

SUPREME COURT OF ARKANSAS

IN RE AMENDMENT TO SECTION 14
OF THE PROCEDURES OF THE
ARKANSAS SUPREME COURT
REGULATING PROFESSIONAL
CONDUCT OF ATTORNEYS AT LAW

Opinion Delivered January 14, 2010

PER CURIAM

On October 29, 2009, we published for comment a proposed amendment to substitute a new section 14 in the Procedures Regulating Professional Conduct of Attorneys at Law. This proposal, addressing reciprocal discipline, was recommended by the Procedures Review Subcommittee of the Arkansas Supreme Court Committee on Professional Conduct and the Office of Professional Conduct. Again, we thank them for their work on this issue.

Today, we adopt the amendment and republish section 14 as set out below. The amendment is effective immediately.

SECTION 14. RECIPROCAL DISBARMENT, SUSPENSION, OR DISABILITY INACTIVE STATUS.

A. *Executive Director's Duty to Obtain Order of Disbarment, Suspension, or Transfer to Disability Inactive Status.* Within fifteen (15) days after any person admitted to practice in Arkansas is disbarred, suspended, or transferred to disability inactive status by a state or federal court or a corresponding disciplinary authority of another jurisdiction, the attorney shall inform the Executive Director of the disbarment, suspension, or transfer. Upon notification from any source that an attorney licensed to practice in Arkansas has been disbarred, suspended, or transferred to disability inactive status by another state or federal court or a corresponding disciplinary authority of another jurisdiction, the Executive Director shall obtain a certified copy of the order imposing such discipline and file it with the Committee on Professional Conduct.



B. *Notice Served upon Respondent.* Upon receipt of a certified copy of an order imposing a disbarment, suspension, or transfer, the Executive Director shall serve on the attorney, as provided in Section 9, a copy of the order and notice that the attorney has twenty (20) days from the day of service to file with the Executive Director any claim by the attorney predicated upon the grounds set forth in Paragraph F, that the imposition of the identical sanction would be unwarranted and the reasons for that claim.

C. *Effect of Stay in Other Jurisdiction.* In the event the disbarment, suspension, or transfer to disability inactive status imposed in the other jurisdiction has been stayed there, any reciprocal sanction imposed in this jurisdiction shall be deferred until the stay expires.

D. *No Claim Filed.* If no claim is filed within twenty (20) days, the Executive Director shall so inform the Committee, which shall proceed to determine the matter by ballot vote consistent with the requirements of Section 10 of these Procedures, to the extent applicable.

E. *Claim Filed.* If a claim is filed within twenty (20) days, the Executive Director may file and serve a response to the claim within fifteen (15) days after the claim is filed. Within fifteen (15) days after service of any such response, the attorney who filed the claim may file a reply. The claim shall be determined by ballot vote consistent with the requirements of Section 10 of these Procedures, to the extent applicable.

F. *Discipline to Be Imposed.* Upon a ballot vote, a Panel of the Committee shall impose the identical disbarment, suspension, or transfer to disability inactive status unless, the panel finds that:

(1) The procedure before the other state or federal court or corresponding disciplinary authority was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(2) There was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Committee could not, consistent with its duty, accept as final the conclusion on that subject; or

(3) The disbarment, suspension, or transfer imposed would result in grave injustice or be offensive to the public policy of Arkansas; or

(4) The reason for the original transfer to disability inactive status no longer exists.

If the Committee determines that any of those elements exists, the Committee shall enter such other order as it deems appropriate. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that the imposition of the same discipline is not appropriate.



G. *Conclusiveness of Adjudication Before Another State or Federal Court or Corresponding Disciplinary Authority.* In all other aspects, a final adjudication before another state or federal court or corresponding disciplinary authority determining that a lawyer is guilty of misconduct or should be transferred to disability inactive status shall establish conclusively the misconduct or the disability for purposes of a disciplinary or disability proceeding in this jurisdiction.

H. *Appeal.* A respondent attorney or the Executive Director aggrieved by the action of a Committee Panel on a reciprocal discipline or disability matter may appeal to the Arkansas Supreme Court under the provisions of Section 12 (Appeal) of these Procedures. Neither the attorney nor the Executive Director may request or obtain a public hearing before another Committee Panel on a reciprocal disbarment, suspension, or transfer to disability inactive status.