

CA02db CourtBallots

From: CA02db CourtBallots
Sent: Monday, January 29, 2024 12:49 PM
To: Brenda Sannes; Debra Livingston; Elizabeth Wolford; Geoffrey Crawford; Joseph Bianco; Laura Swain; Margo Brodie; Michael Park; Michael Shea; Raymond Lohier; Richard Sullivan; Steven Menashi; William Nardini
Cc:
Subject: Proposed Changes to Local Rules - District of Connecticut - ACTION REQUESTED
Attachments: LR 83.11 clean.pdf; LR 83.11 redlined.pdf; LR 83.2 clean .pdf; LR 83.2 redlined .pdf

Dear Judicial Council:

The District of Connecticut seeks Judicial Council approval for proposed changes to two of their local rules of civil procedure.

The proposed changes have been published on the Court's website for comment and counsel has been notified via CMECF. A clean and redline version of the proposed changes are attached.

Kindly reply with your vote by February 5.

Thank you,
Aisha D. Parks



Office of the Circuit Executive
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 2904
New York, NY 10007
(212)-857-8700

RULE 83.2

DISCIPLINE OF ATTORNEYS

(Amended ~~December 22, 2017~~ _____, 2024)

....

(b) Grievance Committee

1. The Judges of this Court shall appoint a Grievance Committee of the United States District Court for the District of Connecticut consisting of twelve (12) members of the bar of this Court. One member shall be appointed by the judges as the chairperson of the committee for a term of three years.

2. Members shall be appointed for a term of three (3) years, renewable once, for an additional term of three (3) years. If a member is appointed chairperson during the second term of three years, that member may serve the full three-year term of chairperson, even if his or her total tenure on the committee would thereby exceed six years. In the event that a vacancy arises before the end of a term, a member of the bar of this Court shall be appointed by the Judges of this Court to fill the vacancy for the balance of the term. Anyone filling such a vacancy is eligible for reappointment to a full three-year term. Five (5) members of the Grievance Committee shall constitute a quorum and any action taken by the Grievance Committee shall be by a majority vote of those members present and voting.

3. The judges shall appoint three (3) members of the bar of this Court to serve as Counsel to the Grievance Committee. Assignment of cases to each counsel shall be made on the basis of the assigned seat of court, according to administrative procedures approved by the Clerk.

4. The Grievance Committee and Counsel to the Grievance Committee shall have the use of the staff of the Clerk, grievance clerks, for clerical and record-keeping assistance, shall have the power to issue subpoenas to compel witnesses to testify and produce documents at proceedings, and may incur such expenses as shall be approved by the Chief Judge of this Court. Compulsory process shall be available to the attorney who is the subject of the complaint.

(c) General Procedures Proceedings Upon Complaint

~~1. Any person may file with the Clerk of the Court a written verified complaint alleging attorney misconduct relating to any matter relevant to an attorney's qualification to practice before the court. Each person filing a complaint shall file sufficient copies of the complaint to supply an original for the Court, and one copy for each attorney who is the subject of the complaint. The Clerk shall assign a docket number, consisting of the initials "GP," the last two digits of the year of filing, the number of the case (with the first case of each year being designated as number 1), and the initials of the Judge to whom the case has been assigned. Each complaint shall be assigned to a Judge on a random District-wide basis. Any complaint which arises out of conduct witnessed by a particular Judge of this Court shall not be assigned to~~

~~that Judge. The personnel of the Clerk's office shall not reveal to any person other than a Judge or the Clerk of this Court the order of assignment of such complaints. The Clerk shall forward a copy of the complaint to the Grievance Committee and counsel assigned to the matter. The complaint, and the fact of filing the complaint, shall be considered sealed and shall not be a record open to the public. Grievance cases are opened upon a) the filing of a verified complaint against an attorney alleging misconduct relating to any matter relevant to an attorney's qualifications to practice before the court; b) judicial referral to the Grievance Committee upon an allegation of possible misconduct relating to any matter relevant to an attorney's qualification to practice before the court; c) notice of a guilty plea or conviction of a serious crime; d) notice of discipline or resignation in other courts; or e) notice of a finding of mental disability or incapacity.~~

~~2. The Grievance Committee, upon appropriate notice, shall conduct such hearings as it deems appropriate under rules for fair procedure. Such hearings shall be private unless the attorney complained against requests a public proceeding. The Grievance Committee shall decide whether to recommend that the complaint be dismissed or that the attorney complained against be disciplined (1) by private or public censure, (2) by suspension from the practice of law for a fixed period of time, (3) by indefinite suspension, or (4) by disbarment. The Clerk shall assign a docket number to the grievance cases, consisting of the initials "GP," the last two digits of the year of filing, the number of the case (with the first case of each year being designated as number 1), and the initials of the Judge to whom the case has been assigned.~~

~~3. When any misconduct or allegation of misconduct which would warrant discipline of any attorney admitted to practice before this Court comes to the attention of any Judge of this Court, the Judge may refer the matter to the Grievance Committee for the initiation of a presentment or the formulation of such other recommendation as may be appropriate. Nothing in this Rule 83.2 shall be interpreted to limit the inherent authority of the Judge to enforce the standards of professional conduct by way of appropriate proceedings other than by referral to the Grievance Committee. Each grievance case shall be assigned to a Judge on a random District-wide basis. Any complaint which arises out of conduct witnessed by a particular Judge of this Court shall not be assigned to that Judge. The personnel of the clerk's office shall not reveal to any person other than a Judge or the Clerk of this Court the order of assignment of such cases.~~

~~3.4. Grievance cases shall be considered sealed and shall not be a record open to the public unless and until public discipline is ordered. Assigned counsel for the Grievance Committee will be allowed electronic access to the sealed case and be permitted to efile documents. Other members of the Grievance Committee will be allowed electronic access to sealed grievance cases, but are not permitted to efile documents. Counsel for the attorney who is the subject of the grievance or such attorney, if he or she is proceeding as a self-represented party, will be allowed electronic access to the sealed case and be permitted to efile documents.~~

(d) Proceedings Upon Complaint or Judicial Referral Recommendation of Grievance Committee

~~1. The Grievance Committee shall make its recommendation to the Court within 180 days of receipt of the complaint or referral for action. If additional time is needed, Counsel to the Committee shall notify the Clerk and up to an additional 180 days shall be allowed. Any person may file with the Clerk of the Court a written verified complaint alleging attorney misconduct~~

relating to any matter relevant to an attorney's qualification to practice before the court. The Clerk shall forward a copy of the complaint to the Grievance Committee and counsel assigned to the matter.

~~2. If the recommendation of the Grievance Committee is to dismiss the complaint, the recommendation shall be filed with the Court. The Committee may make a dismissal recommendation conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances. The Judge to whom the complaint has been assigned may hold further hearings on the recommendation to dismiss or may dismiss the complaint on the written record presented by the Committee. Within thirty (30) days of the matter being opened, the attorney shall file a written response to the complaint. The complainant may reply to the attorney's response within twenty (20) days after the response is filed.~~

~~3. If the Judge decides not to dismiss the complaint, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken. After the briefing deadlines have passed, the Grievance Committee shall review the complaint and determine if the matter warrants further action. The Grievance Committee, upon appropriate notice, may conduct hearings as it deems appropriate under rules for fair procedure. Such hearings shall be private unless the attorney complained against requests a public proceeding. The Grievance Committee shall decide whether to recommend that the complaint be dismissed or that the attorney complained against be disciplined (1) by private or public censure, (2) by suspension from the practice of law for a fixed period of time, (3) by indefinite suspension, (4) by disbarment, or (5) by any other appropriate remedial measure.~~

~~4. If the Grievance Committee's recommendation is for discipline, the Committee shall file its recommendation in the form of a presentment, seeking an order to show cause why the attorney complained against should not have disciplinary action taken against him or her as prayed for in the presentment. The Committee may recommend discipline conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances. When any misconduct or allegation of misconduct which would warrant discipline of any attorney admitted to practice before this Court comes to the attention of any Judge of this Court, the Judge may refer the matter to the Grievance Committee for the initiation of a presentment or the formulation of such other recommendation as may be appropriate. The Grievance Committee may request that the Court order the attorney to respond to the referral. Nothing in this Rule 83.2 shall be interpreted to limit the inherent authority of the Judge to enforce the standards of professional conduct by way of appropriate proceedings other than by referral to the Grievance Committee. The Judge who referred the matter to the Grievance Committee will not be assigned to preside over any resulting disciplinary proceeding.~~

~~5. Within thirty (30) days of service of the order to show cause issued pursuant to Local Rule 83.2(d)3 or a presentment issued pursuant to Local Rule 83.2(d)4, the attorney complained against shall file a written answer. Thereafter, a hearing on the issue shall be held before the assigned Judge. At the hearing, the attorney complained against shall have a right to be represented by counsel, shall have the right to confront and cross-examine witnesses, and shall have the right to offer the testimony of witnesses and other evidence on the attorney's behalf. Discipline shall not be imposed unless the Court finds, by clear and convincing evidence, that the attorney complained against should be disciplined. Unless requested to be a public~~

~~proceeding by the attorney complained against, all proceedings shall be in private and maintained under seal unless and until discipline is ordered. Absent the filing of an answer as provided above, a hearing shall be held on the limited question of appropriate discipline. The Grievance Committee shall make its recommendation to the Court within 180 days from the date the last brief permitted under this Rule would be due. If additional time is needed, Counsel to the Committee shall notify the Clerk and up to an additional 180 days shall be allowed.~~

~~6. The attorney complained against may choose to waive presentment and hearing and to agree upon a disposition with the Grievance Committee. In such event, the proposed, stipulated disposition shall be presented to the Court, with a motion seeking the Court's approval. Should the Court deny the motion, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken. If the recommendation of the Grievance Committee is to dismiss the complaint, the recommendation shall be filed with the Court. The Committee may make a dismissal recommendation conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances. The complainant shall have the opportunity to respond to the dismissal recommendation within thirty (30) days. The Judge to whom the complaint has been assigned may hold further hearings on the recommendation to dismiss or may dismiss the complaint on the written record presented by the Committee. If the Judge decides not to dismiss the complaint, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken.~~

~~7. Upon the imposition of discipline, other than a private reprimand, the Court file shall be unsealed and made a matter of public record. In that event, a notation shall be made on the attorney's admission record indicating the date and nature of the discipline imposed. If the Grievance Committee's recommendation is for discipline, the Committee shall file its recommendation in the form of a presentment, seeking an order to show cause why the attorney complained against should not have disciplinary action taken against him or her as prayed for in the presentment. The Committee may recommend discipline conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances.~~

~~8. Within thirty (30) days of service of the order to show cause issued pursuant to Local Rule 83.2(d)6 or a presentment issued pursuant to Local Rule 83.2(d)7, the attorney complained against shall file a written answer. Upon request of the attorney who is the subject of the complaint, a hearing may be held by the Judge to whom the matter has been assigned. If the attorney does not request a hearing, the Court may deem the hearing waived.~~

~~9. If a hearing is held, the attorney complained against shall have a right to be represented by counsel, shall have the right to confront and cross-examine witnesses, and shall have the right to offer the testimony of witnesses and other evidence on the attorney's behalf. Discipline shall not be imposed unless the Court finds, by clear and convincing evidence, that the attorney complained against should be disciplined. Unless requested to be a public proceeding by the attorney complained against, all proceedings shall be in private and maintained under seal unless and until discipline is ordered.~~

10. The attorney complained against may choose to waive presentment and hearing and to agree upon a disposition with the Grievance Committee. In such event, the proposed, stipulated disposition shall be presented to the Court, with a motion seeking the Court's approval. Should the Court deny the motion, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken.

7-11. Upon the imposition of discipline, other than a private censure, the Court file shall be unsealed and made a matter of public record. In that event, a notation shall be made on the attorney's admission record indicating the date and nature of the discipline imposed.

(e) Proceedings Upon Notice of Conviction of Crimes Attorneys Convicted of Crimes

1. The Grievance Committee shall be notified and take such appropriate action as is necessary to keep informed of convictions of "serious crimes," as defined in subparagraph 4, of attorneys admitted to practice before this Court and cause certified copies of such convictions to be filed with this Court. 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 where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file tax returns or currency transaction reports, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit, or the aiding and abetting the commission of any of the foregoing crimes.

2. Upon the filing with this Court of a certified copy of a judgment of conviction or proof of change of plea or jury verdict of guilty prior to sentencing, 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 or any foreign country, of a serious crime, the Court shall open a grievance case as set forth in subsection (c). ~~¶~~The Court shall enter an order immediately suspending that attorney from practice before this Court, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal. A copy of such order shall immediately be ~~served upon~~ sent to the attorney. Upon good cause shown, the Court may set aside such order when it is in the interest of justice to do so. An attorney suspended under the provisions of this subparagraph 2 shall be reinstated immediately upon filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but reinstatement will not terminate any disciplinary proceedings against the attorney brought pursuant to this Local Rule 83.2. The matter shall automatically be referred to the Grievance Committee for the institution of a presentment before this Court, in the manner specified in Local Rule 83.2(d)7, in which the sole issue to be determined shall be the extent of the final discipline to be imposed as the result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted shall not be brought to final hearing until all direct appeals from the conviction are concluded.

3. ~~Upon the filing of a certified copy of a judgment of conviction or proof of change of plea or jury verdict of guilty prior to sentencing, demonstrating that any attorney admitted to practice before the Court has been convicted of a serious crime, the matter shall automatically be referred to counsel for the Grievance Committee for the institution of a presentment before this Court, in the manner specified in Local Rule 83.2(d), in which the sole issue to be determined~~

~~shall be the extent of the final discipline to be imposed as the result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted shall not be brought to final hearing until all direct appeals from the conviction are concluded. 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 upon the conviction.~~

~~4. 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 where the judgment was entered, involves false swearing, misrepresentation, fraud, moral turpitude, willful failure to file tax returns or currency transaction reports, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit, or the aiding and abetting the commission of any of the foregoing crimes.~~

~~5. 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 upon the conviction.~~

(f) Proceedings Upon Notice of Discipline or Resignation in Other Courts

1. Any attorney disciplined by order of the Courts of Connecticut or any other state or federal Court or any attorney resigning from the bar of the State of Connecticut or any other state or federal Court while disciplinary proceedings are pending, shall ~~promptly inform~~ deliver a copy of the disciplinary order to the Clerk of this Court within fourteen (14) days of the entry of such action order. The Court may also receive notice from the courts in which the attorney has been disciplined or resigned.

2. Upon receiving information described in paragraph (f)1 above, the Clerk shall open a grievance case as set forth in subsection (c). eCounsel for the Grievance Committee shall institute a presentment, ~~in the manner specified in paragraph (d) of this Local Rule 83.2,~~ petitioning the Court to impose the identical discipline upon the attorney or to require the resignation of the attorney receiving such disciplinary action or so resigning, and seeking an order to show cause why the attorney should not have disciplinary action taken against him or her as prayed for in the presentment. ~~After hearing, the Court shall require the resignation of the attorney or shall impose the identical discipline against the attorney unless the Court finds that, on the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:~~

- ~~a. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or~~
- ~~b. that there was such an 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 discipline imposed; or~~
- ~~c. that the imposition of the same discipline by the Court would result in grave injustice; or~~
- ~~d. that the misconduct established is deemed by the Court to warrant substantially different discipline.~~

~~Where the Court determines that any such element exists, it shall enter such other order as it deems appropriate.~~

3. Upon good cause shown, the Court may set aside such order when it is in the interest of justice to do so. An attorney suspended under the provisions of subparagraph (f)2 shall be reinstated immediately upon filing a certificate demonstrating that the disciplinary action in the other jurisdiction has been reversed. Within thirty (30) days of service of the order to show cause issued or a presentment issued the attorney shall file a written answer.

4. If proof of service is confirmed and no answer is filed, the Grievance Committee shall file a motion for default and imposition of reciprocal discipline.

5. If the attorney's answer contests the imposition of reciprocal discipline, a hearing may be held before the presiding judge. If an attorney fails to request a hearing in the answer, the Court may deem the hearing waived.

6. After the hearing, the Court shall require the resignation of the attorney or shall impose the identical discipline against the attorney unless the Court finds that, on the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

- a. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- b. that there was such an 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 discipline imposed; or
- c. that the imposition of the same discipline by the Court would result in grave injustice; or
- d. that the misconduct established is deemed by the Court to warrant substantially different discipline.

Where the Court determines that any such element exists, it shall enter such other order as it deems appropriate.

3-7. Upon good cause shown, the Court may set aside an order issued under Rule 83.2(f) when it is in the interest of justice to do so. An attorney suspended under the provisions of subparagraph (f)2 shall be reinstated immediately upon filing (1) an affidavit with the Court demonstrating that the disciplinary action in the other jurisdiction has been reversed and (2) a certificate of good standing showing the attorney is a member in good standing in the other jurisdiction.

(g) Proceedings Following Finding of Mental Disability or Incapacity

1. In the event an attorney is by a Court of competent jurisdiction (1) declared to be incompetent to manage the attorney's affairs, or (2) committed involuntarily to a mental hospital for drug dependency, mental illness, or the addictive or excessive use of alcohol, this Court will open a grievance case as set forth in subsection (c) and the matter shall be referred to the Grievance Committee, shall issue an order to show cause, requiring the attorney to show cause why the attorney should not be suspended immediately from practicing law in this Court. The matter shall be referred to the Grievance Committee, which shall arrange for a copy of such order to be served, in such manner as the Court shall direct, upon such attorney, the attorney's

conservator if any, and the director of any institution in which the attorney may reside. If, after hearing, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.

2. ~~Whenever the Grievance Committee shall have reason to believe that an attorney is incapacitated from practicing in this Court by reason of mental infirmity or illness or because of drug dependency or addiction to alcohol, it shall file a presentment in accordance with paragraph (d) of this Local Rule 83.2. Whenever a Judge of this Court has reason to believe that an attorney is similarly incapacitated or otherwise impaired, the Judge may refer the matter to the Grievance Committee for the formulation of such recommendation as may be appropriate, including the initiation of a presentment or such other orders as it deems appropriate. The Grievance Committee may take or direct such action as it deems necessary or proper in order to determine whether such attorney is incapacitated or otherwise impaired, including examination of the attorney by such qualified medical expert or experts as the Grievance Committee shall designate. If, after hearing, the Court concludes that the attorney is incapacitated or otherwise impaired from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.~~ The Court shall issue an order to show cause, requiring the attorney to show cause why the attorney should not be suspended immediately from practicing law in this Court, and may set a hearing date. The Court shall arrange for a copy of such order to be forwarded to such attorney, the attorney's conservator if any, and the director of any institution in which the attorney may reside. If, after a hearing is held, or with the consent of the parties by stipulation, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.

3. Whenever the Grievance Committee shall have reason to believe that an attorney is incapacitated from practicing in this Court by reason of mental infirmity or illness or because of drug dependency or addiction to alcohol, it shall file a presentment in accordance with paragraph (f)2 of this Local Rule 83.2. Whenever a Judge of this Court has reason to believe that an attorney is similarly incapacitated or otherwise impaired, the Judge may refer the matter to the Grievance Committee for the formulation of such recommendation as may be appropriate, including the initiation of a presentment or such other orders as it deems appropriate. The Grievance Committee may take or direct such action as it deems necessary or proper in order to determine whether such attorney is incapacitated or otherwise impaired, including examination of the attorney by such qualified medical expert or experts as the Grievance Committee shall designate. If the Court concludes that the attorney is incapacitated or otherwise impaired from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.

3. In the event there are disciplinary proceedings pending against an attorney who is suspended under this rule, those proceedings shall be held in abeyance for as long as the suspension under this rule remains in effect.

(h) Resignation in the District of Connecticut

Any attorney may resign from the bar of this Court by submitting a resignation, in writing, properly witnessed and acknowledged to be the attorney's free act and deed, to the Clerk of this Court, which shall be effective upon filing. However, such resignation shall not affect any pending disciplinary proceedings pursuant to this Local Rule 83.2, unless the attorney's resignation certifies that the attorney waives the privilege of applying for readmission to the bar at any future time, in which case disciplinary proceedings shall be terminated.

(i) Reinstatement

1. An attorney suspended for a fixed period of time shall be automatically reinstated at the end of the period of suspension upon filing (1) an affidavit with the Court demonstrating compliance with the provisions of the suspension order and (2) a certificate of good standing showing the attorney is now a member in good standing in the Superior Court for the State of Connecticut or ~~other state court~~ another court.

2. Petitions for reinstatement by a disbarred or suspended attorney whose period of suspension has not expired shall be filed with the Clerk. Where practicable, such petition shall be assigned to the Judge to whom the original grievance proceeding was assigned. Otherwise, it shall be randomly assigned to another Judge of the District. The petition shall automatically be referred to counsel for the Grievance Committee, who shall give public notice ~~by publication in a newspaper of general circulation in the town where the attorney has or most recently had a principal office, and by publication~~ on the District Court website, allowing thirty (30) days for comment. Counsel shall provide notice to the complainant that a petition for reinstatement has been filed.

3. After the close of the public comment period, the Grievance Committee ~~shall promptly~~ may schedule a hearing for the purpose of determining whether or not the petitioner should be reinstated. The Grievance Committee shall make a recommendation to the Court, within thirty (30) days of completing its independent investigation, as to the fitness of the petitioner to be reinstated.

4. Within thirty (30) days of receiving the Committee's recommendation, the petitioner may file a reply requesting a hearing. If the petitioner fails to request a hearing within thirty (30) days of the Committee's recommendation, the Court may deem the hearing waived. ~~the Judge assigned to the matter shall schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.~~

5. ~~In all proceedings upon a petition for reinstatement, counsel for the Grievance Committee may conduct cross-examination of the witnesses of the petitioner attorney and may file objections to the petition. If a hearing is held, the petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and~~

that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.

~~6. If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner is found fit to resume the practice of law, the judge shall reinstate the petitioner, provided that the judge may make reinstatement conditional upon (1) the payment of all or part of the costs of the proceedings, (2) the making of partial or complete restitution to parties harmed by the conduct of the petitioner which led to the suspension or disbarment, (3) the furnishing of proof of competency and learning in the law or one or more areas of the law or of law practice management, (4) the petitioner's taking and passing the Multistate Professional Responsibility Examination and/or (5) 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. In all proceedings upon a petition for reinstatement, counsel for the Grievance Committee may conduct cross-examination of the witnesses of the petitioner attorney and may file objections to the petition. The petitioning attorney may conduct cross-examination of witnesses for the Grievance Committee and may file a reply to any objection filed by counsel for the Grievance Committee.~~

~~7. Absent exceptional circumstances, no petition for reinstatement under this paragraph shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person. If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner is found fit to resume the practice of law, the judge shall reinstate the petitioner, provided that the judge may make reinstatement conditional upon (1) the payment of all or part of the costs of the proceedings, (2) the making of partial or complete restitution to parties harmed by the conduct of the petitioner which led to the suspension or disbarment, (3) the furnishing of proof of competency and learning in the law or one or more areas of the law or of law practice management, (4) the petitioner's taking and passing the Multistate Professional Responsibility Examination and/or (5) 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.~~

~~7.8. Absent exceptional circumstances, no petition for reinstatement under this paragraph shall be filed within one year following an adverse judgement upon a prior petition for reinstatement filed by or on behalf of the same person.~~

RULE 83.2

DISCIPLINE OF ATTORNEYS

(Amended _____, 2024)

....

(b) Grievance Committee

1. The Judges of this Court shall appoint a Grievance Committee of the United States District Court for the District of Connecticut consisting of twelve (12) members of the bar of this Court. One member shall be appointed by the judges as the chairperson of the committee for a term of three years.

2. Members shall be appointed for a term of three (3) years, renewable once, for an additional term of three (3) years. If a member is appointed chairperson during the second term of three years, that member may serve the full three-year term of chairperson, even if his or her total tenure on the committee would thereby exceed six years. In the event that a vacancy arises before the end of a term, a member of the bar of this Court shall be appointed by the Judges of this Court to fill the vacancy for the balance of the term. Anyone filling such a vacancy is eligible for reappointment to a full three-year term. Five (5) members of the Grievance Committee shall constitute a quorum and any action taken by the Grievance Committee shall be by a majority vote of those members present and voting.

3. The judges shall appoint three (3) members of the bar of this Court to serve as Counsel to the Grievance Committee. Assignment of cases to each counsel shall be made on the basis of the assigned seat of court, according to administrative procedures approved by the Clerk.

4. The Grievance Committee and Counsel to the Grievance Committee shall have the use of the staff of the Clerk, grievance clerks, for clerical and record-keeping assistance, shall have the power to issue subpoenas to compel witnesses to testify and produce documents at proceedings, and may incur such expenses as shall be approved by the Chief Judge of this Court. Compulsory process shall be available to the attorney who is the subject of the complaint.

(c) General Procedures

1. Grievance cases are opened upon a) the filing of a verified complaint against an attorney alleging misconduct relating to any matter relevant to an attorney's qualifications to practice before the court; b) judicial referral to the Grievance Committee upon an allegation of possible misconduct relating to any matter relevant to an attorney's qualification to practice before the court; c) notice of a guilty plea or conviction of a serious crime; d) notice of discipline or resignation in other courts; or e) notice of a finding of mental disability or incapacity.

2. The Clerk shall assign a docket number to the grievance cases consisting of the initials "GP," the last two digits of the year of filing, the number of the case (with the first case of each

year being designated as number 1), and the initials of the Judge to whom the case has been assigned.

3. Each grievance case shall be assigned to a Judge on a random District-wide basis. Any complaint which arises out of conduct witnessed by a particular Judge of this Court shall not be assigned to that Judge. The personnel of the clerk's office shall not reveal to any person other than a Judge or the Clerk of this Court the order of assignment of such cases.

4. Grievance cases shall be considered sealed and shall not be a record open to the public unless and until public discipline is ordered. Assigned counsel for the Grievance Committee will be allowed electronic access to the sealed case and be permitted to efile documents. Other members of the Grievance Committee will be allowed electronic access to sealed grievance cases, but are not permitted to efile documents. Counsel for the attorney who is the subject of the grievance or such attorney, if he or she is proceeding as a self-represented party, will be allowed electronic access to the sealed case and be permitted to efile documents.

(d) Proceedings Upon Complaint or Judicial Referral

1. Any person may file with the Clerk of the Court a written verified complaint alleging attorney misconduct relating to any matter relevant to an attorney's qualification to practice before the court. The Clerk shall forward a copy of the complaint to the Grievance Committee and counsel assigned to the matter.

2. Within thirty (30) days of the matter being opened, the attorney shall file a written response to the complaint. The complainant may reply to the attorney's response within twenty (20) days after the response is filed.

3. After the briefing deadlines have passed, the Grievance Committee shall review the complaint and determine if the matter warrants further action. The Grievance Committee, upon appropriate notice, may conduct hearings as it deems appropriate under rules for fair procedure. Such hearings shall be private unless the attorney complained against requests a public proceeding. The Grievance Committee shall decide whether to recommend that the complaint be dismissed or that the attorney complained against be disciplined (1) by private or public censure, (2) by suspension from the practice of law for a fixed period of time, (3) by indefinite suspension, (4) by disbarment, or (5) by any other appropriate remedial measure.

4. When any misconduct or allegation of misconduct which would warrant discipline of any attorney admitted to practice before this Court comes to the attention of any Judge of this Court, the Judge may refer the matter to the Grievance Committee for the initiation of a presentment or the formulation of such other recommendation as may be appropriate. The Grievance Committee may request that the Court order the attorney to respond to the referral. Nothing in this Rule 83.2 shall be interpreted to limit the inherent authority of the Judge to enforce the standards of professional conduct by way of appropriate proceedings other than by referral to the Grievance Committee. The Judge who referred the matter to the Grievance Committee will not be assigned to preside over any resulting disciplinary proceeding.

5. The Grievance Committee shall make its recommendation to the Court within 180 days from the date the last brief permitted under this Rule would be due. If additional time is needed,

Counsel to the Committee shall notify the Clerk and up to an additional 180 days shall be allowed.

6. If the recommendation of the Grievance Committee is to dismiss the complaint, the recommendation shall be filed with the Court. The Committee may make a dismissal recommendation conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances. The complainant shall have the opportunity to respond to the dismissal recommendation within thirty (30) days. The Judge to whom the complaint has been assigned may hold further hearings on the recommendation to dismiss or may dismiss the complaint on the written record presented by the Committee. If the Judge decides not to dismiss the complaint, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken.

7. If the Grievance Committee's recommendation is for discipline, the Committee shall file its recommendation in the form of a presentment, seeking an order to show cause why the attorney complained against should not have disciplinary action taken against him or her as prayed for in the presentment. The Committee may recommend discipline conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances.

8. Within thirty (30) days of service of the order to show cause issued pursuant to Local Rule 83.2(d)6 or a presentment issued pursuant to Local Rule 83.2(d)7, the attorney complained against shall file a written answer. Upon request of the attorney who is the subject of the complaint, a hearing may be held by the Judge to whom the matter has been assigned. If the attorney does not request a hearing, the Court may deem the hearing waived.

9. If a hearing is held, the attorney complained against shall have a right to be represented by counsel, shall have the right to confront and cross-examine witnesses, and shall have the right to offer the testimony of witnesses and other evidence on the attorney's behalf. Discipline shall not be imposed unless the Court finds, by clear and convincing evidence, that the attorney complained against should be disciplined. Unless requested to be a public proceeding by the attorney complained against, all proceedings shall be in private and maintained under seal unless and until discipline is ordered.

10. The attorney complained against may choose to waive presentment and hearing and to agree upon a disposition with the Grievance Committee. In such event, the proposed, stipulated disposition shall be presented to the Court, with a motion seeking the Court's approval. Should the Court deny the motion, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken.

11. Upon the imposition of discipline, other than a private censure, the Court file shall be unsealed and made a matter of public record. In that event, a notation shall be made on the attorney's admission record indicating the date and nature of the discipline imposed.

(e) Proceedings Upon Notice of Conviction of Crimes

1. The Grievance Committee shall be notified and take appropriate action of convictions of “serious crimes” of attorneys admitted to practice before this Court and cause certified copies of such convictions to be filed with this Court. 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 where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file tax returns or currency transaction reports, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit, or the aiding and abetting the commission of any of the foregoing crimes.

2. Upon the filing with this Court of a certified copy of a judgment of conviction or proof of change of plea or jury verdict of guilty prior to sentencing, 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 or any foreign country, of a serious crime, the Court shall open a grievance case as set forth in subsection (c). The Court shall enter an order immediately suspending that attorney from practice before this Court, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal. A copy of such order shall immediately be sent to the attorney. Upon good cause shown, the Court may set aside such order when it is in the interest of justice to do so. An attorney suspended under the provisions of this subparagraph 2 shall be reinstated immediately upon filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but reinstatement will not terminate any disciplinary proceedings against the attorney brought pursuant to this Local Rule 83.2. The matter shall automatically be referred to the Grievance Committee for the institution of a presentment before this Court, in the manner specified in Local Rule 83.2(d)7, in which the sole issue to be determined shall be the extent of the final discipline to be imposed as the result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted shall not be brought to final hearing until all direct appeals from the conviction are concluded.

3. 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 upon the conviction.

(f) Proceedings Upon Notice of Discipline or Resignation in Other Courts

1. Any attorney disciplined by order of the Courts of Connecticut or any other state or federal Court or any attorney resigning from the bar of the State of Connecticut or any other state or federal Court while disciplinary proceedings are pending, shall deliver a copy of the disciplinary order to the Clerk of this Court within fourteen (14) days of the entry of such order. The Court may also receive notice from the courts in which the attorney has been disciplined or resigned.

2. Upon receiving information described in paragraph (f)1 above, the Clerk shall open a grievance case as set forth in subsection (c). Counsel for the Grievance Committee shall institute a presentment petitioning the Court to impose the identical discipline upon the attorney

or to require the resignation of the attorney receiving such disciplinary action or so resigning, and seeking an order to show cause why the attorney should not have disciplinary action taken against him or her as prayed for in the presentment.

3. Within thirty (30) days of service of the order to show cause issued or a presentment issued the attorney shall file a written answer.

4. If proof of service is confirmed and no answer is filed, the Grievance Committee shall file a motion for default and imposition of reciprocal discipline.

5. If the attorney's answer contests the imposition of reciprocal discipline, a hearing may be held before the presiding judge. If an attorney fails to request a hearing in the answer, the Court may deem the hearing waived.

6. After the hearing, the Court shall require the resignation of the attorney or shall impose the identical discipline against the attorney unless the Court finds that, on the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

- a. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- b. that there was such an 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 discipline imposed; or
- c. that the imposition of the same discipline by the Court would result in grave injustice; or
- d. that the misconduct established is deemed by the Court to warrant substantially different discipline.

Where the Court determines that any such element exists, it shall enter such other order as it deems appropriate.

7. Upon good cause shown, the Court may set aside an order issued under Rule 83.2(f) when it is in the interest of justice to do so. An attorney suspended under the provisions of subparagraph (f)2 shall be reinstated immediately upon filing (1) an affidavit with the Court demonstrating that the disciplinary action in the other jurisdiction has been reversed and (2) a certificate of good standing showing the attorney is a member in good standing in the other jurisdiction.

(g) Proceedings Following Finding of Mental Disability or Incapacity

1. In the event an attorney is by a Court of competent jurisdiction (1) declared to be incompetent to manage the attorney's affairs, or (2) committed involuntarily to a mental hospital for drug dependency, mental illness, or the addictive or excessive use of alcohol, this Court will open a grievance case as set forth in subsection (c) and the matter shall be referred to the Grievance Committee.

2. The Court shall issue an order to show cause, requiring the attorney to show cause why the attorney should not be suspended immediately from practicing law in this Court, and may set a hearing date. The Court shall arrange for a copy of such order to be forwarded to such attorney, the attorney's conservator if any, and the director of any institution in which the attorney may reside. If, after a hearing is held, or with the consent of the parties by stipulation, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.

3. Whenever the Grievance Committee shall have reason to believe that an attorney is incapacitated from practicing in this Court by reason of mental infirmity or illness or because of drug dependency or addiction to alcohol, it shall file a presentment in accordance with paragraph (f)2 of this Local Rule 83.2. Whenever a Judge of this Court has reason to believe that an attorney is similarly incapacitated or otherwise impaired, the Judge may refer the matter to the Grievance Committee for the formulation of such recommendation as may be appropriate, including the initiation of a presentment or such other orders as it deems appropriate. The Grievance Committee may take or direct such action as it deems necessary or proper in order to determine whether such attorney is incapacitated or otherwise impaired, including examination of the attorney by such qualified medical expert or experts as the Grievance Committee shall designate. If the Court concludes that the attorney is incapacitated or otherwise impaired from continuing to practice law, it shall enter an order suspending the attorney on the ground of such disability until further order of the Court.

In the event there are disciplinary proceedings pending against an attorney who is suspended under this rule, those proceedings shall be held in abeyance for as long as the suspension under this rule remains in effect.

(h) Resignation in the District of Connecticut

Any attorney may resign from the bar of this Court by submitting a resignation, in writing, properly witnessed and acknowledged to be the attorney's free act and deed, to the Clerk of this Court, which shall be effective upon filing. However, such resignation shall not affect any pending disciplinary proceedings pursuant to this Local Rule 83.2, unless the attorney's resignation certifies that the attorney waives the privilege of applying for readmission to the bar at any future time, in which case disciplinary proceedings shall be terminated.

(i) Reinstatement

1. An attorney suspended for a fixed period of time shall be automatically reinstated at the end of the period of suspension upon filing (1) an affidavit with the Court demonstrating compliance with the provisions of the suspension order and (2) a certificate of good standing showing the attorney is now a member in good standing in the Superior Court for the State of Connecticut or another court.

2. Petitions for reinstatement by a disbarred or suspended attorney whose period of suspension has not expired shall be filed with the Clerk. Where practicable, such petition shall be assigned to the Judge to whom the original grievance proceeding was assigned. Otherwise, it shall be randomly assigned to another Judge of the District. The petition shall automatically be referred to counsel for the Grievance Committee, who shall give public notice on the District

Court website, allowing thirty (30) days for comment. Counsel shall provide notice to the complainant that a petition for reinstatement has been filed.

3. After the close of the public comment period, the Grievance Committee may schedule a hearing for the purpose of determining whether or not the petitioner should be reinstated. The Grievance Committee shall make a recommendation to the Court, within thirty (30) days of completing its independent investigation, as to the fitness of the petitioner to be reinstated.

4. Within thirty (30) days of receiving the Committee's recommendation, the petitioner may file a reply requesting a hearing. If the petitioner fails to request a hearing within thirty (30) days of the Committee's recommendation, the Court may deem the hearing waived.

5. If a hearing is held, the petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.

6. In all proceedings upon a petition for reinstatement, counsel for the Grievance Committee may conduct cross-examination of the witnesses of the petitioner attorney and may file objections to the petition. The petitioning attorney may conduct cross-examination of witnesses for the Grievance Committee and may file a reply to any objection filed by counsel for the Grievance Committee.

7. If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner is found fit to resume the practice of law, the judge shall reinstate the petitioner, provided that the judge may make reinstatement conditional upon (1) the payment of all or part of the costs of the proceedings, (2) the making of partial or complete restitution to parties harmed by the conduct of the petitioner which led to the suspension or disbarment, (3) the furnishing of proof of competency and learning in the law or one or more areas of the law or of law practice management, (4) the petitioner's taking and passing the Multistate Professional Responsibility Examination and/or (5) 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.

8. Absent exceptional circumstances, no petition for reinstatement under this paragraph shall be filed within one year following an adverse judgement upon a prior petition for reinstatement filed by or on behalf of the same person.

RULE 83.11

PHOTOGRAPHS, RECORDINGS, AND BROADCASTS

(Amended ~~July 14, 2023~~ _____, 2024)

The taking of photographs or video, the operation of electronic recording equipment by any means, and the broadcasting by any means on any floor of any building on which proceedings of this Court may be held or on which the Clerk's Office is located, are prohibited, except by of a court proceeding by any person other than the official court reporter or court-operated recording system. ~~is strictly prohibited. The taking of photographs or video of security checkpoints at entrances to this Court is also prohibited.~~ For purposes of this rule: (a) "recording" includes, but is not limited to, making a video or audio record, and using software that converts speech to text, but does not include taking notes by hand or by manual typing on an electronic device; and (b) "broadcasting" includes, but is not limited to, the use of videoconferencing software (e.g., FaceTime, Zoom, Teams, or Google Meet) that allows persons not present in the courtroom to hear or see the proceedings, and the transmission by internet, radio, television, or telephone signal of the proceedings. ~~This rule applies to proceedings in or from the courtroom during the progress of or in the connection with judicial proceedings, including proceedings before the Grand Jury, whether or not the Court is actually in session.~~

~~—The restrictions set forth in this rule may be relaxed for ceremonial occasions or otherwise with the express permission of the presiding Judge. The presiding judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, (2) the broadcasting, televising, recording, or photographing of investiture, naturalization, or other ceremonial proceedings, and (3) the creation of a video or audio record of educational programs. The above activities are also permissible in a judge's chambers at the discretion of the judge and in Clerk's Office space at the discretion of the Clerk of Court. In addition, the Chief Judge may allow exceptions to this Rule for good cause and with notice to the judges of the Court.~~

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