

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ALABAMA

LOCAL RULES

(Effective Upon Approval by Circuit Judicial Council)

LR 3.1 Civil Cover Sheet. A completed civil cover sheet (Form JS-44c) shall be submitted to the Clerk with the initial civil complaint or notice of removal filed in this court by a litigant represented by counsel.

LR 5.3 Non-Filing of Discovery Materials in Civil Cases. Discovery materials in civil cases shall not be filed with the court, except such materials shall be filed (1) in cases in which there is a pro se party; (2) when otherwise directed by a judge of the court; or (3) when and to the extent needed by a party in connection with any motion, response to a motion, or during trial.

Counsel noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such deposition or discovery material; and shall preserve the same until 30 days after final disposition of the case (including any appeal or the expiration of the time for any appeal).

LR 5.4 Removal of Court Files and Exhibits. Except as otherwise directed by a judge of the court, after final disposition of a case (including any appeal or the expiration of the time for any appeal), exhibits which were received in evidence in such case shall be withdrawn from the custody of the Clerk upon submission of a detailed receipt therefor by the party who offered the same in evidence (or by such other person as may be entitled thereto); and exhibits not so withdrawn within thirty (30) days after such final disposition may thereafter be destroyed or otherwise disposed of by the Clerk.

LR 5.5 Filing of Documents By Electronic Means. Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the court's General Order regarding Electronic Case Filing Policies and Procedures. Counsel filing documents electronically should also consult the applicable civil or criminal administrative procedures for the Case Management/Electronic Case Filing system available on the court's website.

LR 5.6 Service of Documents By Electronic Means. Documents may be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by the court's General Order regarding Electronic Case Filing Policies and Procedures. Transmission by the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to the Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR 9.1 Pro Se Civil Rights and Habeas Corpus Filings.

(a) Every pro se action by an inmate under 42 U.S.C. § 1983 and every pro se petition for the writ of habeas corpus under 28 U.S.C. §§ 2254 and 2255 must be (1) legibly handwritten, printed, or typed (inmates are strongly encouraged to use the forms available at the respective facilities, on the court's website, or, if requested in writing, from the clerk's office); (2) signed under penalty of perjury in accordance with the law; (3) accompanied by a pauper's affidavit (on a court-provided form) if plaintiff seeks to proceed without payment of costs; and (4) completely filled out.

(b) In a case in which an inmate plaintiff is represented by counsel, nothing will be accepted for filing (except a pro se motion for release of counsel) unless it is filed by counsel.

LR 16.1 Scheduling Orders; Alternative Dispute Resolution.

(a) Except as otherwise ordered by a judge of the court in a particular case, a scheduling order need not be entered in the following categories of cases:

- (1) Cases filed in, removed to, or transferred to this court before December 1, 1993;
- (2) Bankruptcy appeals and withdrawals (NOS: 422-23);
- (3) Condemnation actions (NOS: 210);
- (4) Deportation actions (NOS: 460);
- (5) Equal Access to Justice – Fee award appeals (NOS: 900);
- (6) Forfeiture and statutory penalty actions (NOS: 610-690);
- (7) Freedom of Information actions (NOS: 895);
- (8) Government collection actions (NOS: 151-153);
- (9) Judgments – actions to enforce or register (NOS: 150);
- (10) Prisoner actions to vacate sentence, for habeas corpus, or for mandamus (NOS: 510-40);
- (11) Selective Service actions (NOS: 810);
- (12) Social Security reviews (NOS: 861-65);
- (13) Summons/subpoenas – proceedings to enforce/contest government summons and private party depositions;
- (14) Third Party IRS tax actions (NOS: 871);
- (15) Cases instituted pro se by prisoners;
- (16) Cases consolidated with a case in which the parties have met as provided in this paragraph or in which a scheduling order under Fed. R. Civ. P. 16(b) has been entered; and
- (17) Cases transferred to this court under 28 U.S.C. § 1407 or consolidated with cases so transferred, and cases subject to potential transfer to another court under 28 U.S.C. § 1407 pursuant to a motion pending before the Judicial Panel on Multidistrict Litigation or a conditional transfer order entered by that Panel.

(b) A judge of the court may, in a scheduling order or by separate order, direct that the litigants engage in one or more procedures for alternative dispute resolution as authorized and provided in the ADR plan adopted by the court.

LR 23.1 Designation of Class Action in the Caption. In any case sought to be maintained as a class action, the complaint, or other pleading, document or other papers asserting a class action, shall include in its caption under the case number, the legend "Class Action."

LR 47.1 Juror Interrogation. Communications with a juror concerning a case on which such person has served as a juror or alternate juror shall not, without prior express approval of a judge of this court, be initiated by any attorney, party, or representative of either, prior to the day following such person's release from jury service for such term of court.

LR 54.1 Costs. Requests for taxation of costs (other than attorneys' fees) under Fed. R. Civ. P. 54(d) shall be filed with the Clerk within 21 days after entry of judgment.

LR 58.1 Payment of Judgments. Except as otherwise directed by a judge of the court, there shall be added to each money judgment recovered in this court, including those entered on the minutes by the Clerk upon the verdict of a jury, the following language (or the equivalent thereof as adapted to the nature of the judgment):

"It is further ORDERED by the court that payment of the proceeds of the judgment and costs herein may be made directly to the attorneys of record for the plaintiff and that, upon receipt thereof, such attorneys will satisfy said judgment on the records of this court."

LR 72.1 Magistrate Judges.

(a) The full time Magistrate Judges of this Court are authorized to exercise all powers and perform all duties authorized by 28 U.S.C. § 636 (a) and (b), including duties not inconsistent with the Constitution and Laws of the United States.

(b) Procedures outlining the assignment and reassignment of civil matters, including pretrial nondispositive matters, pretrial dispositive motions and prisoner petitions to the Magistrate Judges are contained in the General and Standing Orders of the Court.

(c) Procedures outlining the assignment of criminal matters, including dates conferred or imposed on United States Magistrate Judges by statute or by the Federal Rules of Criminal Procedure are contained in the General and Standing Orders of the Court.

LR 72.2 Consent to Magistrate Judge Jurisdiction.

(a) The full time Magistrate Judges of this Court are authorized to exercise all powers and perform all duties authorized by 28 U.S.C. § 636c) upon consent of the parties to a case.

(b) Procedures outlining the assignment and re-assignment of civil cases to the Magistrate Judges are contained in the General and Standing Orders of the Court.

LR 81.1 Proceedings to Compel Testimony or Production. Proceedings to compel the giving of testimony or the production of documents in accordance with a subpoena issued by an officer or agency of the United States under any statute of the United States shall be conducted in the following manner except to the extent otherwise required by statute or, for good cause shown, ordered by a judge of the court:

(a) The pleading filed to commence such proceeding, however labeled, shall be treated as a petition for an order to show cause, if any there be, why the relief requested therein should not be granted. Affidavits under Fed. R. Civ. P. 56 may be attached to the petition. A copy of the petition and any attachments thereto, together with a copy of the show cause order, shall be served on the defendant(s) in accordance with Fed. R. Civ. P. 4.

(b) Within the time specified in the show cause order (as may be extended by the court), each defendant shall serve an answer to the petition which shall consolidate all defensive matters, in law or in fact, including those which may be made by motion. Affidavits under Fed. R. Civ. P. 56 may be attached to the answer.

(c) Upon filing of the answer(s), the proceeding shall be deemed (without necessity for separate motions) to be tendered to the court on cross-motions for judgment on the pleadings or for summary judgment under Fed. R. Civ. P. 12(c) and 56. If not disposed of under Rule 12(c) or 56, the proceeding shall be expeditiously set for hearing.

(d) Except as otherwise permitted by a judge of the court for good cause shown, Fed. R. Civ. P. 26-37 are inapplicable to such proceedings.

LR 83.1 Attorneys.

(a) Bar of Court. The bar of this court consists of those persons previously admitted to (and not removed from) the bar of this court and of those persons who hereafter are admitted under this Rule.

(1) Any attorney who is admitted to practice before the Supreme Court of Alabama and who resides in Alabama or regularly engages in the practice of law in Alabama may be admitted to the bar of this court upon the submission of an application, payment of the prescribed fee, and

(A) the order of a judge of this court (on oral or written motion by a member of the bar of this court or on the court's own motion), and the administering of the prescribed oath before any judge (or other designee) of this court; or

(B) the filing of a certificate of good standing from the Clerk of the United States District Court located within the State of Alabama for the district in which the applicant resides or regularly practices law.

(2) By January 1, 1992 (and annually thereafter by the 1st day of January of each succeeding year), all attorneys whose status as members of the bar of this court shall not have been renewed during the preceding five years shall submit to the

Clerk a statement respecting their eligibility to remain as members of the bar in good standing, together with the renewal fee prescribed by the court. Attorneys failing to submit such statement and renewal fee within 60 days from the date due shall cease to be members in good standing until such statement and renewal fee are submitted.

(b) Appearance *Pro Hac Vice*.

(1) Eligibility and Procedure. Any attorney who is not a member of the bar of this court but who is admitted to practice before the United States District Court for the district in which (or before the highest court in the state in which) such person resides or regularly practices law, may, upon request and payment of the prescribed fee (unless payment is waived by special order of the court), be allowed to appear in a case *pro hac vice* by an order of any district judge, magistrate judge, or bankruptcy judge of this court. Any such attorney who appears as counsel by filing any pleadings or paper in any case pending in this court shall within ten days thereafter apply to appear *pro hac vice* as set out herein. An attorney permitted to appear under this subsection is deemed to have conferred disciplinary jurisdiction upon this court for any alleged misconduct arising in the course of, or in preparation for, proceedings in the case; and for purposes of subsection (h) of this Rule the attorney shall be treated as if a member of this court with respect to acts and conduct in connection with such case.

In any application for admission *pro hac vice*, the applicant shall state under penalty of perjury the applicant's (1) residence address; (2) office address, telephone number, facsimile number, and e-mail address; (3) the courts to which the applicant is admitted to practice and the dates of admission; and (4) a statement that the applicant is in good standing and eligible to practice in all courts to which admitted. Applications for admission *pro hac vice* must be accompanied by payment of the prescribed admission fee. A non-resident attorney will not be permitted to appear until the applicant's admission *pro hac vice* has been approved by a judge of this court.

(2) Designation and Duties of Local Counsel. An attorney applying to appear *pro hac vice* must also designate a local member of the bar of this court who will also represent the applicant attorney's client(s) and with whom the opposing counsel and the court may readily communicate regarding the conduct of the case and upon whom papers shall be served. Except as otherwise ordered by a judge of the court in a particular case, the designated local counsel must at least review and sign all pleadings and other papers filed in the case by the attorney appearing *pro hac vice*. The address, telephone number, facsimile number, e-mail address, and written consent of the designated local counsel must be filed with the attorney's *pro hac vice* application. The designated local counsel shall file a notice of appearance within ten days of the approval of the *pro hac vice* application.

If the attorney admitted *pro hac vice* fails to respond to any order of the court for appearance or otherwise, the designated local counsel shall have the responsibility

and full authority to act for and on behalf of the client(s) in all proceedings in connection with the case, including hearings, pretrial conferences, and trial.

(c) Appearance on behalf of United States. Any attorney representing the United States or any agency thereof, having the authority of the government to appear as its counsel, may appear specially and be heard in any case in which the government or such agency is a party, without formal or general admission. An attorney permitted to appear under this subsection is deemed to have conferred disciplinary jurisdiction upon this court for any alleged misconduct arising in the course of, or in preparation for, proceedings in the case, and for purposes of subsection (h) of this Rule the attorney shall be treated as if a member of the bar of this court with respect to acts and conduct in connection with such case.

(d) By Whom Parties May Appear. In all cases filed in or removed to this court, a party may appear and be represented of record only by a member of the bar of this court, by an attorney permitted to appear pursuant to subsection (b) or (c) of this Rule, or, if an individual, by himself or herself pro se.

(e) Continuing Representation. Unless disbarred or suspended, attorneys shall be held at all times to represent the parties for whom they appear of record in the first instance until, after formal motion and notice to such parties and to opposing counsel, they are permitted by order of the court to withdraw from such representation. The court may, however, without formal motion and notice, permit withdrawal for good cause shown or if other counsel have entered an appearance for the party.

(f) Standards for Professional Conduct; Obligations. Each attorney who is admitted to the bar of this court or who appears in this court pursuant to subsection (b) or (c) of this Rule is required to be familiar with, and shall be governed by, the Local Rules of this court; and, to the extent not inconsistent with the preceding, the Alabama Rules of Professional Conduct adopted by the Alabama Supreme Court; and, to the extent not inconsistent with the preceding, the American Bar Association Model Rules of Professional Conduct, except Rule 3.8(f) thereof. Acts and omissions by any such attorney which violate such standards, individually or in concert with any other persons, shall constitute misconduct, whether or not occurring in the course of an attorney-client relationship, and shall be grounds for discipline, as shall the commission by an attorney of any serious crime. Discipline under this Rule may consist of disbarment, suspension, censure, reprimand, removal from a particular case, ineligibility for appointment as court-appointed counsel, ineligibility to appear under subsections (b) and (c), monetary sanctions, or any other sanction the court may deem appropriate.

An attorney admitted to the bar of this court, or who appears in this court pursuant to subsection (b) or (c) of this Rule, shall promptly notify the Clerk of this court upon (i) being disbarred, suspended, or publicly disciplined by another court or disciplinary authority; (ii) resigning from another bar while an investigation into allegations of misconduct is pending; or (iii) being convicted by any court of any serious crime.

(g) Grievance Committee. The court shall from time to time appoint members of the bar of the court to its "Grievance Committee." The court shall designate one of the members to serve as Chairman. Any three or more members of the committee may act on behalf of the committee when so designated by the Chairman.

(1) Purpose and Function. The purpose and function of the Grievance Committee is to conduct, upon referral by the court or a judge thereof, inquiries and investigations with respect to alleged misconduct or commission of a serious crime by an attorney or with respect to reinstatement of an attorney; to conduct and preside over disciplinary hearings; to consider, upon referral by the court or a judge thereof, matters relating to possible incompetency, incapacity, or impairment of an attorney; and to submit written findings and recommendations to the court or referring judge for appropriate action. The Committee shall not initiate an investigation or conduct hearings without prior referral by the court or a judge thereof.

(2) Powers of Committee. In addition to powers described elsewhere in this Rule, the Grievance Committee shall be vested with such powers as are necessary to conduct the proper and expeditious disposition of any matter referred to it, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of any witnesses, and to order the production of books, records, or other documentary evidence. The Chairman or, in the Chairman's absence, any member of the Committee has the power to administer oaths and affirmations to witnesses, which oath or affirmation shall include the obligation not to disclose the existence of the proceedings or the identity of the attorney involved unless and until such proceedings are authorized by the court to be made public.

(3) Special Counsel. The Grievance Committee may request the court to appoint special counsel to investigate or assist in any investigation or in the conduct of any hearing authorized under this Rule.

(4) Immunities. The members of the Grievance Committee and any person acting as special counsel for the Committee under paragraph (3) shall, with respect to their actions in such capacities, be considered as representatives of, and acting under the powers and immunities of, the court and shall enjoy all such immunities while acting in good faith and in their official capacities.

(5) Confidentiality. All complaints, referrals, orders, and proceedings before, and reports, of the Grievance Committee shall be confidential except as provided in this Rule or until otherwise directed by the court.

(h) Discipline.

(1) Misconduct. The court or a judge thereof may refer to the Grievance Committee any accusation or evidence of misconduct by a member of the bar of this court for such investigation, hearing, and report as may be appropriate.

(A) Any matter referred to the Committee may, in its discretion, be further referred by it to an appropriate committee or official of the Alabama State Bar either for preliminary investigation or for conduct of such proceedings as may be appropriate.

(B) If after its preliminary investigation and review the Committee concludes that a formal disciplinary proceeding should not be initiated against an attorney because of the insufficiency of evidence, because of the insubstantial nature of the conduct involved, because of the pendency of another proceeding against the attorney the disposition of which should be awaited before further action is considered, because of other disciplinary or corrective action already taken, or for any other valid reason, the Committee shall file with the court a recommendation for disposition of the matter, whether by dismissal, deferral, or other action, setting forth the reasons therefor. If the matter is dismissed or deferred, the attorney who is the subject of the investigation need not be notified that a complaint has been submitted or of its ultimate disposition.

(C) If from its preliminary investigation the Committee concludes that a formal proceeding should be initiated, the Committee shall file with the court a written report of its investigation, together with a proposed order for entry by a judge of the court setting forth the particular conduct on the basis of which the attorney is believed to be subject to discipline and requiring the attorney to show cause to the Committee in writing within 20 days after service of that order why he or she should not be disciplined. A copy of the report shall be served on the attorney along with the show cause order. If requested by the attorney in a timely response, the matter shall, upon at least 10 days' notice, be set for hearing before the Committee, at which time the attorney shall have the right to be present at the taking of testimony, to present witnesses and other evidence, to cross examine witnesses, and to be represented by counsel. All testimony presented before the Committee shall be transcribed, and the accused attorney shall be entitled to a copy thereof at his or her own cost. Proceedings before the Committee shall be guided by the spirit of the Federal Rules of Evidence, but the Committee may receive and consider hearsay evidence that it finds to be reliable and trustworthy. Unless the attorney asserts a privilege or right properly available under applicable federal or state law, the attorney may be called as a witness by the Committee to make specific and complete disclosure of all matters material to the charge of misconduct. If the attorney does not respond to the show cause order, does not timely request a hearing, or agrees to the matters asserted, the Committee may take summary action, reporting its recommendations forthwith to the court.

(D) Upon completion of a disciplinary proceeding the Committee shall make a full written report to the court, containing its findings of fact as to the charges, its recommendations as to whether or not the attorney should

be found guilty of misconduct justifying disciplinary action, and its recommendations as to any disciplinary measures that should be imposed by the court. The report shall be accompanied by a transcript of any proceedings before the Committee, all pleadings, and all evidentiary exhibits. A copy of the report shall also be furnished to the attorney.

(E) Upon receiving a report by the Committee finding that misconduct occurred and recommending disciplinary action, the court shall issue an order requiring the attorney to show cause in writing why the Committee's recommendation should not be adopted by the court. After considering the attorney's response, the court, by a majority vote of the active judges thereof, may adopt, modify, or reject the Committee's findings with respect to misconduct, and may impose the sanctions recommended by the Committee or other penalties deemed appropriate under the circumstances.

(F) In lieu of, or in addition to, referring a matter involving possible misconduct to the Grievance Committee, the court or a judge thereof may refer such matter to any other court or to any professional disciplinary agency for such investigation and action as that court or agency may deem appropriate.

(2) Commission of Serious Crime.

(A) If a member of the bar of this court is convicted in any court of any serious crime, whether resulting from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal, the court shall enter an order directing that within 20 days after service of the order (or, if longer, the resolution of any appeal from such conviction) the attorney show cause to the court in writing why he or she should not be disbarred. As part of the order the attorney shall be immediately suspended pending the resolution of the show cause order; provided that the court may vacate such suspension when it appears in the interest of justice to do so.

(B) In lieu of proceeding under subparagraph (A), the court, or a judge thereof, may refer an accusation or evidence that a member of the bar has committed a serious crime to the Grievance Committee for investigation, hearing, and report as under paragraph (1). If a final judgment of conviction has been entered, the referral shall be made by issuance of a show cause order as under paragraph (1)(c), in which the sole issue to be determined by the Committee is the extent of discipline that should be recommended.

(C) The term "serious crime" means any felony, as well as any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was

entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy, or solicitation of another to commit a “serious crime.”

(D) A certified copy of a final judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime for purposes of discipline under this Rule. If a conviction is reversed, any suspension imposed under subparagraph (A) shall be vacated, but disciplinary proceedings may be commenced or proceed under subparagraph (B), in which event the Committee shall also determine and report its findings as to whether the attorney committed the crime.

(3) Discipline Imposed By Other Courts and Disciplinary Authorities.

(A) If a member of the bar of this court is suspended, disbarred, transferred to inactive status, or otherwise publicly disciplined by another court or disciplinary authority, this court may enter an order directing that within 20 days after service of that order the attorney show cause to this court in writing why, for any of the grounds set forth in subparagraph (c) hereof, the imposition of appropriate disciplinary action as stated therein (which, except for monetary sanctions, shall ordinarily be substantially identical to that imposed by such other court or disciplinary authority) would be unwarranted. As part of the order the court may direct that the attorney be suspended pending the resolution of such inquiry. Sanctions under Federal Rule of Civil Procedure 11 and similar rules do not constitute, for purposes of this paragraph and subsection (f), public discipline unless the sanction is disbarment or suspension.

(B) If the discipline imposed in the other jurisdiction has been stayed, any reciprocal disciplinary proceedings instituted or discipline imposed in this court shall be deferred until such stay expires.

(C) This court shall impose the disciplinary action stated in the order unless in the response the attorney clearly demonstrates to the court:

(i) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) there was such an infirmity of proof establishing misconduct that the court should not accept as final the conclusions of the other jurisdiction;

(iii) the imposition of the disciplinary action stated in the order would result in grave injustice; or

(iv) the misconduct is deemed by this court to warrant substantially different discipline from that stated in the order.

Unless this court determines that element (i) or (ii) exists--in which event it shall enter such order as it deems appropriate--a final determination by another court or disciplinary authority that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of proceedings in this court.

(D) If an attorney has consented to disbarment by another bar, or has resigned from another bar while an investigation into allegations of misconduct was pending, the court may, in lieu of the other procedures of this paragraph (3), order that the attorney be forthwith disbarred and removed from the bar of this court.

(E) In lieu of the procedures set forth in this paragraph (3), this court may at any stage ask the Grievance Committee to conduct disciplinary proceedings under paragraph (1) or to make recommendations to the court for appropriate action in light of the discipline imposed by another court or disciplinary authority.

(4) Disbarment on Consent While Under Disciplinary Investigation or Prosecution. A member of the bar of this court who is the subject of an investigation or a pending proceeding involving allegations of misconduct may consent to disbarment or removal from the bar of this court, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment or removal and:

(A) the consent is knowingly, freely, and voluntarily rendered, without coercion or duress; and

(B) the attorney is aware that there is a presently pending investigation or proceeding involving allegations of misconduct and acknowledges either that the material facts so alleged are true or that, upon prosecution of the charges relating to the matters under investigation, the attorney could not successfully defend himself or herself.

Upon receipt of the required affidavit, this court shall enter an order disbarring or removing the attorney from the bar of this court. The order shall be a matter of public record. However, the affidavit required pursuant to this paragraph shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

(5) Service of Papers and Other Notices. Service of an order to show cause instituting, or in furtherance of, formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the affected attorney at the last address provided by such person to the court. Service of any other papers or notices required by this Rule shall be deemed to have been made if such paper or notice is mailed to the attorney at such address or to the person's attorney at the address indicated in the most recent pleading or document filed by them in the course of any proceeding under this Rule.

(6) Duties of the Clerk.

(A) Upon being informed that an attorney who is a member of the bar of this court has been convicted of any serious crime or has been disbarred, suspended, or publicly disciplined by another court or disciplinary authority, the Clerk of this court shall promptly obtain and submit to the court a certified or exemplified copy of the conviction or disciplinary judgment or order.

(B) Whenever any attorney has been convicted in this court of any serious crime or has been disbarred, suspended, censured, or otherwise publicly disciplined by this court, the Clerk of this court shall, within ten days thereafter, transmit a certified or exemplified copy of the conviction or of the order of disbarment, suspension, censure, or disciplinary action (i) to the National Discipline Bank operated by the American Bar Association and (ii) to any jurisdiction or court which, to the Clerk's knowledge, has previously admitted such person to the practice of law.

(i) Incompetency, Incapacity, Disability, Impairment. If it appears that a member of the bar of this court has demonstrated a lack of competency to represent clients adequately in proceedings before this court or may be physically, mentally, emotionally, or psychologically incapacitated, disabled, or impaired, whether by addiction to or abuse of drugs or alcohol or for other reason, in a manner that jeopardizes the attorney's ability to represent clients adequately in such proceedings, the court or a judge thereof may refer the matter to the Grievance Committee for appropriate inquiry, investigation, counseling, and report. The availability of this procedure shall not preclude the court from acting under subsection (h) with respect to misconduct, notwithstanding such misconduct may have been the result of, or attributable to, incompetency, incapacity, disability, or impairment.

(1) Nature of referral. A referral under this subsection is not considered as a disciplinary matter and does not implicate the formal procedures described in subsection (h). Upon receiving the referral, the Committee shall, if feasible, seek to meet informally with the attorney, explain the nature of the inquiry and the circumstances giving rise to the referral, and consider the comments and explanations of the attorney. The Committee shall then conduct such further inquiry and investigation as is needed to determine whether such incompetency, incapacity, disability, or impairment exists and, if so, what remedial actions could be taken to correct such condition.

(2) Determination of Competency. If the Committee determines that incompetency, incapacity, disability, or impairment does not exist to the extent of jeopardizing adequate representation of clients by the attorney, it shall so advise the court and the attorney, and the inquiry shall be considered closed. Such a resolution does not, however, preclude the court from proceeding with possible disciplinary action under subsection (h) if otherwise warranted.

(3) Condition Jeopardizing Representation. If the Committee determines that incompetency, incapacity, disability, or impairment does exist to the extent of jeopardizing adequate representation of clients by the attorney, it shall ascertain whether the attorney is willing to resign from the bar of this court or, if the condition may be correctable within a reasonable time, to cease further representation of clients in this court until the condition is corrected, whether by treatment, counseling, education, or other remedial measures.

(A) If the attorney resigns, the Committee shall so advise the court, and the matter shall be considered closed. The attorney may apply for reinstatement under subsection (j) when the condition has been corrected.

(B) If the attorney agrees to take corrective action and to cease further representation of clients until the condition is corrected, the Committee shall so advise the court, indicating the remedial measures to be undertaken. The Committee shall further advise the court when the condition appears to have been remedied, at which time the attorney may resume the representation of clients in this court.

(C) If the matter is not resolved voluntarily under subparagraphs (A) or (B), the Committee shall, after any additional investigation that may be needed, submit to the court a written report as under subdivision (h)(1)(c) in order that the matter may thereafter proceed as a disciplinary matter.

(j) Reinstatement. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with this court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months, or disbarred or removed from the bar of this court, may not resume the practice of law before this court until reinstated by order of the court. An attorney who has been disbarred or removed from the bar of this court after hearing or consent may not petition for reinstatement until such person is a member in good standing of Alabama State Bar and at least five years have expired after the effective date of disbarment or removal, except that such a petition by a person removed because of incompetency, incapacity, or impairment may be made prior to expiration of such five year period upon a showing that the incompetency, incapacity, or impairment no longer exists.

(1) Petition for Reinstatement. Petitions for reinstatement by a disbarred, removed, or suspended attorney under this Rule shall be filed with the Chief Judge of this court. Upon receipt of the petition, the Chief Judge may submit the petition to the court or may refer it to the Grievance Committee, which shall promptly schedule a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that he or she has the moral qualifications, capacity, competency, and learning in the law required for admission to practice before this court and that resumption by such person of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice or disserve the public interest. Upon completion of

the hearing the Committee shall make a full report to the court. The Committee shall include its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

(2) Order. If after consideration of the Committee's report and recommendation the court finds that the petitioner is unfit to resume the practice of law, the petition shall be denied. If after consideration of the Committee's report and recommendation the court finds that the petitioner is fit to resume the practice of law, the court shall reinstate the petitioner, provided that the reinstatement may be made conditional (i) upon the payment of all or part of the costs of the proceedings, and the making of partial or complete restitution to all parties harmed by the conduct of the petitioner which led to the suspension or disbarment; (ii) if the petitioner was suspended or disbarred for five years or more, upon the furnishing of proof of competency and learning in the law, which proof 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 subsequent to the date of suspension or disbarment; and (iii) upon any other or additional terms which the court in its discretion deems appropriate.

(3) Successive Petitions. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(4) Expenses. Petitions for reinstatement under this Rule shall be accompanied by a deposit in an amount to be set from time to time by the court in consultation with the Grievance Committee to cover anticipated costs of the reinstatement proceeding.

(k) Retained Powers. The provisions of subsections (h) and (i) do not apply to or limit the imposition of sanctions or other disciplinary or remedial action as may be authorized by the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure, or through exercise of the inherent or statutory powers of the court in maintaining control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure. Nor do the provisions of such subsections limit the court's power to refer matters to appropriate committees or officials of the Alabama State Bar for such investigation and action as may be appropriate.

LR 83.2 Broadcasting and Photographs. Whether or not court is actually in session, there shall be no broadcasting or taking of photographs in or from the courtrooms or their environs during the progress of, or in connection with, any judicial proceeding, including proceedings before a Magistrate Judge. This restriction does not apply to naturalization ceremonies or other ceremonial proceedings.