pro hac vice under with Fla. R. Gen. Prac. & Jud. Admin. 2.510 in 3 separate Florida cases on the following dates: January 10, 2008; February 3, 2008; and February 20, 2008.

(1) In this example, the lawyer would be prohibited from seeking to appear pro hac vice under with Fla. R. Gen. Prac. & Jud. Admin. 2.510 in another separate representation until the expiration of the 365-day period from the oldest of the 3 appearances (i.e., until January 10, 2009).

(2) In this example, the lawyer would be permitted under this rule to seek to appear pro hac vice in a new case on January 10, 2009 even if the 3 cases in which that lawyer made an appearance are still active.

(3) In this example, the lawyer could seek to appear pro hac vice in yet another new case on February 3, 2009. The fact that the lawyer's cases in which that lawyer appeared on January 10, 2008, February 3, 2008,

February 20, 2008, and January 1, 2009 are still active would not prohibit that lawyer from seeking to appear in the new case on February 3, 2009, because, as of that date, the lawyer would have only made an initial appearance in 2 prior cases within that preceding 365-day period (i.e., on February 20, 2008 and January 1, 2009). Thus, under this rule, a non-Florida lawyer could have pending more than 3 cases for which that lawyer has appeared at any given time, as the restriction on general practice relates to the making of an initial appearance within a 365-day period and not to whether any case is still active following the expiration of 365 days.

(4) Similarly, in the above example, if the non-Florida lawyer's 3 cases are all resolved by April 1, 2008, that lawyer would still be prohibited from seeking to make a new appearance until the expiration of the oldest of the 3 prior appearances (i.e., until January 10, 2009).

This comment's purpose is to explain what constitutes an "appearance" under this rule and how to calculate the number of appearances in any 365-day period. This comment and the rule itself do not require a Florida court to grant any specific request to appear under with Fla. R. Gen. Prac. & Jud. Admin. 2.510 if the non-Florida lawyer meets the requirements of subdivision (a)(2). Whether a non-Florida lawyer may appear in a case under with Fla. R. Gen. Prac. & Jud. Admin. 2.510 is within the discretion of the court.

This rule does not apply to appearances in federal courts sitting in Florida, as appearances before each of those courts are regulated by the rules applicable to those courts. Further, an appearance in a federal court sitting in Florida does not constitute an "appearance" as contemplated by subdivision (a)(2), because subdivision (a)(2) applies only to appearances before Florida state courts.



RULE 1-3.11 | APPEARANCE BY NON-FLORIDA LAWYER IN AN ARBITRATION PROCEEDING IN FLORIDA

(a) Non-Florida Lawyer Appearing in an Arbitration Proceeding in Florida. A lawyer currently eligible to practice law in another United States jurisdiction or a non-United States jurisdiction may appear in an arbitration proceeding in this jurisdiction if the appearance is:

- (1) for a client who resides in or has an office in the lawyer's home state; or
- (2) where the appearance arises out of or is reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice; and
- (3) the appearance is not one that requires pro hac vice admission.

Such lawyer shall comply with the applicable portions of this rule and of rule 4-5.5.

(b) Lawyer Prohibited from Appearing. No lawyer is authorized to appear pursuant to this rule if the lawyer:

- (1) is disbarred or suspended from practice in any jurisdiction;
- (2) is a Florida resident;
- (3) is a member of The Florida Bar but ineligible to practice law;
- (4) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation permitted pursuant to this rule;
- (5) has failed to provide notice to The Florida Bar or pay the filing fee as required by this rule, except that neither notice to The Florida Bar nor a fee shall be required for lawyers appearing in international arbitrations; or
- (6) is engaged in a "general practice" as defined elsewhere in these rules.

(c) Application of Rules Regulating the Florida Bar. Lawyers permitted to appear by this rule shall be subject to these Rules Regulating the Florida Bar while engaged in the



permitted representation, including, without limitation, rule 4-5.5.

(d) General Practice Prohibited. Non-Florida lawyers shall not be permitted to engage in a general practice pursuant to this rule. In all arbitration matters except international arbitration, a lawyer who is not admitted to practice law in this jurisdiction who files more than 3 demands for arbitration or responses to arbitration in separate arbitration proceedings in a 365-day period shall be presumed to be engaged in a "general practice."

(e) Content of Verified Statement for Leave to Appear. In all arbitration proceedings except international arbitrations, prior to practicing pursuant to this rule, the non-Florida lawyer shall file a verified statement with The Florida Bar and serve a copy of the verified statement on opposing counsel, if known. If opposing counsel is not known at the time the verified statement is filed with The Florida Bar, the non-Florida lawyer shall serve a copy of the verified statement on opposing counsel within 10 days of learning the identity of opposing counsel. The verified statement shall include:

(1) a statement identifying all jurisdictions in which the lawyer is currently eligible to practice law including the attorney's bar number(s) or attorney number(s);

(2) a statement identifying by date, case name, and case number all other arbitration proceedings in which the non-Florida lawyer has appeared in Florida in the preceding 5 years; however, if the case name and case number are confidential pursuant to an order, rule, or agreement of the parties, this information does not need to be provided and only the dates of prior proceedings must be disclosed;

(3) a statement identifying all jurisdictions in which the lawyer has been disciplined in any manner in the preceding 5 years and the sanction imposed, or in which the lawyer has pending any disciplinary proceeding, including the date of the disciplinary action and the nature of the violation, as appropriate;

(4) a statement identifying the date on which the legal representation at issue commenced and the party or parties represented; however, if the name of the party or parties is confidential pursuant to an order, rule, or agreement of the parties, this information does not need to be provided and only the date on which the representation commenced must be disclosed;

(5) a statement that all applicable provisions of this rule have been read and that the verified statement complies with this rule;

(6) a certificate indicating service of the verified statement upon all counsel of record in the matter and upon The Florida Bar at its Tallahassee office accompanied by a nonrefundable \$250.00 filing fee made payable to The Florida Bar; however, such fee may be waived in cases involving indigent clients; and

(7) a verification by the lawyer seeking to appear pursuant to this rule.

(Added May 12, 2005, effective Jan. 1, 2006 (907 So.2d 1138); amended Sept. 11, 2008, effective Jan. 1, 2009 (991 So.2d 842).)

Comments

This rule applies to arbitration proceedings held in Florida where 1 or both parties are being represented by a lawyer admitted in another United States jurisdiction or a non-United States jurisdiction. For the most part, the rule applies to any type of arbitration proceeding and any matter being arbitrated. However, entire portions of subdivision (d) and subdivision (e) do not apply to international arbitrations. For the purposes of this rule, an international arbitration is defined as the arbitration of disputes between 2 or more persons at least 1 of whom is a nonresident of the United States or between 2 or more persons all of whom are residents of the United States if the dispute (1) involves property located outside the United States, (2) relates to a contract or other agreement which envisages performance or enforcement in whole or in part outside the United States, (3) involves an investment outside the United States or the ownership, management, or operation of a business entity through which such an investment is effected or any agreement pertaining to any interest in such an entity, (4) bears some other relation to 1 or more foreign countries, or (5) involves 2 or more persons at least 1 of whom is a foreign state as defined in 28 U.S.C.

§1603. International arbitration does not include the arbitration of any dispute pertaining to the ownership, use, development, or possession of, or a lien of record upon, real property located in Florida or any dispute involving domestic relations.



The exceptions provided in this rule for international arbitrations in no way exempt lawyers not admitted to The Florida Bar and appearing in Florida courts from compliance with the provisions of rule 1-3.10 and any applicable rules of judicial administration, regardless of whether the court proceeding arises out of or is related to the subject of a dispute in an international arbitration. For example, a lawyer not a member of The Florida Bar could not appear in a Florida court or confirm or vacate an award resulting from an international arbitration without being authorized to appear pro hac vice and without complying with all requirements contained in rule 1-3.10 and the applicable rules of judicial administration.



RULES REGULATING THE FLORIDA BAR

CHAPTER: 1 GENERAL

SECTION: 12 AMENDMENTS

RULES: 1-12.1



RULE 1-12.1 | AMENDMENT TO RULES; AUTHORITY; NOTICE; PROCEDURES; COMMENTS

(a) Authority to Amend. The Board of Governors of The Florida Bar has the authority to amend chapters 7 and 9, as well as standards for the individual areas of certification within chapter 6 of these Rules Regulating The Florida Bar, consistent with the notice, publication, and comments requirements provided below. Only the Supreme Court of Florida has the authority to amend all other chapters of these Rules Regulating The Florida Bar.

(b) Proposed Amendments. Any member of The Florida Bar in good standing or a section or committee of The Florida Bar may request the board of governors to consider an amendment to these Rules Regulating The Florida Bar.

(c) Board Review of Proposed Amendments. The board of governors will review proposed amendments by referral of the proposal to an appropriate board committee for substantive review. After substantive review, an appropriate committee of the board will review the proposal for consistency with these rules and the policies of The Florida Bar. After completion of review, a recommendation concerning the proposal will be made to the board.

(d) Notice of Proposed Board Action. The Florida Bar will give notice of the proposed board of governors action on a proposed amendment in an edition of The Florida Bar News and on The Florida Bar website prior to the meeting of the board at which the board action is taken. The notice will identify the rule(s) to be amended and state in general terms the nature of the proposed amendments.

(e) Comments by Members. Any member may request a copy of the proposed amendments and may file written comments concerning them. The comments must be filed with the executive director sufficiently in advance of the board meeting to allow for distribution to the members of the board.

(f) Approval of Amendments. Amendments to these rules other than chapters 7 and 9 and the standards for existing individual areas of certification within chapter 6 of these Rules Regulating The Florida Bar must be by petition to the Supreme Court of Florida. Petitions to amend these Rules Regulating The Florida Bar may be filed by the board of



governors or by 50 members in good standing. Amendments proposed by bar members must be filed with The Florida Bar's executive director at least 90 days before the petition is filed with the Supreme Court of Florida.

(g) Notice of Intent to File Petition. Notice of intent to file a petition to amend these Rules Regulating The Florida Bar will be published in The Florida Bar News and on The Florida Bar website at least 30 days before the filing of the petition. The notice will identify the rule(s) to be amended, state in general terms the nature of the proposed amendments, state the date the petition will be filed, and state that any comments or objections must be filed within 30 days of filing the petition. The full text of the proposed amendment(s) will be published on The Florida Bar website. A copy of all comments or objections must be served on the executive director of The Florida Bar and any persons who may have made an appearance in the matter.

(h) Action by the Supreme Court of Florida. The court will review all proposed amendments filed under this rule and any amendments will not become effective until an order is issued approving them. A summary of final action of the court will be reported in The Florida Bar News and on The Florida Bar website.

(i) Waiver. On good cause shown, the court may waive any or all of the provisions of this rule.

(j) Action by the Chief Justice. Upon request of The Florida Bar, or sua sponte, in the event of a public health emergency or other emergency situation that requires mitigation of the effects of the emergency on The Florida Bar and other participants under the Rules Regulating the Florida Bar, the chief justice may enter such order or orders as may be appropriate to: suspend, extend, toll, or otherwise change time periods, deadlines, or standards imposed by the Rules Regulating the Florida Bar, orders, or opinions; suspend the application of or modify other requirements or limitations imposed by rules, orders, or opinions, including, without limitation, those governing the use of communication equipment and proceedings conducted by remote electronic means; and require or authorize temporary implementation of procedures and other measures, which may be inconsistent with applicable requirements, to address the emergency situation.



(Amended Oct. 10, 1991, effective January 1, 1992 (587 So.2d 1121); July 23, 1992, effective January 1, 1993 (605 So.2d 252); July 1, 1993 (621 So.2d 1032); July 20, 1995 (658 So.2d 930); November 19, 2009, effective February 1, 2010 (24 So.3d 63); April 12, 2012, effective July 1, 2012 (101 So.3d 807); November 9, 2017, effective February 1, 2018 (234 So. 3d 577); April 9, 2020, effective immediately (SC20-392); amended March 3, 2022, effective May 2, 2022 (SC20-1467).)



APPENDIX



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