

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO RULES OF )  
THE SUPREME COURT RELATING TO ) Case No. SC08-2296  
ADMISSIONS TO THE BAR )  
\_\_\_\_\_)

**RESPONSE BY JOHN A. WEISS TO PETITION**  
**BY THE FLORIDA BOARD OF BAR EXAMINERS**

The undersigned hereby files his objections to proposed Rule 2-13.1 and says:

1. The language of proposed Rule 2-13.1 would permanently prohibit the application for readmission of a Florida lawyer disbarred in Florida for conduct occurring solely in Florida if that lawyer has been reciprocally disbarred by another jurisdiction in which disbarment is permanent. In other words, even if the Florida Supreme Court specifically rejected permanent disbarment, if another state, e.g., Ohio or New Jersey, entered a reciprocal order of disbarment with no option for readmission in that state, the Florida lawyer would be permanently disbarred here in Florida.

2. Most states have reciprocal discipline rules. Florida's rule is set forth in Rule 3-7.2(1)(1) and (2) of the Rules of Discipline. While jurisdictions vary somewhat, generally the reciprocal discipline imposed by the foreign state will be the same as the "home state's discipline. For example, if a lawyer is disbarred in Florida for conduct occurring in Florida, and that lawyer happens to be a member

of the New Jersey Bar, it is likely that New Jersey will enter a reciprocal order of disbarment even though the lawyer's only contact with New Jersey is bar membership in that state. In New Jersey, disbarment is permanent. Under the language of the proposed rule, the Florida lawyer would be forever prohibited from seeking readmission in Florida because New Jersey's permanent disbarment rule would make the Florida lawyer forever ineligible for readmission.

3. If a Florida lawyer is disbarred by the Supreme Court of Florida for conduct occurring in Florida, and if Florida is his or her "home state," then he or she should not be forever prohibited from seeking readmission in Florida simply because another jurisdiction, by virtue of a reciprocal discipline, has a longer period of disbarment or has a permanent disbarment rule. This Court's ruling in *Florida Bar v. Simring*, 802 So.2d 1111 (Fla. 2000), should remain good law.

4. The undersigned is only addressing the proposed rule as it applies to cases where Florida is the "home state." He is not asking this Court to overturn its decision in *Florida Bar v. Sanders*, 580 So.2d 594 (Fla. 1991). If the lawyer's "home state" is not Florida, the lawyer should be readmitted in that state before being admitted in Florida.

5. If Florida is the "home state," this Court's disciplinary order should be the order controlling readmission in Florida.

6. The first sentence of proposed Rule 2-13.1 should read:

A person who has been disbarred from the practice of law by the Florida Supreme Court, or whose resignation from practice has been accepted by the Florida Supreme Court, in proceedings in which Florida is the home state, will not be eligible to seek readmission in Florida until the time for readmission as set forth by the Florida Rules of Discipline, or a longer period if set forth in the Florida Supreme Court's order of disbarment, has elapsed.

The undersigned does not object to the language in the remaining portion of the proposed rule.

WHEREFORE, the undersigned urges this Court to delete the provision of proposed Rule 2-13.1 that requires the lawyer to be eligible for readmission in every jurisdiction before the lawyer can be readmitted in Florida in those cases when Florida was the home state in which discipline was imposed.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original and nine copies were sent by Federal Express and that a copy was efiled to The Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927, and that a copy was sent by U.S. Mail to Michele A. Gavagni, Executive Director, Florida Board of Bar Examiners, 1891 Eider Court, Tallahassee, Florida 32399-1750, on this 13<sup>th</sup> day of February, 2009.

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John A. Weiss