

United States Court of Appeals  
for the Third Circuit

RULES OF ATTORNEY DISCIPLINARY ENFORCEMENT

Effective July 1, 2015

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**RULES OF ATTORNEY  
DISCIPLINARY ENFORCEMENT**

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

**RULE 1. DEFINITIONS**

1. "The Court" means the United States Court of Appeals for the Third Circuit.
2. "Another Court" means any court of the United States, the District of Columbia, or any state, territory, or commonwealth of the United States.
3. "Serious Crime" includes all felonies as well as any lesser crime involving false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit such a lesser crime.
4. "Standing Committee" means this Court's Standing Committee on Attorney Discipline.
5. "Reciprocal Discipline" means discipline imposed as a result of another court's suspension or disbarment of an attorney.

**RULE 2. GROUNDS FOR DISCIPLINE**

1. A member of the bar of this Court may be disciplined by this Court as a result of the following misconduct:
  - (a) conviction in another court of a serious crime;
  - (b) discipline, including disbarment or suspension, by another court, whether or not with the attorney's consent, or the resignation from the bar of another court while an investigation into allegations of misconduct is pending;
  - (c) conduct with respect to this Court which violates the Federal Rules of Appellate Procedure, the Rules or Internal Operating Procedures of this Court, or orders or other instructions of the Court;

(d) conduct that violates the Rules of conduct of any court of the United States, the District of Columbia, or any state, territory, or commonwealth of the United States to which the respondent is subject; or

(e) any other conduct unbecoming a member of the bar of this Court.

2. Administrative suspension or its equivalent by another court, including, but not limited to, suspension for failure to pay annual fees or to complete continuing legal education requirements, is not grounds for disciplinary action or similar administrative action in this Court, but may be grounds for marking an attorney inactive on the rolls of this Court.

**RULE 3. DISCIPLINARY SANCTIONS; ASSESSMENTS UNDER 28 U.S.C. § 1927 AND FED. R. APP. P. 38**

1. Discipline may consist of disbarment, suspension from practice before this Court, monetary sanction, removal from the roster of attorneys eligible for appointment as Court-appointed counsel, reprimand, or any other sanction that the Court or a panel thereof may deem appropriate.
2. Disbarment is the presumed discipline for conviction of a serious crime. Disbarment is also the presumed discipline when an attorney has resigned from the bar of another court while an investigation into allegations of misconduct is pending.
3. Except as provided in Rule 2.2, the identical discipline imposed by another court is presumed appropriate for discipline imposed by this Court as a result of that other court's suspension or disbarment of an attorney.
4. A monetary sanction imposed on disciplinary grounds is the personal responsibility of the attorney disciplined, and may not be reimbursed by a client directly or indirectly. Notice to that effect will be sent to the client by the Clerk whenever a monetary sanction is imposed.
5. Assessments of damages, costs, expenses, or attorneys' fees under 28 U.S.C. § 1927 or Fed. R. App. P. 38 are not disciplinary sanctions within the meaning of these Rules such that proceedings with respect thereto are not governed by these Rules unless the panel gives notice under Rule 4.

**RULE 4. DISCIPLINE WHICH MAY BE IMPOSED BY A PANEL OF THE COURT AND BY THE STANDING COMMITTEE ON ATTORNEY DISCIPLINE**

1. A motions, merits or other panel of the Court may impose any sanction other than suspension or disbarment. Before imposing any disciplinary sanction, a panel will notify the attorney of the alleged conduct which may justify the imposition of discipline and afford the attorney an opportunity to be heard, in writing or in person at the option of the panel. If an attorney who has been afforded an opportunity to be heard in writing files within 10 days of the date of the notice that a panel is considering disciplinary action an application requesting to appear before the panel in person, the panel will schedule a hearing. For good cause shown, the Chair of the Committee or the Clerk may on written application made within eight days of the notice extend the time to answer.
2. Any matter of attorney discipline in which suspension or disbarment may be considered as an appropriate sanction will be referred to the Court's Standing Committee or, in the case of an uncontested matter, to its Chair. The matter then proceeds under Rules 6 to 12.
3. The Standing Committee consists of three circuit judges, at least two of whom are active judges, who are appointed by the Chief Judge for three-year, staggered terms. If at the end of a three-year staggered term there has been no reappointment of a member of the Standing Committee or no appointment of a successor, the term of the member will continue until the Chief Judge reappoints the member or appoints a successor. If a reappointment or appointment is made after the prior three-year term would have expired without the extension that this Rule provides, the period of the term of the reappointed member or the successor will be for three years commencing at the end of the prior three-year term without the extension of the member being reappointed or being replaced on the Standing Committee, as the case may be. The Chief Judge will designate one of the three to serve as Chair. If any member of the Standing Committee is unable to hear a particular matter, the Chief Judge will designate another circuit judge as a member of the committee to hear that matter provided, however, that not less than two active judges will hear a particular matter.

**RULE 5. RESPONSIBILITY OF ATTORNEY TO NOTIFY COURT OF CONVICTION OR DISCIPLINE IMPOSED BY ANOTHER COURT**

1. A member of the bar of this Court must notify the Clerk within 10 days if he or she is convicted of a serious crime, if he or she is disbarred or suspended by another court, or if he or she resigns or is disbarred by consent from the bar of another court while an investigation into allegations of misconduct is pending. Administrative suspensions described in Rule 2.2 need not be reported.
2. The Clerk will refer to the Standing Committee all information received by him or her concerning disbarments, suspensions, resignations during the pendency of misconduct investigations, and other conduct sufficient to cast doubt upon the continuing qualification of a member of the bar of this Court to practice before it.

**RULE 6. INITIATION OF DISCIPLINARY PROCEEDINGS**

1. Reciprocal Discipline. When an active member of the bar of this Court is suspended or disbarred by another court for misconduct, or has resigned from the bar of another court during the pendency of a misconduct investigation, the Clerk of this Court will issue an order for the attorney to show cause why this Court should not impose upon the attorney an order disbarring or suspending the attorney, as the case may be, subject to terms or conditions comparable to those set forth by the other court. This provision requiring the Clerk to issue an order to show cause, however, does not apply in circumstances in which this Court already has initiated disciplinary proceedings against the attorney for the same conduct underlying the suspension, disbarment, or resignation in the other court either as an original disciplinary proceeding in this Court or as a reciprocal proceeding to a proceeding in another court.
2. Original Discipline.
  - (a) Upon receipt of a certified copy of a judgment or other court record demonstrating that a member, whether active or inactive, of the bar of this Court has been convicted of a serious crime, unless a proceeding has been instituted as provided in Rule 6.1, the Clerk will issue an order to show cause why the Court should not impose upon the attorney the presumed discipline described in Rule 3.2.
  - (b) When the Standing Committee determines that cause may exist for the suspension or disbarment of an attorney pursuant to Rule 2, one of its

members or the Clerk will issue an order to show cause why such discipline should not be imposed by this Court.

3. When a disciplinary proceeding is already pending in this Court, upon notification of a separate basis for discipline, the Clerk of this Court rather than issuing an order to show cause will refer the matter to the Standing Committee for it to take such action, if any, as it deems appropriate, including the initiation of another disciplinary proceeding in this Court by a direction to the Clerk to issue an order to the attorney to show cause why this Court should not impose discipline on the attorney.
4. The Clerk will send an order to show cause issued pursuant to this Rule by email and certified mail or the equivalent to the attorney's address on file with the Clerk's Office. In reciprocal discipline cases, the Clerk will include a copy of the order of the other court on which the order to show cause is based. The mailing of an order to the attorney's address on file is deemed proper service.
5. An order to show cause issued pursuant to this Rule will require the attorney to respond within 30 days. The Clerk, however, may shorten the response period if the Clerk deems it advisable to do so by reason of the urgency of the disposition of the matter involving the attorney or if the Standing Committee or its Chair directs the Clerk to do so. The Chair of the Committee or the Clerk may for good cause shown grant a written request for an extension of time received within 25 days of the date of the show cause order.
6. An order to show cause issued pursuant to this Rule will provide that the attorney, upon receipt of the order, must serve forthwith by mail or otherwise a copy of the order to show cause and a copy of the order of the other court on which it is based to any litigant for whom the attorney has entered an appearance in any matter pending in this Court. If an attorney later enters an appearance in this Court on behalf of a litigant during the pendency of a disciplinary action, the attorney must provide a copy of the order to show cause to the litigant.
7. Once an order to show cause has been issued pursuant to paragraph (1), (2) or (3) of this Rule, the Standing Committee may decline to accept a resignation, or a request to assume inactive status, from the lawyer and continue the proceeding in accordance with these Rules.

**RULE 7. SUSPENSION DURING PENDENCY OF A DISCIPLINARY PROCEEDING**

1. Upon receiving a certified copy of a judgment of conviction of a member, whether active or inactive, of the bar of this Court of a serious crime or upon receiving a notice from such an attorney that he or she has been convicted of such a crime, the Standing Committee may summarily issue an order suspending the attorney's privilege to practice before this Court pending the determination of appropriate discipline.
2. If an attorney fails to comply with Rule 6.6's requirement that the attorney send a copy of a show cause order to any litigant for whom he or she has entered an appearance or the Standing Committee determines that an attorney's conduct is so egregious that the attorney's client's interest, the interests of the public, or the Court may be harmed, the Standing Committee, after notice and an opportunity to be heard in writing, may suspend an attorney's privilege to practice before this Court during the course of any disciplinary investigation and proceeding. Ordinarily, no oral argument is held on suspension pending disciplinary proceedings. An attorney may request reinstatement pending decision in any response filed under Rule 8 or at any hearing held under Rule 10.

**RULE 8. RESPONSE TO AN ORDER TO SHOW CAUSE**

1. Any response to an order to show cause issued under Rule 6 must be filed within 30 days of the date of the order. The response may:
  - (a) object to the entry of an order in this Court imposing the same discipline as imposed in the other court on the grounds that the attorney has been misidentified;
  - (b) object to the entry of an order in this Court imposing the same discipline as imposed in the other court on the grounds that that the discipline imposed by the other court is administrative in nature;
  - (c) contest the imposition of the same discipline as imposed in the other court on the grounds:
    - (1) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;



- (2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or
    - (3) that the imposition of the same discipline by this Court would result in grave injustice;
  - (d) present evidence in mitigation with respect to the discipline imposed by the other court; or
  - (e) contest the imposition of original discipline by this Court.
2. An attorney responding to an order to show cause must include a certification that the attorney has complied with the requirement in Rule 6.6 that he or she serve a copy of the order to show cause and a copy of the order of the other court on which it is based to any litigant for whom the attorney has entered an appearance in any matter pending in this Court. This certification must include a list of all the litigants so notified and their addresses. An attorney must file an amended list if he or she enters an appearance during the pendency of a disciplinary action.

#### **RULE 9. UNCONTESTED PROCEEDINGS**

1. If the attorney fails to timely respond to the order to show cause in a case in which a presumptive discipline is specified in Rule 3 or if an attorney consents to imposition of the presumptive discipline, the matter will be deemed uncontested and the Clerk will notify the Chair of the Standing Committee, who will enter an order imposing the presumptive discipline.
2. If the attorney fails to timely respond to an order to show cause issued pursuant to Rule 6.2 (original discipline), the matter will be deemed uncontested and the Chair of the Standing Committee will enter an order imposing appropriate discipline.
3. Any member of the bar of this Court who is the subject of an investigation by this Court into allegations of misconduct may consent to disbarment by filing with the Clerk an affidavit stating that the attorney desires to consent to disbarment and that:

- (a) the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;
- (b) the attorney is aware that there is a presently pending proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney must specifically set forth; and
- (c) the attorney acknowledges that he or she cannot successfully defend in the pending proceeding.

#### **RULE 10. CONTESTED PROCEEDINGS**

1. If the response to an order to show cause contests the imposition of discipline in this Court, the matter will be treated as a contested proceeding unless the response does not contest the entry of an order in this Court imposing the same discipline as imposed in the other court, in which event the matter is treated as an uncontested proceeding under Rule 9.
2. In a proceeding under Rule 6.1 (reciprocal discipline) the Standing Committee may grant an attorney's timely request to be heard in person in defense or in mitigation. To be timely, a request for a hearing must be made in a timely filed response to an order to show cause. Generally, a hearing is not necessary if the ground for objection is misidentification or if the discipline imposed by the other court is administrative in nature.
3. Except for discipline imposed because of a criminal conviction, a hearing will be held in proceedings under Rule 6.2 (original discipline) if requested in the answer to the order to show cause.
4. The attorney will be given at least 30 days notice of the time, date, and place of the hearing. Prior to the hearing, the attorney will be afforded the opportunity to inspect any documents which the Standing Committee has obtained in its investigation that are relevant to the imposition of the proposed discipline. A member of the bar of this Court to whom an order to show cause is issued pursuant to Rule 6 has the right to have counsel at all stages of the proceeding.
5. The Standing Committee may compel by subpoena the attendance of witnesses, including the attorney whose conduct is the subject of the proceeding, and the production of pertinent documents. If a hearing is held, the Standing

Committee will compel by subpoena the attendance of any witness and the production of any document reasonably designated by the attorney as relevant to his or her defense.

6. At the hearing, the Standing Committee will enter upon the record the order to show cause, the response, and such evidence as it considers relevant to the issues posed for resolution. The attorney will be afforded the opportunity to cross-examine any witnesses called by the Standing Committee and to introduce evidence in defense or mitigation. The hearing will be transcribed.
7. The Standing Committee may take judicial notice of the record developed in disciplinary or criminal proceedings held by another court on a similar matter.
8. A certified copy of a judgment of conviction of any crime is conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against an attorney based upon the conviction. If the conviction is subsequently reversed or vacated, any discipline imposed on the basis thereof will be promptly reviewed by the Standing Committee and the Court upon submission of a certified copy of the relevant mandate.
9. A certified copy of a judgment or order demonstrating that a member of the bar of this Court has been disbarred or suspended by another court is accepted as establishing that the conduct for which the discipline was imposed in fact occurred and that the discipline imposed was appropriate, unless it appears:<sup>1</sup>
  - (a) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
  - (b) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject;
  - (c) that the imposition of the same discipline by this Court would result in grave injustice; or
  - (d) that the misconduct established is deemed by this Court to warrant substantially different discipline.

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<sup>1</sup> Standards set forth in *Selling v. Radford*, 243 U.S. 46, 51 (1917).

## **RULE 11. DISPOSITION**

1. If an attorney's response to an order to show cause does not specifically request to be heard in person, the Standing Committee will prepare a record consisting of the order to show cause, the response, the relevant documents, and a summary of the other relevant information obtained by the Standing Committee in its investigation. If the record so prepared contains any information not reflected in the order to show cause and the response, the attorney will be afforded the opportunity to inspect the record and to file an additional response within 10 days of the date of the notice of his or her opportunity to inspect.
2. If the Chair or the Clerk determines that the attorney has been misidentified, the case will be closed. If the Standing Committee determines that the discipline imposed by the other court is the equivalent of an administrative action such that no reciprocal discipline should be imposed or that reciprocal discipline is not appropriate, the Committee may in its discretion proceed as in part 3 of this Rule or direct the Clerk to close the case.
3. Based on the record created pursuant to Rule 10.6 or Rule 11.1, the Standing Committee will prepare a Report and Recommendation setting forth its findings of fact and recommending whether, and if so what, discipline should be imposed. A copy of the Report and Recommendation will be promptly sent to the attorney who will be afforded the opportunity to file exceptions within 21 days. The Report and Recommendation, any exceptions thereto, and the record will be submitted to the active members of the Court who will make a final decision by a majority vote based solely on those documents.

## **RULE 12. NOTIFICATION OF DISCIPLINE IMPOSED**

Unless directed otherwise, within 10 days of the imposition of discipline by this Court or a panel thereof upon a member of its bar, the Clerk will notify the attorney and all other courts before whom the attorney is admitted to practice and the National Disciplinary Data Bank, enclosing a certified copy of the order imposing discipline.

## **RULE 13. REINSTATEMENT AFTER DISCIPLINARY ACTION**

1. An attorney suspended for six (6) months or less is automatically reinstated at the end of the period of suspension upon the filing of an affidavit of compliance with the provisions of the order. An attorney suspended for more

than six (6) months or disbarred may not resume practice until reinstated by order of the Court.

2. An attorney who has been disbarred may not apply for reinstatement until the expiration of 5 years from the effective date of the disbarment.
3. No petition for reinstatement may be filed within 1 year following an adverse determination on the attorney's petition for reinstatement.
4. The Clerk will refer petitions for reinstatement to the Standing Committee. If the Standing Committee is satisfied that reinstatement is appropriate based upon the findings of another court or otherwise, it may recommend to the Court that the petition be granted. If the Standing Committee is not so satisfied or if the matter is returned to it by the Court, the Standing Committee will schedule a prompt hearing on the petition. At the hearing, the petitioner has the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in the law required for admission to practice before this Court and that his or her 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 subversive of the public interest. The Standing Committee will submit its Report and Recommendation, together with any exception thereto filed within 21 days of the issuance thereof, to all active members of the Court who act upon the petition by a majority vote.
5. A reinstatement may be on such terms and conditions as the Court directs. If the attorney has been disbarred or suspended for 5 years or more, this may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice.

#### **RULE 14. APPOINTMENT OF COUNSEL**

The Standing Committee may at any time appoint counsel to investigate or prosecute a disciplinary matter or to represent an indigent attorney ordered to show cause. The Court prefers to appoint as prosecuting counsel the disciplinary agency of the highest court of the state in which the attorney maintains his or her principal office. However, if the state disciplinary agency declines appointment, or the Court deems other counsel appropriate, it may appoint any other member of the bar as prosecuting counsel. Counsel appointed either for prosecution or defense will be compensated for his or her services as the Standing Committee directs.

## **RULE 15. ACCESS TO DISCIPLINARY INFORMATION**

1. A disciplinary proceeding before a panel conducted pursuant to Rule 4.1 is public except:
  - (a) for deliberations of the panel; and
  - (b) to the extent otherwise ordered by the panel.
2. Prior to the imposition of a suspension or disbarment or the decision by the Court on a Report and Recommendation of the Standing Committee, the proceeding is confidential, except that the pendency, subject matter, and status of an investigation may be disclosed by the Court or the Standing Committee if:
  - (a) the respondent has waived confidentiality;
  - (b) the proceeding is based upon allegations which include the conviction of a serious crime;
  - (c) the proceeding is based upon allegations that have become generally known to the public; or
  - (d) there is a need to notify another person or organization in order to protect the public, the administration of justice, or the legal profession.
3. Upon the imposition of a suspension or disbarment, the decision by the Court on a Report and Recommendation of the Standing Committee recommending a sanction other than a private reprimand, or the filing of a petition for reinstatement, the proceeding is public, except for:
  - (a) deliberations of the Standing Committee or the Court; and
  - (b) information with respect to which a protective order has been entered under paragraph (5) of this Rule.
4. When a proceeding becomes public under this Rule, any order to show cause why discipline should not be imposed, any record created by the Standing Committee pursuant to Rule 10.6 or Rule 11.1, and any Report and Recommendation of the Standing Committee will be docketed in the Clerk's Office and will be accessible to the public in the same manner as other records of the Court. Other documents previously created by or in the possession of the Standing Committee or prosecuting counsel do not become public records and are not accessible to the public.

5. In order to protect the interests of a complainant, witness, third party, or the attorney, a panel or the Standing Committee may, upon application and for good cause shown, issue a protective order prohibiting the disclosure of specific information and direct that the proceedings be conducted so as to implement the order.
6. A request for nonpublic information other than that authorized for disclosure under paragraph (2) of this Rule will be denied unless the request is from one of the following agencies:
  - (a) an agency authorized to investigate qualifications for admission to practice;
  - (b) an agency authorized to investigate qualifications for government employment, including a committee or similar group authorized to investigate qualifications for judicial position;
  - (c) a lawyer disciplinary enforcement agency; or
  - (d) a law enforcement agency.
7. If a panel or the Standing Committee decides to provide the nonpublic information requested, and if the attorney has not signed a waiver permitting the requesting agency to obtain nonpublic information, the attorney will be notified in writing at his or her address on file with the Clerk's Office that the information has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency. The panel or the Standing Committee will release the information to the requesting agency 7 days after the mailing of the notice unless the attorney has satisfied the panel or the Standing Committee that there is good cause to withhold the requested information.
8. If an otherwise authorized requesting agency has not obtained a waiver from the attorney to obtain nonpublic information, and requests that the information be released without giving notice to the attorney, the requesting agency must certify that:
  - (a) the request is made in furtherance of an ongoing investigation;
  - (b) the information is essential to that investigation; and
  - (c) disclosure of the existence of the investigation to the lawyer would seriously prejudice that investigation.

9. Except with respect to the content of his or her own testimony, each participant in a proceeding under these Rules must maintain the confidentiality mandated by this Rule.

#### **RULE 16. DISABILITY INACTIVE STATUS**

1. There is hereby created a disability inactive status for an attorney whose mental or physical condition prevents the attorney from competently representing the interest of the attorney's clients.
2. An attorney is immediately and automatically transferred to disability inactive status upon proof being received by the Court that:
  - (a) the attorney has been declared incompetent in a judicial proceeding;
  - (b) the attorney has been involuntarily committed because of incapacity or disability;
  - (c) during a disciplinary or criminal proceeding the attorney alleges an incapability to assist in the defense due to mental or physical incapability; or
  - (d) the attorney has been placed on a disability inactive or equivalent status by another court.
3. If an attorney is immediately and automatically transferred to disability inactive status but desires to contest the transfer, the attorney may institute reinstatement proceedings which are conducted as though instituted under Rule 13 by an attorney suspended for more than six (6) months. By bringing such a proceeding, the attorney waives the doctor-patient privilege (and other similar privileges) regarding the disability.
4. If the Standing Committee determines that cause may exist to place an attorney on disability inactive status and the attorney is not immediately and automatically transferred to such status under paragraph (2) of this Rule, the Standing Committee will institute proceedings which will be conducted as though instituted under Rule 6. In these proceedings Rule 15 will apply.
5. An attorney on disability inactive status may file a petition for reinstatement on the basis that the disability has been removed and the attorney is fit to resume the practice of law. The filing of a petition for reinstatement waives the doctor-patient privilege (and other similar privileges) regarding the



disability. The attorney must provide in the petition the name and address of each physician, psychologist, and/or psychiatrist who has examined or treated the attorney and any hospital or other institution in which the attorney has been examined or treated since the attorney's transfer to disability inactive status, as well as the attorney's current status in all bars to which the attorney was or is admitted. A petition for reinstatement is treated in the same manner as a petition for reinstatement filed under Rule 13 by an attorney suspended for more than six (6) months.

6. An attorney raising the defense of current mental or physical disability in a disciplinary proceeding waives the doctor-patient privilege (and other similar privileges) regarding the disability. Furthermore, if the defense of current mental or physical disability is raised, the court may order an examination of the attorney by a court-appointed physician.

#### **RULE 17. INACTIVE STATUS**

1. Attorneys must advise the Clerk when their contact information changes. In order to assure that information in the Court of Appeals' attorney rolls is current, the Court establishes a renewal process and an inactive status. An attorney is marked inactive if the attorney:
  - (a) has not entered an appearance in a case in this Court for 5 years or has not filed the form required by part 2 of this rule updating contact information;
  - (b) has requested the Clerk mark him or her inactive except as provided in Rule 6.7;
  - (c) has notified the Clerk that he or she wishes to retire from the bar of this Court; or
  - (d) can not be contacted at the phone number on file and mail or email is returned as undeliverable.
2. On or before January 15, 2016, the Clerk will send a notice to the email address on file with the Clerk's Office to attorneys who have not entered an appearance in the last 5 years requiring them to file a form available on the Court's website updating their contact information. Every year thereafter, the Clerk will send a notice to the email address on file with the Clerk's Office to attorneys who have not entered an appearance or filed the update form in the

last five years requiring them to file the form updating their contact information. No fee will be imposed. Thirty days after the notice to file the form updating contact information, attorneys who have not entered an appearance within 5 years or who have not filed the form updating their contact information will be marked inactive without further notice. For ease of administration, the 5 year period runs from the last date of an entry of appearance, not from the date a case was closed. At any time, the Clerk may mark an attorney inactive if mail or email is returned as undeliverable and the attorney can not be contacted at the phone number on file.

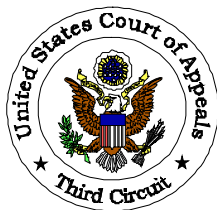
3. Attorneys who have been marked inactive on the attorney rolls of this Court must file the return to active service form required under part 6 of this Rule and pay the applicable fee before filing an entry of appearance or any documents in this Court. If an attorney who has been marked inactive on the attorney rolls of this Court files an entry of appearance before filing the return to active service form, the Clerk will notify the attorney and give him or her 14 days to file the form and pay any applicable fees. In an emergency situation, the Clerk may waive or postpone the filing of the return to active service form. Counsel are reminded that L.A.R. 27.7 provides, "To the fullest extent possible, the clerk must be given advance notice by telephone that a motion requiring expedited or urgent consideration may be filed." If an attorney fails to comply with a direction to file a return to active service form and pay applicable fees, the case will be dismissed pursuant to L.A.R. Misc. 107, or, in the case of co-counsel or appellee's counsel, the attorney's appearance will be struck and the attorney will not be entitled to receive notices or service of documents under L.A.R. 46.2. 4. Placement on inactive status in this Court is considered an administrative action, not a disciplinary action.
5. Law clerks and attorneys employed by the court of appeals remain in active status during their employment and for 5 years thereafter.
6. Returning to active status. An attorney may return to active status by filing the form provided by the Clerk, which contains a statement under penalty of perjury that to the best of his or her knowledge the attorney is not currently subject to any criminal conviction or disciplinary sanction by any state or federal bar of which the attorney is a member. Counsel will be required to pay any applicable fee. An attorney will be returned to active status unless the Clerk determines that the attorney has been convicted of a crime or is under an

order of disciplinary suspension or disbarment by another court. If the Clerk finds that the attorney has been convicted of a crime or is under an order of disciplinary suspension or disbarment by another court, the Clerk will refer the matter to the Standing Committee under Rule 6.

7. An attorney who has retired from the bar of this Court may be returned to active status in the same manner as prescribed in part 6 of this Rule.
8. Attorneys must inform the Clerk if they retire from a state or federal bar of which they are a member. Retirement from a state or federal bar will not result in the attorney being marked inactive in this Court.
9. Attorneys are responsible for monitoring their status as “active” or “inactive” on the rolls of the Court. Attorneys must assure themselves that they are in active status and in good standing before appearing in any matter before this Court.

#### **RULE 18. MISCELLANEOUS**

1. Attorneys must file all responses and documents in disciplinary proceedings using the Court's electronic docketing system unless the Clerk grants an exemption for good cause shown.
2. The formatting and page limit requirements of Rule 27, Fed. R. App. P. apply to documents filed under these Rules.
3. Computation of time under these Rules is governed by Rule 26, Fed. R. App. P.
4. The Clerk may close a disciplinary case or proceeding that is opened in error.



**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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**ORDER AMENDING RULES FOR ATTORNEY DISCIPLINARY ENFORCEMENT**


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**PRESENT:** McKEE, **Chief Judge**, and, AMBRO, FUENTES, SMITH, FISHER,  
CHAGARES, JORDAN, HARDIMAN, GREENAWAY, Jr., VANASKIE,  
SHWARTZ, KRAUSE **Circuit Judges**

IT IS ORDERED that amendments to the Court's Rules for Attorney Disciplinary Enforcement having been circulated for public comment and approved by the Court are hereby adopted and published by the United States Court of Appeals for the Third Circuit. These rules are effective immediately and supersede all prior editions and all prior orders amending the rules.

/s/ Theodore A. McKee  
Chief Judge

DATED: July 1, 2015

  
A True Copy:

*Marcia M. Waldron*

Marcia M. Waldron, Clerk