

Supreme Court of Kentucky

IN RE:
ORDER AMENDING
RULES OF THE SUPREME COURT (SCR)

2013-15

The following rules' amendments shall become effective January 1, 2014.

I. **SCR 3.030(4) and (5)(a) Membership, practice by nonmembers and classes of membership**

Section (4) and subsection (a) of section (5) of SCR 3.030 shall read:

(4) A class of membership is established to be known as "Senior Retired Inactive Member." Any member who reaches the age of 70 years and no longer is actively practicing law and who has met the necessary CLE requirements for inactive status pursuant to SCR 3.665(2), shall upon notification to the Executive Director be classified as Senior Retired Inactive and shall not be required to pay annual dues.

(5)(a) A class of membership is established to be known as "Disabled Inactive Member." An attorney admitted to practice in this state who has been, because of a mental or physical condition, judicially declared to be a person under a legal disability, or for whom probable cause exists to believe that the attorney has a mental or physical condition that substantially impairs his or her ability to practice law shall provide to the Court a detailed written report from a licensed qualified health care provider who has examined the attorney setting out the findings of the health care provider, including the results of all tests made, diagnoses and conclusions. The Court may enter an order transferring the attorney to Disability Inactive Status. An attorney classified under this subsection is not required to pay dues or obtain the annual CLE requirement pursuant to SCR 3.645. This status shall be reflected on the attorney's membership record. No attorney classified under this status may engage in the practice of law in this state until restored to active status by the Court. Any disciplinary proceedings against the attorney shall be stayed while he/she is on disability inactive status. Any report and supporting records from a health care provider regarding the treatment of the attorney shall be confidential and sealed.

II. SCR 3.390 Notice to client of suspension or disbarment

Section (b) of SCR 3.390 shall read:

(b) Within 10 days after the issuance of an order of disbarment, or suspension under SCR 3.050 or SCR 3.675(4), or upon issuance of an order of suspension from the practice of law for more than 60 days, the disbarred or suspended lawyer shall notify, by letter duly placed with the United States Postal Service, all courts or other tribunals in which that lawyer has matters pending, and all clients of the lawyer's inability to represent them and of the necessity and urgency of promptly retaining new counsel. The lawyer shall simultaneously provide a copy of all such letters of notification to the Office of Bar Counsel. Upon issuance of an order of disbarment or suspension, the affected lawyer shall immediately cancel any pending advertisements, to the extent possible, and shall terminate any advertising activity for the duration of the term of suspension or disbarment.

III. SCR 3.500(1), (2)(c) and (3)(c) Restoration to membership

Section (1), subsection (c) of section (2) and subsection (c) of section (3) of SCR 3.500 shall read:

(1) A former member who has withdrawn from membership pursuant to SCR 3.480(1), or who was suspended for failure to pay dues as provided by SCR 3.050, or for failure to comply with the continuing legal education requirements of SCR 3.645 may be restored to membership upon compliance with the conditions set forth in this rule. No application for restoration shall be effective until entry of an order of restoration by the Board of Governors or the Court, as provided herein. Until the entry of such an order, the suspension or withdrawal from membership remains in force.

(2) A former member whose withdrawal or suspension from membership has prevailed for less than 5 years may apply for restoration by:

(c) Submitting with the application a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685.

(3) A former member whose withdrawal or suspension from membership has prevailed for 5 years or longer may apply for restoration by:

(c) Submitting with the application a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685.

IV. SCR 3.510(1) and (2) Reinstatement in case of disciplinary suspension

Sections (1) and (2), of SCR 3.510 shall read:

(1) No former member of the Association who has been suspended for a

disciplinary case for more than 180 days shall resume practice until he/she is reinstated by order of the Court. Application for reinstatement shall be on forms provided by the Director and Continuing Legal Education Commission, filed with the Director, and shall be accompanied by a filing fee of \$250.00 which shall be made payable to the Kentucky Bar Association. An additional filing fee of \$1500.00 shall be made payable to the Kentucky Office of Bar Admissions. The Director shall not accept an application for filing unless all costs incurred in the suspension proceeding have been paid by the former member, the Office of Bar Counsel has certified to the Applicant that there is no pending disciplinary file, and the costs in the reinstatement proceeding (whether costs of the Association or of the Character and Fitness Committee or of the Kentucky Office of Bar Admissions) have been secured by the posting of a cash bond of \$2500.00. Any additional costs will be paid by Applicant. The Director shall refer the application to the Continuing Legal Education Commission within 10 days of receipt for certification under Rule 3.685. The Continuing Legal Education Commission shall make its certification within 20 days of the referral which shall be added to the record in the reinstatement proceedings.

(2) If the period of suspension has prevailed for 180 days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE Commission that the Applicant has complied with SCR 3.685. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; provided, however, that such suspension shall not expire by its own terms if, not later than 10 days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within 30 days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for 180 days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1500.00 shall be made payable to the Kentucky Office of Bar Admissions.

V. SCR 3.970 Agency Referrals

Subsection (d) of section (1), of SCR 3.970 shall read:

(1) A member of the Kentucky legal community who is the subject of a pending admission, disciplinary or continuing legal education proceeding before an agency of the Supreme Court of Kentucky may authorize that agency to make a confidential request for assistance from KYLAP in evaluating or

addressing any actual or potential impairment that may be relevant to the issues which the agency is charged with considering in the proceeding. In particular:

(d) A member or former member of the Association who is the subject of a continuing legal education proceeding pursuant to SCR 3.675 by the Continuing Legal Education Commission may authorize the Director for Continuing Legal Education to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to the CLE Commission's recommended disposition of that proceeding.

ENTERED: November 1 , 2013.


CHIEF JUSTICE