

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 658

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OCT 3 1990

Office of Administrative Director  
Alaska Court System

Amendments and Additions to  
Alaska Bar Rules, Part II,  
Relating to the Rules of  
Disciplinary Enforcement,  
Including Changes to Rules 9,  
11, 15, 16, 17, 22, 25, and  
31.

IT IS ORDERED:

1. Bar Rule 9(a) is amended to read as follows:

(a) License. The license to practice law in Alaska is a continuing proclamation by the supreme court of the State of Alaska (hereinafter the "Court") that the holder is fit to be entrusted with professional and judicial matters and to aid in the administration of justice as an attorney and counselor, and to act as an officer of the courts. As a condition of the privilege to practice law, it is the duty of every member of the Bar of this State to act at all times in conformity with the standards imposed upon members of the Alaska Bar Association (hereinafter the "Bar"). These standards include, but are not limited to, the Code of Professional Responsibility and the Code of Judicial Conduct that have been or may hereafter be adopted or recognized by the Court, and Ethics Opinions that have been or may hereafter be adopted by the Board of Governors of the Bar.

2. Bar Rule 11(a)(3) is amended to read as follows:

(3) with the approval of the Board, retain and supervise investigators;

3. Bar Rule 11(c) is amended to read as follows:

(c) Dismissal of Grievance. Any grievance dismissed by Discipline Counsel will be the subject of a summary prepared by Discipline Counsel and filed with the Board. The names of the parties involved will not be provided in the summary. Discipline Counsel will communicate disposition of the matter promptly to the Complainant and Respondent.

4. Bar Rule 15 is amended in pertinent part to read as follows:

In addition to those standards of conduct prescribed by the Alaska Code of Professional Responsibility, Ethics Opinions adopted by the Board of Governors of the Bar, and the Code of Judicial Conduct, the following acts or omissions by a member of the Alaska Bar Association, or by any attorney who appears, participates, or otherwise engages in the practice of law in this State, individually or in concert with any other person or persons, will constitute misconduct and will be grounds for discipline

whether or not the act or omission occurred in the course of an attorney-client relationship:

5. Bar Rule 16 is amended by adding a new section to read as follows:

(d) Conditions. Written conditions may be attached to a private or public reprimand or to a private admonition. Failure to comply with such conditions will be grounds for reconsideration of the matter by the Board or Discipline Counsel.

6. Bar Rule 17 is amended to read as follows:

(a) General Immunity. Members of the Board, members of Area Divisions, Discipline Counsel, Special Discipline Counsel, the Executive Director, Trustee Counsel, Conciliators, and all Bar staff are immune from suit for conduct in the course and scope of their official duties as set forth in these Rules.

7. Bar Rule 22 is amended in pertinent part to read as follows:

(b) Confidentiality. Prior to the initiation of formal proceedings, Complainants and all persons contacted during the course of an investigation have a duty to maintain the confidentiality of discipline and disability proceedings. It will be regarded as contempt of court to breach this confidentiality in any way. It will not be regarded as a breach of confidentiality for a person so contacted to consult with an attorney. A Respondent may waive confidentiality in writing and request disclosure of any information pertaining to him to any person or to the public.

(g) Pre-Hearing Conference. A pre-hearing conference may be convened by the Chair of the Hearing Committee or the Director for stipulation as to matters of fact, simplification of issues, scheduling of pre-hearing motions, the establishment of a date for the formal hearing, and other similar matters which may be resolved prior to hearing.

(r) Review by Supreme Court. The Court will review findings of fact, conclusions of law, and recommendations of discipline made by the Board pursuant to Section (n) of this Rule. The Court will decide the grounds for discipline, pursuant to Rule 15; the type of discipline to be imposed, pursuant to Rule 16(a); and any requirements to be imposed, pursuant to Rule 16(c). When no appeal has been taken pursuant to Section (p) of this Rule, and if the Court determines that discipline different than that recommended by the Board may be warranted, the Court will so notify the parties and give them an opportunity to be heard.

8. Bar Rule 25 is amended to read as follows:

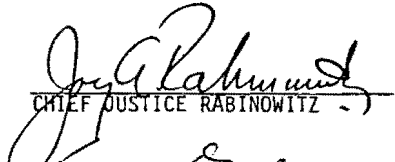
(c) Appeal by Complainant from Discipline Counsel's Decision to Dismiss. A complainant may appeal the decision of the Discipline Counsel to dismiss a complaint within 15 days of receipt of notice of the dismissal. The Director will appoint a member of an Area Division of the appropriate area of jurisdiction to review the Complainant's appeal. The appointed Area Division member may reverse the decision of Discipline Counsel, affirm the decision, or request additional investigation. This Division member will be disqualified from future consideration of the matter should formal proceedings be initiated.

9. Bar Rule 31 is amended by adding a new section to read as follows:

(i) Discharge of Trustee; Destruction of Files. After completion of his or her duties under this Rule, the trustee counsel will submit a final report to the Court. The Court will approve the trustee's fees and expenses and will discharge the trustee. The trustee counsel will deliver to the Bar any files belonging to clients who cannot be located. The Bar will store the files for three years, after which time the Bar may exercise its discretion in maintaining or destroying the files.


EFFECTIVE DATE: MARCH 15, 1986


DATED: OCTOBER 25, 1985

  
CHIEF JUSTICE RABINOWITZ

  
JUSTICE WARREN MATTHEWS

  
JUSTICE EDMOND BURKE

  
JUSTICE ALLEN COMPTON

  
JUSTICE DANIEL MOORE