

On November 2, 2004 came the Virginia State Bar, by David P. Bobzein, its President, and Thomas A. Edmonds, its Executive Director and Chief Operating Officer, and presented to the Court a petition, approved by the Council of the Virginia State Bar, praying that Paragraph 13, 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*

1. Pre-Hearing Matters

a. Charge of Misconduct

(1) If the Subcommittee determines that a hearing should be held before a District Committee, Bar Counsel shall, at least 42 days prior to the date fixed for the hearing, serve upon the Respondent by certified mail the Charge of Misconduct, a copy of the Investigative Report considered by the Subcommittee and any exculpatory materials in the possession of Bar Counsel.

(2) After the Respondent has been served with the Charge of Misconduct, the Respondent shall, within 21 days after service of the Charge of Misconduct:

(a) file an answer to the Charge of Misconduct, which answer shall be deemed consent to the jurisdiction of the District Committee; or

(b) file an answer to the Charge of Misconduct and a demand with the Clerk of the Disciplinary System that the proceedings before the District Committee be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing to be scheduled not less than 30 nor more than 120 days from the demand.

Upon such demand and provision of available dates as specified above, further proceedings before the District Committee shall terminate, and Bar Counsel shall file the Complaint required by Va. Code § 54.1-3935.

(3) If the Respondent fails to file an answer, or an answer and a demand, and provide available dates, as specified above, the Respondent shall be deemed to have consented to the jurisdiction of the District Committee.

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I. *Board Proceedings*

1. Pre-Hearing Matters

a. Procedure on Certification to the Board

(1) After a Subcommittee or District Committee certifies a matter to the Board, and the Respondent has been served with the Certification, the Respondent shall, within 21 days after service of the Certification:

(a) file an answer to the Certification, which answer shall be deemed consent to the jurisdiction of the Board; or

(b) file an answer to the Certification and a demand that the proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing to be scheduled not less than 30 nor more than 120 days from the demand.

Upon such demand and provision of available dates as specified above, further proceedings before the Board shall terminate, and Bar Counsel shall file the Complaint required by Va. Code § 54.1-3935.

(2) If the Respondent fails to file an answer, or an answer and a demand, and provide available dates, as specified above, the Respondent shall be deemed to have consented to the jurisdiction of the Board.

(3) The Board shall set a date, time, and place for the hearing, and shall serve notice of such hearing upon the Respondent at least 21 days prior to the date fixed for the hearing.

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7. Proceedings upon Disbarment, Revocation, or Suspension in Another Jurisdiction

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f. Action by the Board

If Respondent has not filed a timely written response, or does not appear at the hearing or if the Board, after a hearing, determines that the Respondent has failed to establish the contentions of the written response by clear and convincing evidence, the Board shall impose the same discipline as was imposed in the other jurisdiction. If the Board determines that the Respondent has established such contentions by clear and convincing evidence, the Board may dismiss the proceeding or impose a lesser discipline than was imposed in the other jurisdiction. A copy of any order imposing discipline shall be served upon the Respondent via certified mail, return receipt requested. Any such order shall be final and binding, subject only to appeal as provided in this Paragraph.

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 the petition aforesaid, effective January 1, 2005.

A Copy,

Teste:

Clerk