

SUPREME COURT OF GEORGIA

Atlanta December 9, 2005

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Rules 8-103, 8-104, 8-105 and 8-107 of Part VIII of the Rules and Regulations for the Organization and Government of the State Bar of Georgia, regarding Continuing Lawyer Competency, be amended to read as follows:

Rule 8-103. Commission on Continuing Lawyer Competency.

(A) Membership, Appointment and Terms:

(B) Powers and Duties of the Board:

(C) Finances:

(1) Purpose. The Commission should be adequately funded to enable it to perform its duties in a financially independent manner.

(2) Sources. Costs of administration of the Commission shall be derived from charges to members of the State Bar for continuing legal education activities.

(a) Sponsors of CLE programs to be held within the State of Georgia shall, as a condition of accreditation, agree to remit a list of Georgia attendees and to pay a fee for each active State Bar member who attends the program. This sponsor's fee shall be based on each day of attendance, with a proportional fee for programs lasting less than a whole day. The rate shall be set by the Commission.

(b) The Commission shall fix a reasonably comparable fee to be paid by individual attorneys who either (a) attend approved CLE programs outside the State of Georgia or (b) attend un-approved CLE programs within the State of Georgia that would have been approved for credit except for the failure of the sponsor to pay the fee described in the preceding paragraph. Such fee shall accompany the attorney's annual report.

(3) Uses. Funds may be expended for the proper administration of the Commission. However, the members of the Commission shall serve on a voluntary basis without expense reimbursement or compensation.

Rule 8-104. Education Requirements and Exemptions.

(A) Minimum Continuing Legal Education Requirement.

(B) Basic Legal Skills Requirement.

(C) Exemptions.

- (1) An inactive member shall be exempt from the continuing legal education and the reporting requirements of this Rule.
- (2) The Commission may exempt an active member from the continuing legal education, but not the reporting, requirements of this rule for a period of not more than one (1) year upon a finding by the Commission of special circumstances unique to that member constituting undue hardship.
- (3) Any active member over the age of seventy (70) shall be exempt from the continuing legal education requirements of this rule, including the reporting requirements, unless the member notifies the Commission in writing that the member wishes to continue to be covered by the continuing legal education requirements of this rule.
- (4) Any active member residing outside of Georgia who neither practices in Georgia nor represents Georgia clients shall be exempt, upon written application to the Commission, from the continuing legal education, but not the reporting, requirements of this rule during the year for which the written application is made. This application shall be filed with the annual report.
- (5) Any active member of the Board of Bar Examiners shall be exempt from the continuing legal education but not the reporting requirement of this Rule.

(D) Requirements for Participation in Litigation.

Rule 8-105. Reporting Requirements.

On or before January 31 of each year, commencing in 1985, each active member shall make and file an Annual Report with the Commission in such form as the Commission shall prescribe, reporting compliance with Rule 8-104.

Rule 8-107. Non-Compliance.

(A) Notice of Non-Compliance.

- (1) In the event an active member shall fail to complete the required units at the end of each applicable period, the Annual Report required under Rule 8-105 may be accompanied by a specific plan for making up the deficiency of necessary units within sixty (60) days after the date of the Annual Report. The plan shall be deemed accepted by the Commission unless within fifteen (15) days after the receipt of the Annual Report, the Commission notifies the lawyer to the contrary.- Failure by the lawyer to complete the plan within the sixty (60) day period shall invoke the sanctions set forth in paragraph C.
- (2) In the event that an active member shall fail to comply with these rules in any respect, the Commission shall promptly send notice of non-compliance. The notice shall specify the nature of the non-compliance and state that unless the non-compliance is corrected or a request for a hearing before the Commission is made within sixty (60) days, the statement of non-compliance shall be filed with the Supreme Court.

This notice, as well as any other notice or mailing required by Part VIII of these Rules, shall be mailed by first class mail to the member's current address contained in the membership records of the State Bar of Georgia. Service or actual receipt is not a prerequisite to actions authorized by these Rules.

(B) Hearing. If a hearing is requested, it shall be held within thirty (30) days by the full Commission, or one or more members designated by the Commission. Notice of the time and place of the hearing shall be given 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 presiding member shall have the authority to rule on all motions, objections, and other matters presented in connection with the hearing. The hearing shall be conducted in conformity 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 chairman of the Commission who conducted the hearing shall (1) make findings of fact and determine whether the party cited has complied with the rules; and (2) upon a finding of noncompliance, shall determine whether there was reasonable cause for noncompliance. A copy of the findings and determination shall be sent to the party cited. If it is determined that compliance has occurred, the matter shall be dismissed and the Commission's records corrected to reflect compliance. If it is determined that compliance has not occurred, the Commission shall proceed as follows:

(i) If the Commission determines that there was reasonable cause for noncompliance, the party cited shall be allowed fifteen (15) days to file a specific plan for correcting the noncompliance within the next sixty (60) days following submission of the plan. The plan shall be deemed accepted by the Commission unless, within fifteen (15) days after receipt, the Commission notifies the party cited. Completion of the plan shall be reported by the lawyer in writing to the Commission not later than fifteen (15) days following the sixty (60) day period. If the party cited fails to file an acceptable plan, or fails to complete and certify completion within the sixty (60) day period, the Commission shall proceed as though there was not reasonable cause for noncompliance.

(ii) If the Commission determines that there was not reasonable cause for noncompliance, a record of the matter, including a copy of the findings, the determination, and the recommendation of the Commission for appropriate action, shall be filed promptly with the Supreme Court. If requested by the Commission, or the party cited, the record shall include a transcript of the hearing to be prepared at the expense of the requesting party.

(C) Supreme Court of Georgia Action.
