

Supreme Court of Florida

No. 65,197
65,877
67,085
68,293

The Florida Bar re Rules
Regulating The Florida Bar.

[JULY 17, 1986]

PER CURIAM.

In November 1984 this Court heard oral argument in case numbers 65,197 and 65,877, encompassing a total revision of the bar rules.* Since that time, numerous petitions for revision of both the currently existing bar rules and of the proposed new rules have been filed with and considered by the Court, and the proposed new rules have been revised several times. After rearranging and revising portions of the bar's proposed rules, we now adopt these new rules, entitled "Rules Regulating the Florida Bar." As can be seen in the new rules, the integration rule, bylaws, and code of professional responsibility no longer exist as separate entities. Rather, all rules pertaining to the bar have been integrated, in a chapter format, into a single document. It is the revisers' hope, as well as the Court's, that this new arrangement will make it easier to find things in the rules.

Several noteworthy changes have been made from the current rules and from the board's proposals. For instance, while amendments to most of the rules still must be through petition to this Court, chapters 2, 7, and 9 can be amended by the board of

* The board of governors, during oral argument on no. 67,085, lawyer referral services, asked that we consider that petition in conjunction with, rather than separately from, nos. 65,197 and 65,877. The Court consolidated no. 68,293, concerning specialization rules, with the other petitions.

governors without petitioning the Court. See rule 2-10. Dues, however, are still capped, and this Court will have to be petitioned for changes in the amount of members' dues. The new rules also provide for nonlawyer members of the board of governors; the period for disbarment has been raised to five years; and there are numerous changes in the disciplinary process, now set out in chapter 3.

A few of the changes made by the Court in the board's proposal include: an addition to rule 4-3.6 regarding persons making extrajudicial statements in criminal cases; a proviso regarding holding and maintaining property as a client wishes added to rule 4-1.15(a); and expansion of confidentiality in minor misconduct reports in 3-5.1(b). Also, rule 4-7.3, as originally proposed, prohibited direct mail solicitation of persons known to have specific legal problems. After studying this matter, we have concluded that such mailing cannot be prohibited. Instead, we have revised rule 4-7.3 to regulate, rather than proscribe, such communications. If this regulation proves unworkable or if a pattern of abuse in direct mailings is established, we will consider amending the solicitation rule.

The rules as finally adopted also include recent amendments regarding confidentiality for attorneys seeking treatment for alcohol abuse, no. 67,568 (Fla. June 26, 1986), contingent fees, no. 68,417, (Fla. June 30, 1986), and graduation from an accredited law school for emeritus attorneys, no. 68,827 (Fla. July 3, 1986). The rules will be printed in both this year's edition of the bar Journal and the West rules pamphlet.

We express our thanks to all members and officers of the bar who worked on these revisions and who favored the Court with their comments and suggestions regarding the proposed rules. These rules will become effective at 12:01 a.m., January 1, 1987, and we urge all members of the bar to familiarize themselves with these new rules.

It is so ordered.
McDONALD, C.J., and ADKINS, BOYD, OVERTON, EHRLICH, SHAW and BARKETT, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

FOUR CONSOLIDATED CASES:

Original Proceeding - Rules Regulating The Florida Bar

Joseph J. Reiter, President, West Palm Beach, Florida; Ray Ferrero, Jr., President-elect, Fort Lauderdale, Florida; John F. Harkness, Jr., Executive Director, John T. Berry, Staff Counsel, Dennis S. Crowley, Ethics Counsel, John A. Boggs, Director of Lawyer Regulation, and Michael A. Tartaglia, Director of Public Interest Programs, Tallahassee, Florida; D. Culver Smith III, Chairman, Special Study Committee on Lawyer Referral Services, Palm Beach, Florida; and Phyllis Shampanier, Chairwoman, Integration Rule and Bylaws Committee, Miami Beach, Florida; Bill Wagner, Chairman, Committee on Proposed Rules Regulating The Florida Bar, Tampa, Florida; Thomas M. Ervin, Jr., Chairman, Disciplinary Procedure Committee, Tallahassee, Florida; James P Hahn, Chairman, Standing Committee on the Unauthorized Practice of Law, Lakeland, Florida; Catherine L. Dickson, UPL Counsel, Tallahassee, Florida; Stephen D. Busey, Chairman, Special Study Committee on the Model Rules of Professional Conduct, Jacksonville, Florida; Robert E. Livingston, Chairman, Program Evaluation Committee, Miami, Florida; and Stephen A. Rappenecker, Chairman, Board of Certification, Designation & Advertising, Gainesville, Florida,

for Petitioner, The Florida Bar

Henry P. Trawick, Jr., Sarasota, Florida; Wilson Jerry Foster, Tallahassee, Florida; Andrew G. Pattillo, Jr., President and Jane E. Robertson, Executive Director of The Florida Bar Foundation, Orlando, Florida; Michael E. Allen, President, Florida Public Defender Association, Tallahassee, Florida; John C. Shepherd, Office of the President, American Bar Association, Chicago, Illinois; J. Paul McGrath, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.; Jeffrey H. Barker, Executive Director, Florida Legal Services, Inc., Tallahassee, Florida, on behalf of Florida Clients Counsel, Common Cause, Florida Institutional Legal Services, Inc., Gulfcoast Legal Services, Inc., and Al Hadeed, Esquire; Russell E. Carlisle, Chairman, Florida Bar Commission on Access to the Legal System, Fort Lauderdale, Florida; Stephen T. Maher, Attorney at Law, University of Miami School of Law, Coral Gables, Florida; and Neil Chonin, Coral Gables, Florida,

Responding

Charles A. Kimbrell, Chairman, Florida State Committee, Miami, Florida, Robert M. Ervin, Special Florida Counsel, Tallahassee, Florida, and Gene W. Lafitte, President, New Orleans, Louisiana,

for The American College of Trial Lawyers, Amicus Curiae