



SUPREME COURT OF GEORGIA

Atlanta January 15, 2008

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

The Court having considered the motion to amend the Rules and Regulations of the State Bar of Georgia filed on September 28, 2007, it is ordered that the State Bar's motion to amend Rule 1-404 of Chapter 4 of Part I of the Rules of the State Bar of Georgia regarding eligibility of the president-elect, by deleting said rule in its entirety, is hereby denied.

It is further ordered that the Rules and Regulations of the Organization and Government of the State Bar of Georgia be amended as follows:

Rule 1-501 of Chapter 5 of Part I of the Rules of the State Bar of Georgia regarding license fees is amended to read as follows:

Rule 1-501. License Fees

(a) Annual license fees for membership in the State Bar shall be due and payable on July 1 of each year. Upon the failure of a member to pay the license fee by September 1, the member shall cease to be a member in good standing. When such license fees and late fees for the current and prior years have been paid, the member shall automatically be reinstated to the status of member in good standing, except as provided in section (b) of this Rule.

(b) In the event a member of the State Bar is delinquent in the

payment of any license fees, late fee, assessment, reinstatement fee or penalty of any nature for a period of one (1) year, the member shall be automatically suspended, and shall not practice law in this state. The suspended member may thereafter lift such suspension only upon the successful completion of all of the following terms and conditions:

(i) payment of all outstanding dues, assessments, late fees, reinstatement fees, and any and all penalties due and owing before or accruing after the suspension of membership;

(ii) provide the membership section of the State Bar the following:

(A) a certificate from the Office of General Counsel of the State Bar that the suspended member is not presently subject to any disciplinary procedure;

(B) a certificate from the Commission on Continuing Lawyer Competency that the suspended member is current on all requirements for continuing legal education;

(C) a determination of fitness from the Board to Determine Fitness of Bar Applicants;

(iii) payment to the State Bar of a non-waivable reinstatement fee as follows:

(A) \$150.00 for the first reinstatement paid within the first year of suspension, plus \$150.00 for each year of suspension thereafter up to a total of five years;

(B) \$250.00 for the second reinstatement paid within the first year of suspension, plus \$250.00 for each year of suspension thereafter up to a total of five years;

(C) \$500.00 for the third reinstatement paid within the first year of suspension, plus \$ 500.00 for each year of suspension thereafter up to a total of five years; or

(D) \$750.00 for each subsequent reinstatement paid within the first year of suspension, plus \$750.00 for each year of suspension thereafter up to a total of five years.

The yearly increase in the reinstatement fee shall become due and owing in its entirety upon the first day of each next fiscal year and shall not be prorated for any fraction of the fiscal year in which it is actually paid.

(c) A member suspended under subsection (b) above for a total of five years in succession shall be immediately terminated as a member without further action on the part of the State Bar. The terminated member shall not be entitled to a hearing as set out in section (d) below. The terminated member shall be required to apply for membership to the Office of Bar Admissions for readmission to the State Bar. Upon completion of the requirements for readmission, the terminated member shall be required to pay the total reinstatement fee due under subsection (b)(iii) above plus an additional \$750.00 as a readmission fee to the State Bar.

(d) Prior to suspending a member under subsection (b) above, the State Bar shall send by certified mail a notice thereof to the last known address of the member as contained in the official membership records. It shall specify the years for which the license fee is delinquent and state that either the fee and all penalties related thereto are paid within sixty (60) days or a hearing to establish reasonable cause is requested within sixty (60) days, the membership shall be suspended.

If a hearing is requested, it shall be held at State Bar Headquarters within ninety (90) days of receipt of the request by the

Executive Committee. Notice of time and place of the hearing shall be mailed at least ten (10) days in advance. The party cited may be represented by counsel. Witnesses shall be sworn; and, if requested by the party cited, a complete electronic record or a transcript shall be made of all proceedings and testimony. The expense of the record shall be paid by the party requesting it and a copy thereof shall be furnished to the Executive Committee. The presiding member or special master shall have the authority to rule on all motions, objections, and other matters presented in connection with the Georgia Rules of Civil Procedure, and the practice in the trial of civil cases. The party cited may not be required to testify over his or her objection.

The Executive Committee shall (1) make findings of fact and conclusions of law and shall determine whether the party cited was delinquent in violation of this Rule 1-501; and (2) upon a finding of delinquency shall determine whether there was reasonable cause for the delinquency. Financial hardship short of adjudicated bankruptcy shall not constitute reasonable cause. A copy of the findings and the determination shall be sent to the party cited. If it is determined that no delinquency has occurred, the matter shall be dismissed. If it is determined that delinquency has occurred but that there was reasonable cause therefor, the matter shall be deferred for one (1) year at which time the matter will be reconsidered. If it is determined that delinquency has occurred without reasonable cause therefor, the membership shall be suspended immediately upon such determination. An appropriate notice of suspension shall be sent to the clerks of all Georgia courts and shall be published in an official publication of the State Bar. Alleged errors of law in the proceedings or findings of the Executive Committee or its delegate shall be reviewed by the Supreme Court. The Executive Committee may delegate to a special master any or all of its responsibilities and authority with respect to suspending membership for license fee delinquency in which event the special master shall make a report to the Committee of its findings for its approval or disapproval.

After a finding of delinquency, a copy of the finding shall be served upon the Respondent attorney. The Respondent attorney may file with the Court any written exceptions (supported by the written

argument) said Respondent may have to the findings of the Executive Committee. All such exceptions shall be filed with the Clerk of the Supreme Court and served on the Executive Committee by service on the General Counsel within twenty (20) days of the date that the findings were served on the Respondent attorney. Upon the filing of exceptions by the Respondent attorney, the Executive Committee shall within twenty (20) days of said filing, file a report of its findings and the complete record and transcript of evidence with the Clerk of the Supreme Court. The Court may grant extensions of time for filing in appropriate cases. Findings of fact by the Executive Committee shall be conclusive if supported by any evidence. The Court may grant oral argument on any exception filed with it upon application for such argument by the Respondent attorney or the Executive Committee. The Court shall promptly consider the report of the Executive Committee, exceptions thereto, and the responses filed by any party to such exceptions, if any, and enter its judgement. A copy of the Court's judgement shall be transmitted to the Executive Committee and to the Respondent attorney by the Court.

Within thirty (30) days after a final judgement which suspends membership, the suspended member shall, under the supervision of the Supreme Court, notify all clients of said suspended member's inability to represent them and of the necessity for promptly retaining new counsel, and shall take all actions necessary to protect the interests of said suspended member's clients. Should the suspended member fail to notify said clients or fail to protect their interests as herein required, the Supreme Court, upon its motion, or upon the motion of the State Bar, and after ten (10) days notice to the suspended member and proof of failure to notify or protect said clients, may hold the suspended member in contempt and order that a member or members of the State Bar take charge of the files and records of said suspended member and proceed to notify all clients and take such steps as seem indicated to protect their interests. Any member of the State Bar appointed by the Supreme Court to take charge of the files and records of the suspended member under these Rules shall not be permitted to disclose any information contained in the files and records in his or her care without the consent of the client to whom such file or record relates, except as clearly necessary

to carry out the order of the court.

Rule 1-703 of Chapter 7 of Part I of the Rules of the State Bar of Georgia regarding the Young Lawyers Division is amended to read as follows:

Rule 1-703. Young Lawyers Division

There shall be a division of the State Bar composed of (1) all members of the State Bar who have not reached their thirty-sixth birthday prior to the close of the preceding Annual Meeting of the State Bar and (2) all members of the State Bar who have been admitted to their first bar less than five years. All persons holding an elective office or post in the Young Lawyers Division who are qualified by age to assume such office or post on the date of his or her election shall remain members of the Young Lawyers Division for the duration of their offices or posts. In the case of a President-elect of the Young Lawyers Division who is qualified by age to assume such office on the date of such person's election, such person shall remain a member of the Young Lawyers Division for the duration of the terms of President and Immediate Past President to which he or she succeeds.

The Young Lawyers Division shall have such organization, powers, and duties as may be prescribed by the Bylaws of the State Bar.

Rule 4-103 of Chapter 1 of Part IV of the Rules of the State Bar of Georgia regarding multiple disciplinary violations is amended to read as follows:

Rule 4-103. Multiple Violations

A finding of a third or subsequent disciplinary infraction under these rules shall, in and of itself, constitute discretionary grounds for suspension or disbarment. The Review Panel may exercise this discretionary power when the question is appropriately before that

Panel. Any discipline imposed by another jurisdiction as contemplated by Rule 9.4 may be considered a disciplinary infraction for the purpose of this Rule.

Rule 4-201 (b) (5) of Part IV of the Rules of the State Bar of Georgia is amended to read as follows:

Rule 4-201. State Disciplinary Board

...

(b) ... (5) The Review Panel shall elect a chairperson and such other officers as it may deem proper in July of each year. The presence of six members of the Panel shall constitute a quorum. Four members of the Panel shall be authorized to act except that a recommendation of the Review Panel to suspend or disbar shall require the affirmative vote of at least six members of the Review Panel, with not more than four negative votes. However, in any case in which one or more Review Panel members are disqualified, the number of members constituting a quorum and the number of members necessary to vote affirmatively for disbarment or suspension, shall be reduced by the number of members disqualified from voting on the case. No recommendation of disbarment or suspension may be made by fewer than four affirmative votes. For the purposes of this rule the recusal of a member shall have the same effect as disqualification.

Rule 4-203 of Part IV of the Rules of the State Bar of Georgia is amended by adding a new section (b) (7) to read as follows:

Rule 4-203. Powers and Duties

...

(b) ... (7) To receive Notices of Reciprocal Discipline and to recommend to the Supreme Court the imposition of punishment and

discipline pursuant to Bar Rule 9.4(b)(3).

Rule 9.4 of the Georgia Rules of Professional Conduct is amended to read as follows:

Rule 9.4 Jurisdiction and Reciprocal Discipline

(a) Jurisdiction. Any lawyer admitted to practice law in this jurisdiction, including any formerly admitted lawyer with respect to acts committed prior to resignation, suspension, disbarment, or removal from practice on any of the grounds provided in Rule 4-104 of the State Bar, or with respect to acts subsequent thereto which amount to the practice of law or constitute a violation of the Georgia Rules of Professional Conduct or any Rules or Code subsequently adopted by the court in lieu thereof, and any Domestic or Foreign Lawyer specially admitted by a court of this jurisdiction for a particular proceeding and any Domestic or Foreign Lawyer who practices law or renders or offers to render any legal services in this jurisdiction, is subject to the disciplinary jurisdiction of the State Bar of Georgia State Disciplinary Board.

(b) Reciprocal Discipline. Upon being suspended or disbarred in another jurisdiction, a lawyer admitted to practice in Georgia shall promptly inform the Office of General Counsel of the State Bar of Georgia of the discipline. Upon notification from any source that a lawyer within the jurisdiction of the State Bar of Georgia has been disciplined in another jurisdiction, the Office of General Counsel shall obtain a certified copy of the disciplinary order and file it with the Clerk of the State Disciplinary Board. Nothing in this Rule shall prevent a lawyer disciplined in another jurisdiction from filing a petition for voluntary discipline under Rule 4-227.

(1) Upon receipt of a certified copy of an order demonstrating that a lawyer admitted to practice in Georgia has been disbarred or suspended in another jurisdiction, the Clerk of the State Disciplinary Board shall forthwith issue a notice directed to the lawyer containing:

(i) A copy of the order from the other jurisdiction; and

(ii) A notice approved by the Review Panel that the lawyer must inform the Office of General Counsel and the Review Panel, within thirty days from service of the notice, of any claim by the lawyer predicated upon the grounds set forth in paragraph (b)(3) below, that the imposition of the substantially similar discipline in this jurisdiction would be unwarranted and the reasons for that claim.

(2) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this jurisdiction shall be deferred until the stay expires.

(3) Upon the expiration of thirty days from service of the notice pursuant to the provisions of paragraph (b) (1), the Review Panel shall recommend to the Georgia Supreme Court substantially similar discipline, or removal from practice on the grounds provided in Rule 4-14, unless the Office of General Counsel or the lawyer demonstrates, or the Review Panel finds that it clearly appears upon the face of the record from which the discipline is predicated, that:

(i) The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

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

(iii) The discipline imposed would result in grave injustice or be offensive to the public policy of the jurisdiction; or

(iv) The reason for the original disciplinary status no longer exists; or

(v) (a) the conduct did not occur within the state of Georgia; and,

(b) the discipline imposed by the foreign jurisdiction exceeds the level of discipline allowed under these Rules.

(vi) The discipline would if imposed in identical form be unduly severe or would require action not contemplated by these Rules.

If the Review Panel determines that any of those elements exists, the Review Panel shall make such other recommendation to the Georgia Supreme Court 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.

(4) The Review Panel may consider exceptions from either the Office of the General Counsel or the Respondent on the grounds enumerated at Part (b) (3) of this Rule, and may in its discretion grant oral argument. Exceptions and briefs shall be filed with the Review Panel within thirty days from service of the Notice of Reciprocal Discipline. The responding party shall have ten days after service of the exceptions within which to respond.

(5) In all other aspects, a final adjudication in another jurisdiction that a lawyer, whether or not admitted in that jurisdiction, has been guilty of misconduct, or has been removed from practice on any of the grounds provided in Rule 4-104 of the State Bar, shall establish conclusively the misconduct or the removal from practice for purposes of a disciplinary proceeding in this state.

(6) Discipline imposed by another jurisdiction but of a lesser nature than disbarment or suspension may be considered in aggravation of discipline in any other disciplinary proceeding.

The maximum penalty for a violation of this Rule is disbarment.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

Theresa A. Barnes, Clerk