

Tuesday                    26th                    April, 2005.

On March 7, 2005 came the Virginia State Bar, by David P. Bobzien, its President, and Thomas A. Edmonds, its Executive Director and Chief Operating Officer, and presented to the Court petitions, approved by the Council of the Virginia State Bar, praying that Paragraph 13 and Paragraph 18, Section IV, of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be amended to read as follows:

**13. Procedure for Disciplining, Suspending, and Disbarring Attorneys.**

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*H. District Committee Proceedings*

2. Hearing Procedure

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d. Preliminary Explanation

After swearing the Court Reporter, who thereafter shall administer oaths or affirmations to witnesses, the Chair shall make opening remarks in the presence of the Respondent and the Complainant, if present. The Chair shall also inquire of the members present whether any member has any personal or financial interest that may affect, or be reasonably perceived to affect, his or her ability to be impartial. Any member answering in the affirmative shall be excused from participation in the matter.

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*J. Appeal from Board Determinations*

1. Right

As a matter of right any Respondent may appeal to this Court from an order of Admonition, Public Reprimand, Suspension, or

Disbarment imposed by the Board. An appeal shall lie once the Memorandum Order described in this Paragraph has been served on the Respondent. No appeal shall lie from a Summary Order.

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#### 6. Stay Pending Appeal

Upon the entry by the Board of either a Summary or Memorandum Order of Suspension, this Court may, upon petition of the Respondent, stay the effect of such an order of suspension prior to or during the pendency of the appeal. Any order of Admonition or Public Reprimand shall be automatically stayed prior to or during the pendency of an appeal therefrom. No stay shall be granted in cases where the Respondent's license to practice law has been revoked by either the Summary or Memorandum Order of the Board.

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#### *N. Confidentiality of Disciplinary Records and Proceedings*

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#### 2. Timing of Disclosure of Disciplinary Record in Sanctions Proceedings

If an Attorney has a Disciplinary Record and is subsequently found by a Subcommittee, a District Committee, the Board or a three-judge Circuit Court empaneled under Va. Code § 54.1-3935 to have engaged in Misconduct, the facts and circumstances giving rise to such Disciplinary Record may be disclosed (i) to the Subcommittee, District Committee, Board or three-judge Circuit Court prior to the imposition of any sanction and (ii) by the Subcommittee, District Committee, Board or three-judge Circuit Court in its findings of fact set forth in its order. The facts and circumstances giving rise to such Disciplinary Record may also be disclosed to the Disciplinary Board during a hearing concerning whether an affidavit and consent to Revocation should be accepted.

**18. Financial Responsibility.**

In order to make available to the public information about the financial responsibility of each active member of the Virginia State Bar for professional liability claims, each such member shall, upon admission to the Bar, and with each application for renewal thereof, submit the certification required herein or obtain a waiver for good cause shown. The active member shall certify to the Bar on or before July 31 of each year: a) whether or not such member is currently covered by professional liability insurance, other than an extended reporting endorsement; b) whether or not such member is engaged in the private practice of law involving representation of clients drawn from the public, and, if so, whether the member intends to maintain professional liability insurance coverage during the period of time the member remains engaged in the private practice of law; and c) the date, amount, and court where rendered, of any unsatisfied final judgment(s) against such member, or any firm or professional corporation in which he or she has practiced, for acts, errors, or omissions (including, but not limited to, acts of dishonesty, fraud, or intentional wrongdoing) arising out of the performance of legal services by such member.

The foregoing shall be certified by each active member of the Virginia State Bar in such form as may be prescribed by the Virginia State Bar and shall be made available to the public by such means as may be designated by the Virginia State Bar.

Each active member who certifies to the Bar that such member is covered by professional liability insurance shall notify the Bar in writing within thirty (30) days if the insurance policy providing coverage lapses, is no longer in effect or terminates for any reason, unless the policy is replaced with another policy and no lapse in coverage occurs.

Failure to comply with this Rule shall subject the active

member to the penalties set forth in Paragraph 19 herein. An untruthful certification or unjustified failure to notify the Bar\_of a lapse or termination of coverage shall subject the member to appropriate disciplinary action.

"Good cause shown" as used herein shall include illness, absence from the Commonwealth of Virginia, or such cause as may be determined by the Executive Committee of the Virginia State Bar whose determination shall be final. Any determination by the Executive Committee may be reviewed by the Supreme Court upon request of the member seeking a waiver.

Upon consideration whereof, it is ordered that the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be and the same hereby are amended in accordance with the prayer of petitions aforesaid, effective July 1, 2005.

A Copy,

Teste:

Clerk