LOCAL RULES OF COURT
FROM THE US DISTRICT COURT, FLORIDA, SOUTHERN DISTRICT
{[LOCAL LAWYER RULES]}

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DATE: December 1, 2020

RULE 1 | QUALIFICATIONS FOR ADMISSION

An attorney is eligible for admission to the bar of this District if the attorney is currently a member in good standing of The Florida Bar.

Effective December 1, 1994. Amended effective Jan. 1, 1996; April 15, 2002; April 15, 2006; April 15, 2007; December 3, 2012; December 1, 2015; December 1, 2017.

RULE 2 | PROCEDURE FOR APPLYING FOR ADMISSION AND PROOF OF QUALIFICATIONS

Each applicant for admission shall submit a verified petition setting forth the information specified on the form available on the Court's website (www.flsd.uscourts.gov) and shall also pay the application fee in the amount set by the Court. Upon receipt of the application fee, the Clerk of the Court shall require each qualified practitioner to sign the oath of admission and shall place such applicant on the roll of attorneys of the bar of this Court. In accordance with Court procedure, the Clerk of the Court shall refer to the Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance any applicant for further investigation under Rule 6.

Effective December 1, 1994. Amended effective Jan. 1, 1996; April 15, 2007; December 3, 2012; December 1, 2015; December 1, 2017.

RULE 3 | RETENTION OF MEMBERSHIP IN THE BAR OF THIS COURT

To remain an attorney in good standing of the bar of this Court, each member must remain an active attorney in good standing of The Florida Bar, specifically including compliance with all requirements of the Rules Regulating The Florida Bar, as promulgated by the Supreme Court of Florida. Attorneys who are not in good standing of the bar of this Court may not practice before the Court.

Effective December 1, 1994. Amended effective Jan. 1, 1996; April 15, 2007; December 1, 2011; December 1, 2015; December 1, 2017.

RULE 4 | APPEARANCES

(a) Who May Appear Generally. Except when an appearance pro hac vice is permitted by the Court, only members of the bar of this Court may appear as attorneys before this Court. Attorneys residing within this District and practicing before this Court are expected to be members of the bar of this Court.

(b) Appearance Pro Hac Vice.

(1) An attorney who is a member in good standing of the bar of any United States Court, or of the highest Court of any State or Territory or Insular Possession of the United States, but is not admitted to practice in the Southern District of Florida may, upon submission of a pro hac vice motion filed and served by co-counsel admitted to practice in this District, be permitted to appear and participate in a particular case. A certification that the applicant has studied the Local Rules shall accompany the pro hac vice motion together with such appearance fee as may be required by administrative order. If permission to appear pro hac vice is granted, such appearance shall not constitute formal admission or authorize the attorney to file documents via CM/ECF.

(2) Lawyers who are not members of the bar of this Court shall not be permitted to engage in general practice in this District. For purposes of this rule, the filing of more than three motions to appear pro hac vice within a 365-day period in separate representations before the Courts of this District shall be presumed to be a "general practice." Upon written motion and for good cause shown the Court may waive or modify this prohibition.

(3) The pro hac vice motion shall designate at least one member of the bar of this Court and who is authorized to file through the Court's electronic filing system, with whom the Court and opposing counsel may readily communicate regarding the conduct of the case, upon whom filings shall be served, and who shall be required to electronically file and serve all documents and things that may be filed and served electronically, and who shall be responsible for filing and serving documents in

compliance with the CM/ECF Administrative Procedures. See Section 2B of the CM/ECF Administrative Procedures. The pro hac vice motion must be accompanied by a written statement consenting to the designation, and the address and telephone number of the named designee(s). Upon written motion and for good cause shown the Court may waive or modify the requirements of such designation.

(c) Appearance Ad Hoc. An attorney acting on behalf of this Court's Volunteer Attorney Program may, upon written motion and by leave of court, be permitted to appear for an individual proceeding pro se in a civil matter for the sole purpose of assisting in the discovery process. If the appearance is permitted, when its purpose has been completed the attorney shall give notice to the Court, the pro se civil litigant, and opposing counsel that the ad hoc appearance is terminated.

(d) Government Attorneys. Any full-time United States Attorney, Assistant United States Attorney, Federal Public Defender and Assistant Federal Public Defender and attorney employed full time by and representing the United States government, or any agency thereof, and any Attorney General and Assistant Attorney General of the State of Florida may appear and participate in particular actions or proceedings on behalf of the attorney's employer in the attorney's official capacity without petition for admission. Any attorney so appearing is subject to all rules of this Court.

Effective December 1, 1994. Amended effective Jan. 1, 1996; April 15, 2007; April 15, 2010; December 1, 2014; December 1, 2015; December 1, 2017; December 3, 2018.

RULE 5 | STUDENT PRACTICE

(a) Purpose. The following Rule for Student Practice is designed to encourage law schools to provide clinical instructions in litigation of varying kinds, and thereby enhance the competence of lawyers in practice before the United States courts.

(b) Student Requirements. An eligible student must:

(1) be duly enrolled in a law school;

(2) have completed at least four semesters of legal studies or the equivalent;

(3) have knowledge of the Federal Rules of Civil and Criminal Procedure and of Evidence, and the Code of Professional Responsibility;

(4) be enrolled for credit in a law school clinical program which has been certified by the Court;

(5) be certified by the Dean of the law school, or the dean's designee, as being of good character and sufficient legal ability, and as being adequately trained, in accordance with paragraphs (1)—(4) above, to fulfill his or her other responsibilities as a legal intern to both his or her client and the Court;

(6) be certified by the Court to practice pursuant to this Rule;

(7) neither ask for nor receive any compensation or remuneration of any kind for the student's services from the person on whose behalf the student renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student (nor shall it prevent any agency from making such charges for its services as it may otherwise properly require).

(c) Program Requirements. The program:

(1) must be a law school clinical practice program for credit, in which a law student obtains academic and practice advocacy training, under supervision of qualified attorneys including federal or state government attorneys or private practitioners;

(2) must be certified by the Court;

(3) must be conducted in such a manner as not to conflict with normal Court schedules;

(4) must be under the direction of a member or members of the regular or adjunct faculty of the law school;

(5) must arrange for the designation and maintenance of an office in this District to which may be sent all notices which the Court may from time to time have occasion or need to send in connection with this Rule or any legal representation provided pursuant to this Rule.

(d) Supervisor Requirements. A supervising attorney must:

(1) be a lawyer whose service as a supervising attorney for this program is approved by the dean of the law school in which the law student is enrolled and who is a member of The Florida Bar in good standing;

(2) be a member in good standing of the bar of this Court;

(3) be certified by the Court as a student supervisor;

(4) be present with the student when required by the Court;

(5) co-sign all pleadings or other documents filed with this Court;

(6) assume full personal professional responsibility for a student's guidance in any work undertaken and for the quality of a student's work, and be available for consultation with represented clients;

(7) assist the student in his preparation to the extent the supervising attorney considers it necessary.

(e) Certification of Student, Program and Supervising Attorneys.

(1) *Students.*

(A) Certification by the law school dean or his designee, if said certification is approved by the Court, shall be filed with the Clerk of the Court, and served upon all parties, and unless it is sooner withdrawn, shall remain in effect until the expiration of eighteen months;

(B) Certification to appear in a particular case may be withdrawn by the Court at any time, in the discretion of the Court, and without any showing of cause. Notice of termination may be filed with the Clerk of the Court.

(2) *Program*.

(A) Certification of a program by the Court shall be filed with the Clerk of the Court and shall remain in effect indefinitely unless withdrawn by the Court;

(B) Certification of a program may be withdrawn by the Court at the end of any academic year without cause, or at any time, provided notice stating the cause for such withdrawal is furnished to the law school dean.

(3) *Supervising Attorney*.

(A) Certification of a supervising attorney by the law school dean, if said certification is approved by the Court, shall be filed with the Clerk of the Court, and shall remain in effect indefinitely unless withdrawn by the dean or by the Court;

(B) Certification of a supervising attorney may be withdrawn by the Court at the end of any academic year without cause, or at any time upon notice and a showing of cause;

(C) Certification of a supervising attorney may be withdrawn by the dean at any time by mailing of notice to that effect to the Clerk of the Court;

(D) Any Judge of this Court retains the authority to withdraw or limit a supervising attorney's participation in any individual case before the Judge.

(f) Activities.

(1) An eligible law student may participate in proceedings in open court in the Bankruptcy Court on behalf of any indigent person if the person on whose

behalf the student is appearing has indicated in writing their consent to that appearance and the supervising attorney has also indicated in writing approval of that appearance. The written consent and approval shall be filed in the record of the case, served upon all parties, and shall be brought to the attention of the Judge.

(2) The Board of Governors of The Florida Bar shall fix the standards by which indigency is determined under this Rule upon the recommendation of the largest voluntary bar association located in the state judicial circuit in which this program is implemented.

(3) In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this Court, but outside the personal presence of that lawyer, including:

(A) preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney;

(B) preparation of briefs, abstracts and other documents to be filed in appellate courts, but such documents must be signed by the supervising attorney;

(C) except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of this Court, assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record;

(D) each document or pleading must contain the name of the eligible law student who has participated in drafting it. If the student participated in drafting only a portion of it, that fact may be mentioned.

(g) Court Administration. The Chief Judge[1], or one or more members of the Court appointed by the Chief Judge, shall act on behalf of the Court in connection with any function of this Court under this Rule. The Ad Hoc Committee on Attorney Admissions, Peer Review and Attorney Grievance shall assist the Court to administer this Rule including the review of applications and continuing eligibility for certification of programs, supervising attorneys, and students.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019; December 1, 2020.

[1] In these Rules, references to the Chief Judge shall mean to the Chief Judge or the Chief Judge's designee.

RULE 6 | COMMITTEE ON ATTORNEY ADMISSIONS, PEER REVIEW, AND ATTORNEY GRIEVANCE

(a) Establishment and Membership. There shall be an Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance (the "Committee"). The Committee shall consist of attorneys practicing within this District. The Chief Judge, or one or more members of the Court appointed by the Chief Judge, shall appoint the members of the Committee. In addition to other considerations given by the Court to establish a Committee that reflects the diversity of the Bar of the Court, the geographic location of the members should also be weighed in the Court's selection of members of the Committee. The members shall serve renewable terms of three (3) years and shall be staggered so that one third of the members' terms expire each year. The Chief Judge shall select the Committee Chair. Selections shall be made by Administrative Order entered by the Chief Judge. All persons appointed to the Committee shall serve at the pleasure of the Court. The Committee shall not exceed twenty-five (25) members.

(b) Purpose. Subject to the direction of the Court, the Committee shall have the authority and perform the functions assigned by these Rules and shall otherwise assist the Court in the implementation and evaluation of these Rules. The Committee may under no circumstances initiate and investigate such matters without prior referral by the Court.

(1) *Peer Review*. It is recognized that the Court and the bar have a joint obligation to improve the level of professional performance in the courtroom. To this end, one of the Committee's primary functions is to determine whether individual attorneys are failing to perform to an adequate level of competence necessary to protect the interests of their clients. In furtherance of that objective, the Committee shall have the authority to establish and administer a remedial program designed to raise the competence of an attorney who is not performing adequately; to refer an attorney to appropriate institutions and professional personnel for assistance in raising his or her level of competency; to determine, through evaluation, testing, or other appropriate means, whether an attorney who has been referred for assistance has attained an adequate level of competency; and to report to the Court any attorney who refuses to cooperate

by participating in a remedial program to raise the attorney's level of competence, or fails to achieve an adequate level of competence within a reasonable time.

(2) *Attorney Discipline*. The other primary function of the Committee shall be to conduct investigations of alleged misconduct of any attorney — whether a member of the Bar of this Court or not; to conduct and preside over disciplinary hearings when appropriate and as hereinafter provided; and to submit written findings and recommendations for appropriate action by the Court, except as otherwise described herein.

(A) Standards for Professional Conduct. Acts and omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct, Chapter 4 of the Rules Regulating The Florida Bar, shall constitute "misconduct" and shall be grounds for discipline, whether the act or omission occurred in the course of an attorney/client relationship. Attorneys practicing before this Court shall be governed by this Court's Local Rules and by the Rules of Professional Conduct, except as otherwise provided by specific Rule of this Court.

(B) Discipline. Discipline for misconduct defined in these Rules may consist of (1) disbarment, (2) suspension, (3) reprimand, (4) monetary sanctions, (5) removal from this Court's roster of attorneys eligible for practice before this Court, or (6) any other sanction the Court may deem appropriate.

(C) Court's Retention of Inherent Power. Nothing contained in these Rules shall be construed to deny the Court its inherent power to maintain control over the proceedings conducted before it or to deny the Court those powers derived from statute, rule, or procedure. When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, the Supreme Court of Florida, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the Committee; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

(c) Procedures.

(1) *Internal Referral*. Any District Judge, Magistrate Judge, or Bankruptcy Judge may, in the Judge's discretion, refer in writing to the Committee the name of any attorney the Judge observed practicing law in a manner which either:

(a) raises a significant question as to the adequacy of such attorney's ability to represent clients in a competent manner (See Rule 6(b)(1) Peer Review); and/or

(b) whose acts or omissions may violate the Standards for Professional Conduct (See Rule 6(b)(2)(A)). Each referral shall document the facts of the matter, with the Committee having the discretion to determine the type of review after its initial investigation unless the referral so directs.

(2) *Investigation and Proceedings*. Promptly after receipt of such a referral the Chairperson of the Committee shall select an Investigative Committee consisting of at least three members of the Committee. The Investigative Committee may request that the attorney meet with it informally to explain the circumstances which gave rise to the referral and may conduct such inquiries as it deems appropriate. Following the initial inquiry, the Investigative Committee shall report its findings and recommendations to the Committee and the Committee may, at its discretion, further investigate, including but not limited to having the attorney appear before the Committee. If the Committee determines that additional investigation is not warranted the Committee shall document the findings in writing and close the investigation. No further action shall be taken unless the Court takes exception to the findings. Upon closing

a matter the Chairman shall notify the referring Judge, Chief Judge, Clerk of Court, and the attorney. Otherwise the matter shall proceed to peer review or disciplinary proceedings as further described in subsections (A) and (B) below.

(A) Peer Review –

i. If the Committee determines that the attorney's conduct raises a significant question as to the adequacy of such attorney's ability to represent clients in a competent manner, it shall report its findings to the Chief Judge, Clerk of Court, and the attorney and describe the recommended remedial program designed to raise the competence of the attorney. The remedial program can include, but is not limited to, ordering mandatory participation in continuing legal education programs and participation in group and individual study programs, referring the attorney to appropriate institutions and professional personnel for assistance in raising his or her level of competency, requiring the attorney obtain co-counsel in matters before the Court, and, if the attorney's lack of competency relates to drug or alcohol abuse, requiring the attorney to seek treatment for that condition and requiring the attorney to submit periodic reports from the individuals responsible for such treatment.

ii. If the attorney objects to the Committee's findings or recommendations, the attorney shall have the right to, within fourteen (14) days of receipt of the Committee's findings and recommendations, serve a written response seeking revision or revocation of, or suggesting alternatives to, the findings or proposed recommendations. The Committee shall consider the attorney's response and thereafter shall issue its final Report and Recommendation to the Court.

iii. The Committee is authorized to monitor the attorney's progress to ensure that it is consistent with the Court's Order adopting the Committee's Report and Recommendation, in whole or in part, and may make such interim reports or periodic reports relative to its activities as requested by the Court. Upon completion of the Committee's activities in respect to each attorney referred by the Court, the Committee may file and serve a supplemental Report and Recommendation to the Court. The Supplemental Report and Recommendation shall include documentation as to the Committee's evaluation, testing, or other appropriate means used to determine whether the attorney has attained an adequate level of competency or if the attorney fails to achieve an adequate level of competency within a reasonable time. If the Committee finds that the attorney has not complied with the Court's order and there is a substantial likelihood that the attorney's continued practice of law may result in serious harm to the attorney's clients, the Committee may undertake disciplinary proceedings pursuant to section (B), infra.

(B) Discipline –

i. If the Committee determines that probable cause exists to support a finding that the attorney has violated the Standards for Professional Conduct it shall provide the attorney with a written Report and Recommendation specifying:

(1) its findings of fact supporting a finding of misconduct; and

(2) its proposed recommendations as to the disciplinary measures to be applied by the Court. The Report and Recommendation shall also notify the attorney of the attorney's rights and obligations under these Rules.

ii. An attorney who objects to the Committee's Report and Recommendation shall have the right to, within fourteen (14) days of receipt of the Committee's Report and Recommendation, serve a written response seeking revision or revocation of, or suggesting alternatives to, the recommendation, and/or requesting a hearing before the Committee.

iii. If the attorney does not serve a written response within fourteen (14) days, the Committee shall file and serve its Report and Recommendation with the Court, noting that the attorney failed to respond, and shall apply to the Court for the issuance of an order requiring the attorney to show cause within fourteen (14) days after service of that order why the attorney should not be disciplined.

iv. If the attorney serves a written response and requests a hearing, the Committee may, in its discretion, hold a hearing. If no hearing is requested, the Committee shall review the response and make a final Report and Recommendation to the Court. If the attorney fails to appear at the hearing, then the Committee shall take the steps outlined in subsection (B)(iii), supra. If the attorney does appear for the hearing, the attorney shall be entitled to be represented by counsel, to present witnesses and other evidence on his or her behalf, and to confront and cross examine witnesses against the attorney. The attorney does not have the right to confront or cross examine members of the Court or members of the Committee. The disciplinary proceedings before the Committee shall be guided by the Federal Rules of Evidence. The Committee may call the accused attorney as a witness to make specific and complete disclosure of all matters material to the charge of misconduct unless the attorney asserts a privilege or right properly available to the attorney under applicable federal or state law. Upon the conclusion of the hearing, the Committee shall file and serve a final Report and Recommendation to the Court.

v. Upon receipt of the Committee's final Report and Recommendation, the Chief Judge shall issue an order requiring the attorney to show cause within fourteen (14) days why the Committee's final Report and Recommendation should not be adopted by the Court. The Chief Judge may, after considering the attorney's response, by majority vote of the active District Judges thereof, adopt, modify, or reject the Committee's findings that misconduct occurred, and may either impose those sanctions recommended by the Committee or fashion whatever penalties provided by the rules which it deems appropriate.

(3) *Relationship Between Peer Review and Attorney Discipline Functions and Procedures*. Unless otherwise ordered by the Chief Judge, the Committee has discretion to proceed with peer review or undertake disciplinary action. This discretion continues throughout the proceedings to allow the Committee to elevate a peer review action to a disciplinary action or vice versa depending on the facts discovered during the investigation. At any time a State or Federal Bar is investigating the same or similar action of the attorney under review by the Committee, upon review, the Committee may recommend to the Court to stay the proceedings pending the resolution of the investigation. If the Court approves of the stay, the attorney must notify the Court by written notice when the investigation is concluded. Any deadlines imposed under these rules will resume upon receipt of the notice.

(4) *Timing*. Within one hundred and eighty (180) days of receipt of the referral, unless additional time is requested for good cause, the Committee must have submitted its final Report and Recommendation to the Court, setting forth, inter alia, the procedures undertaken and under which rule; what standards of professional conduct have been violated, if any, or competency questioned; recommendations as to remedial or

disciplinary measures to be applied; and a recommendation regarding the next steps that the Court should take. The Committee shall include its findings of fact as to the charges of misconduct, recommendations as to whether or not the accused attorney should be found guilty of misconduct justifying disciplinary actions by the Court, and recommendations as to the disciplinary measures to be applied by the Court. The Report and Recommendation shall be accompanied by a transcript of the proceedings before the Committee, all pleadings, and all evidentiary exhibits.

(5) *Interim Restrictions on Practice*. If the Committee finds that there is a substantial likelihood that the attorney's continued practice of law may result in serious harm to the attorney's clients pending completion of an investigation, it may recommend that the Court limit or otherwise impose appropriate restrictions on the attorney's continued practice in the District Court.

(d) Immunity. Any Committee determination that a referred attorney is adequately competent does not render the Committee potentially liable as a guarantor of the validity of that determination. The Committee is not liable for the misconduct or nonconduct of any referred attorney. Unauthorized disclosure of confidential information is outside the scope of the Committee's responsibilities. The members of the Committee, while serving in their official capacities, shall be considered to be representatives of and acting under the powers and immunities of the Court, and shall enjoy all such immunities while acting in good faith and in their official capacities.

(e) Obligation to Cooperate With Committee. Any member of the bar of this Court, who is referred to the Committee for any reason shall regard it to be an obligation as an officer of this Court to cooperate fully with the Committee, which constitutes an official arm of the Court. Any failure to cooperate and/or to meet any deadline imposed by the rules, the Committee, or the Court, without good cause shown, will be reported to the Chief Judge and recorded in the records of the Committee and may constitute separate grounds for suspension or disbarment.

(f) Confidentiality. All matters referred to the Committee, all information in the possession of the Committee and all recommendations or other actions taken by the Committee are matters relating to the administration of the Court and shall be confidential, and shall be disclosed only by order of the Court. Correspondence, records and all written material coming to the Committee shall be retained in an office designated by the Court and are documents of the Court and shall be kept confidential unless the Court directs otherwise. No statement made by the attorney to the Committee shall be admissible in any action for malpractice against the attorney, nor shall any part of the Committee's investigative files be admissible in such proceedings. No statement made by the attorney to the Committee shall be admissible in any 28 U.S.C. §2255 collateral attack for incompetency of counsel in a criminal case, nor shall any part of the Committee's investigative files be admissible in proceedings under 28 U.S.C. §2255. Likewise, any information given by a client of the attorney to the Committee shall be privileged to the same extent as if the statements were made by the client to the attorney.

(g) Notice. All referrals, orders, and recommendations shall be provided to the Chief Judge, referring judge, attorney, and the Clerk of Court, unless otherwise specified. Any resulting orders shall be served in accordance with Rule 16.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019.

RULE 7 | ATTORNEYS CONVICTED OF CRIMES

(a) Upon 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 of any state, territory, commonwealth, or possession of the United States of any serious crime as herein defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal. The suspension so ordered shall remain in effect until final disposition of the disciplinary proceedings to be commenced upon such conviction. A copy of such order shall be immediately served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

(1) *Adjudication Withheld*. Where a criminal proceeding results in an adjudication being withheld, the Court shall issue an Order to Show Cause for the attorney to respond within thirty (30) days before the issuance of any discipline.

(b) The term "serious" crime shall include any 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 in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or the use of dishonesty, or an attempt, conspiracy, or solicitation of another to commit a "serious crime."

(c) 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 on the conviction.

(d) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court may, in addition to suspending that attorney in accordance with the provisions of this Rule, also refer the matter to the Committee for institution of disciplinary proceedings 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 appeals from the conviction are concluded.

(e) 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 terminate any disciplinary proceedings then pending against the attorney, the disposition of which shall be determined by the Committee on the basis of all available evidence pertaining to both guilt and the extent of the discipline to be imposed.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017.

RULE 8 | DISCIPLINE IMPOSED BY OTHER COURTS

(a) An attorney admitted to practice before this Court shall, upon being subjected to reprimand, discipline, suspension, or disbarment by a court of any state, territory, commonwealth, or possession of the United States, or by any other court of the United States or the District of Columbia, shall promptly inform the Clerk of the Court of such action.

(b) Upon the filing of a certified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court as described above, this Court may refer the matter to the Committee for a recommendation for appropriate action, or may issue a notice directed to the attorney containing:

(1) A copy of the judgment or order from the other court, and

(2) An order to show cause directing that the attorney inform this Court, within thirty (30) days after service of the order to show cause of any claim by the attorney predicated upon the grounds set forth in subsection (e), infra, that the imposition of identical discipline by the Court would be unwarranted and the reasons therefor.

(c) In the event that the discipline imposed in the other jurisdiction has been stayed there, any reciprocal disciplinary proceedings instituted or discipline imposed in this Court shall be deferred until such stay expires.

(d) After consideration of the response called for by the order issued pursuant to subsection B, supra, or after expiration of the time specified in that order, the Court may impose the identical discipline or may impose any other sanction the Court may deem appropriate.

(e) A final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of a disciplinary proceeding in this Court, unless the attorney demonstrates and the Court is satisfied that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears that:

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

(2) there was such an infirmity of proof establishing 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

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

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

(f) This Court may at any stage ask the Committee to conduct disciplinary proceedings or to make recommendations to the Court for appropriate action in light of the imposition of professional discipline by another court.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017.

RULE 9 | DISCIPLINE ON CONSENT, RESIGNATION, OR INACTIVE STATUS IN OTHER COURTS

(a) Any attorney admitted to practice before this Court shall, upon being suspended or disbarred on consent, resigning, or being placed on inactive status with any other bar while an investigation into allegations of misconduct is pending, promptly inform the Clerk of the Court of such suspension or disbarment on consent, resignation, or inactive status, within thirty (30) days of its occurrence.

(b) An attorney admitted to practice before this Court who shall be suspended or disbarred on consent, resign, or placed on inactive status with 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 copy of the judgment or order accepting such suspension or disbarment on consent, resignation, or inactive status, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court until further order of the Court.

(c) Any attorney who has resigned from or been placed on inactive status with The Florida Bar while an investigation into allegations of misconduct is pending shall inform the Clerk of the Court within thirty (30) days. Upon receipt of notice of such action, the attorney's ability to practice before this Court shall be administratively suspended and the attorney may not resume practice before this Court until they certify that they are an active attorney in good standing with The Florida Bar. There is no inactive status other than for government attorneys in this Court. An attorney may resign from the bar of this Court by notifying the Clerk of Court in writing and only if the attorney is in good standing, is not counsel of record in an active case, and is not subject to any disciplinary proceedings. Upon receipt of the notice of resignation, the attorney will be ineligible to practice in this Court and must reapply for admission pursuant to Rule 2 of these rules.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2017.

RULE 10 | DISCIPLINE ON CONSENT WHILE UNDER DISCIPLINARY INVESTIGATION OR PROSECUTION

(a) Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding by a court of any state, territory, commonwealth, or possession of the United States, or by any other court of the United States or the District of Columbia involving allegations of misconduct may consent to suspension or disbarment, but only by delivering to this Court an affidavit stating that the attorney desires to consent to suspension or disbarment and that:

(1) 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 so consenting;

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

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

(4) 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 themself.

(b) Upon receipt of the required affidavit, this Court shall enter an order suspending or disbarring the attorney.

(c) The order suspending or disbarring the attorney on consent shall be a matter of public record. However, the affidavit required pursuant to the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2017.

RULE 11 | INCAPACITY

When it comes to the attention of the Court that an attorney has been judicially declared incompetent, involuntarily committed to a mental hospital, placed on inactive status or resigned, or has been suspended by another jurisdiction due to such mental incompetence or incapacity or on the basis of physical infirmity or illness, the Court, upon proper proof of the fact, shall enter an order immediately placing the attorney on the Court's inactive list until further order of the Court. If the Court becomes aware that an attorney is incapacitated by reason of mental infirmity or illness or because of the use of drugs or intoxicants, it shall also refer the matter to the Committee to investigate the matter in accordance with the procedures herein.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017.

RULE 12 | REINSTATEMENT

(a) After Disbarment or Suspension. An attorney suspended for ninety (90) days or less shall be automatically reinstated at the end of the period of suspension upon the filing with this Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than ninety (90) days or disbarred may not resume the practice of law before this Court until reinstated by order of the Court. An attorney seeking reinstatement after reciprocal disbarment or suspension must meet the same criteria as an attorney seeking original admission under Rule 2, in that the attorney must first seek and obtain reinstatement by The Florida Bar. An attorney seeking reinstatement after disbarment or suspension originating in this Court must first certify their good standing with The Florida Bar.

(b) Time of Application Following Disbarment/Suspension. An attorney who has been disbarred after hearing or consent may not apply for reinstatement until the expiration of at least three (3) years from the effective date of disbarment. An attorney who has been suspended for more than ninety (90) days may not apply for reinstatement until expiration of the suspension or in the case of reciprocal discipline, upon proof that the attorney has been reinstated by the court in which the attorney was disciplined.

(c) Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. If the disciplinary action was reciprocal, the Chief Judge may rule on the petition or submit it to the active Judges of the Court to be determined by majority vote. If the disciplinary action originated in this Court then it shall be submitted to the active Judges of the Court and determined by majority vote. Prior to submitting the petition to the active Judges of the Court, the Chief Judge may refer the petition to the Committee which shall within sixty (60) days of the referral schedule a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that the attorney has the moral qualifications, competency, and learning in the law required for admission to practice before this Court and that the attorney’s resumption of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive of the public interest. Upon completion of the hearing the Committee shall make a full report to the Court. The Committee shall include its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

(d) Conditions of Reinstatement. If after consideration of the Committee's Report and Recommendation the Court finds that the petitioner is unfit to resume the practice of law, the petition shall be dismissed. If after consideration of the Committee's Report and Recommendation the Court finds that the petitioner is fit to resume the practice of law, the Court shall reinstate the attorney, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and on the making of partial or complete restitution to all parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditioned, in the discretion of the Court, 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. Provided further that any reinstatement may be subject to any conditions which the Court in its discretion deems appropriate.

(e) Successive Petitions. No petition for reinstatement under this Rule shall be filed within three (3) years following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(f) Deposit for Costs of Proceeding. Petitions for reinstatement under this Rule shall be accompanied by a deposit in an amount to be set by the Court in consultation with the Committee to cover anticipated costs of the reinstatement proceeding.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2006; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017.

RULE 13 | DUTIES OF THE CLERK WITH RESPECT TO CONVICTIONS OR DISCIPLINE BY OTHER COURTS

(a) Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of the Court shall determine whether 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 of the Court shall promptly obtain a certificate, file it with this Court, and serve it upon the attorney.

(b) Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk of the Court 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 of the Court shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order, file it with this Court, and serve it upon the attorney.

(c) Whenever it appears that any person who has been convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, this Court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure, 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 or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the disciplined attorney.

(d) The Clerk of the Court shall, likewise, promptly notify the National Discipline Bank operated by the American Bar Association of any order imposing public discipline on any attorney admitted to practice before this Court.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019.

RULE 14 | ATTORNEYS SPECIALLY ADMITTED

Whenever an attorney applies to be admitted or is admitted to 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 arising in the course of or in the preparation for such a proceeding which is a violation of this Court's Local Rules and/or the Rules of Professional Conduct adopted by this Court as provided in these Rules.

Effective December 1, 1994. Amended effective April 15, 2010; December 1, 2017.

RULE 15 | APPOINTMENT OF COUNSEL

Whenever, at the direction of the Court or upon request of the Committee, counsel is to be appointed pursuant to these rules to investigate or assist in the investigation of misconduct, to prosecute or assist in the prosecution of disciplinary proceedings, or to assist in the disposition of a reinstatement petition filed by a disciplined attorney, this Court, by a majority vote of the active Judges thereof, may appoint as counsel any active member of the bar of this Court, or may, in its discretion, appoint the disciplinary agency of the highest court of the state wherein the Court sits, or other disciplinary agency having jurisdiction.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2010; December 1, 2017.

RULE 16 | SERVICE OF PAPER 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 affected attorney at the address shown on the roll of attorneys admitted to practice before this Court or by email upon consent of the affected attorney to waive formal service. Service of any other papers or notices required by these Rules subsequent to the original order to show cause shall be deemed to have been made if such paper or notice is mailed to the attorney at the address shown on the roll of attorneys admitted to practice before the Court, or to counsel or the respondent's attorney at the address indicated in the most recent pleading or document filed by them in the course of any proceeding, or any other method permitted by Federal Rule of Civil Procedure 5(b).

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2017.

APPENDIX

ORIGINAL SOURCE

#	Item	Link
1	Original Source	www.FLSD.USCOURTS.gov

INTERACTIVE VERSION

#	Item	Link
1	Web	TextBookDiscrimination.com/Rules/Court/USFLSD/C005

CONTACT INFORMATION

E: TextBookDiscrimination@gmail.com
W: www.TextBookDiscrimination.com

Congratulations! You're now ***booked up*** on all of the Lawyer Rules in the *Local Rules of Court from the United States District Court Southern District of Florida*!