

**Rule Change #1998(13)**

**The Colorado Rules of Civil Procedure**

**Chapter 19. Unauthorized Practice of Law Rules**

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**CHAPTER 19**

**UNAUTHORIZED PRACTICE OF LAW RULES**

**Rule 229. Appointment and Organization of Unauthorized Practice of Law Committee**

(a) \*\*\* NO CHANGE \*\*\*

(b) The Supreme Court shall designate a member of the Committee as Chairman.

(c) The Committee may adopt rules providing for the time and place of its meetings, the selection of a Vice-Chairman and other officers, and such other rules not in conflict with the rules of the Supreme Court as may be deemed necessary or expedient for the conduct of the Committee's business. The Clerk of the Supreme Court shall have copies of the rules for interested persons.

(d) \*\*\* NO CHANGE \*\*\*

### **Rule 230. Committee Jurisdiction**

(a) The Committee shall have jurisdiction over and inquire into and consider complaints or reports made by any person, including ~~Committee~~ REGULATION Counsel, or other entities alleging the unauthorized practice of law. Moreover, the Committee, on its own motion, may inquire into any matter pertaining to the unauthorized practice of law.

(b) \*\*\* NO CHANGE \*\*\*\*

### **Rule 231. ~~Committee~~ REGULATION Counsel; Duties and Powers**

~~Committee~~ REGULATION Counsel, appointed by the Supreme Court pursuant to Rule ~~241.3~~ 251.3, shall have the following duties and powers, in addition to those set forth in said Rule ~~241.3~~ 251.3:

(a) – (d) \*\*\* NO CHANGE \*\*\*

(e) To perform such other duties as the Chairman or the Supreme Court may require.

### **Rule 232. Investigations; General, Subpoenas**

(a) All matters within the jurisdiction of the Committee shall be referred to the ~~Committee~~ REGULATION Counsel who shall either conduct an investigation or, with the concurrence of the Chairman, refer the matter to a member of the Committee pursuant to this rule or to an enlisted member of the bar pursuant to Rule 229(d) for investigation. Upon completion of such investigation, the person who investigated the matter shall submit a written report of the investigation, findings, and recommendations to the Committee.

(b) \*\*\* NO CHANGE \*\*\*

(c) In connection with an investigation of the unauthorized practice of law, the Chairman of the Committee or the ~~Committee~~ REGULATION Counsel may issue

subpoenas to compel the attendance of respondents and other witnesses and the production of pertinent books, papers document, or other evidence. All such subpoenas shall be subject to provisions of C.R.C.P. 45.

(d) \*\*\* NO CHANGE \*\*\*

### **Rule 233. Investigation; Procedure**

(a) When a matter comes to the attention of the Committee by way of a complaint, the complainant shall be required, unless excused by the ~~Committee~~ REGULATION Counsel, to state the complaint in writing and subscribe the same.

(b) Promptly after receipt of a written request for investigation or complaint, the ~~Committee~~ REGULATION Counsel shall determine whether to proceed with an investigation. In making a determination whether to proceed, the ~~Committee~~ REGULATION Counsel may make such inquiry regarding the underlying facts as the ~~Committee~~ REGULATION Counsel deems appropriate.

(c) If the ~~Committee~~ REGULATION Counsel determines to proceed with an investigation or refers the matter to a member of the Committee or to an enlistee for investigation pursuant to Rule 232(a), the respondent shall be notified that the investigation is being conducted, shall be provided with a copy of the complaint and of the rules governing the investigation, and shall be asked to file with the ~~Committee~~ REGULATION Counsel or the person conducting the investigation a written answer to the complaint within 20 days after notice of the investigation is given.

(d)-(f) \*\*\* NO CHANGE \*\*\*

(g) When a matter comes to the attention of the Committee by way of a request for investigation or a complaint, which is later dismissed, the complainant may pursue the matter further by filing a petition, as provided in either Rule 234 or Rule 238, in the complainant's own name. If such a petition is filed, the ~~Committee~~ REGULATION Counsel shall not be required to prepare the petition or prosecute the matter. If the complainant files a petition in the complainant's own name pursuant to this provision, the complainant shall post with the Committee a \$500 deposit against which the costs of the proceedings may be assessed if at the conclusion of the proceedings it is determined that there was no reasonable cause to believe that the unauthorized practice of law occurred.

### **Rule 234. Civil Injunction Proceedings; General**

(a) If the Committee determines that civil injunction proceedings shall be

instituted against a respondent, such proceedings may be commenced in the name of the People of the State of Colorado by a petition filed in the Supreme Court by the ~~Committee~~ REGULATION Counsel or by a member of the Bar appointed by the Supreme Court for the purpose of conducting such proceedings.

(b)-(f) \*\*\* NO CHANGE \*\*\*

### **Rule 235. Civil Injunction Proceedings; Hearing Master, Powers, Procedure**

(a) \*\*\* NO CHANGE \*\*\*

(b) The People of the State of Colorado may be represented in proceedings before the hearing master by the ~~Committee~~ REGULATION Counsel, or by a member of the Bar appointed pursuant to Rule 234. Upon receipt of the order of reference, the hearing master shall set a date, time, and place for a first meeting of the parties which shall be within 30 days after the date notice thereof is given and notify the parties accordingly. At such meeting, a date, time, and place for hearing shall be set, and any matters which may expedite the proceedings shall be considered. A complete record of this meeting shall be made unless jointly waived by the parties. After the first meeting, the hearing master shall issue a notice of hearing to the parties. The notice shall be in writing and shall designate the date, time, and place of the hearing. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf. The giving of notice shall be sufficient when made by certified mail sent to the respondent at the respondent's last known address.

(c)-(d) \*\*\* NO CHANGE \*\*\*

### **Rule 236. Civil Injunction Proceedings; Report of Hearing Master; Objections**

(a)-(d) \*\*\* NO CHANGE \*\*\*

(e)<sup>1</sup> An objecting party shall have 30 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have 30 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have 10 days after the filing of the answer brief within which to file a reply brief.

(f) \*\*\* NO CHANGE \*\*\*

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<sup>1</sup> The (e) is missing from the version published by Bradford; this is where it is supposed to be.

### **Rule 238. Contempt Proceedings; General**

(a) If the Committee determines that contempt proceedings shall be instituted against a respondent, such proceedings shall be commenced in the name of the People of the State of Colorado by a petition filed in the Supreme Court by the ~~Committee~~ REGULATION Counsel or by a member of the Bar appointed by the Supreme Court for the purpose of conducting such proceedings.

(b)-(f) \*\*\* NO CHANGE \*\*\*

(g) At all hearings before the hearing master, witnesses shall be sworn and a complete record made of all proceedings had and testimony taken. The citation shall be prosecuted by the ~~Committee~~ REGULATION Counsel of the State of Colorado or by such duly licensed and registered members of the Bar as may be designated by this Court.

(h)-(i) \*\*\* NO CHANGE \*\*\*

### **Rule 240. General Provisions; Qualifications of Hearing Master; Access to Information Concerning Proceedings Under these Rules**

(a)-(b) \*\*\* NO CHANGE \*\*\*

(c) Except as otherwise provided by these rules or by order of the Supreme Court, all proceedings conducted pursuant to these rules shall be confidential, and the files and records of the Committee shall be confidential and shall not be made public.

Except as otherwise provided by these rules, any person who wishes to disclose or to make public the pendency, subject matter, or status of proceedings which are otherwise confidential or to disclose or to make public the files and records of the Committee which are otherwise confidential or to gain access to the files and records of the Committee which are otherwise confidential shall file a petition with the Supreme Court setting forth the specific reasons why the existence of the particular proceedings should not remain confidential or the specific reasons why the disclosure of particular files and records or access to them should be permitted.

Upon final determination of any proceedings conducted pursuant to these rules, notice of the disposition of the matter shall be given by ~~Committee~~ REGULATION Counsel or the Clerk of the Supreme Court to the respondent, the complainant, and their counsel of record. Any person having received notice that a written agreement has been entered pursuant to Rule 233(d) shall treat such

information as confidential and shall not disclose such information to anyone, except by order of the Supreme Court. Any person who makes a disclosure other than as permitted by these rules or by order of the Supreme Court may be subject to punishment for contempt of the Supreme Court.

(d) Exceptions to Confidentiality. The pendency, subject matter, and status of the proceedings conducted pursuant to these rules may be disclosed by the Committee or ~~Committee~~ REGULATION Counsel to:

(1) An entity authorized to investigate the qualifications of persons for admission to practice law;

(2) An entity authorized to investigate the qualifications of judicial candidates;

(3) A lawyer discipline enforcement agency;

(4) Any person or agency requesting such information, provided that the respondent has waived confidentiality and the request is within the scope of the waiver;

(5) An enlistee who, pursuant to Rule 229(d), was enlisted to assist the Committee;

(6) An agency authorized to investigate violations of the criminal laws or the consumer protection laws of this state or any other state, or of the United States; or

(7) Any person or agency, provided the proceeding is predicated either upon allegations that have become generally known to the public through printed or broadcast news accounts or upon acts of the respondent which are public or generally known.

Access to the files and records of the Committee may be granted by the Committee or the ~~Committee~~ REGULATION Counsel, provided a request for disclosure or access is made in writing by:

(1) An entity authorized to investigate the qualifications of persons for admission to practice law;

(2) An entity authorized to investigate the qualifications of persons for government employment;

(3) An agency authorized to investigate allegations of unauthorized practice of law;

(4) An entity authorized to investigate the qualifications of judicial candidates;

(5) A lawyer discipline enforcement agency; or

(6) An agency authorized to investigate violations of the criminal laws or the consumer protection laws of this state or any other state, or of the United States.

If the ~~Committee~~ REGULATION Counsel discloses confidential information to a judicial nominating commission of the State of Colorado or grants a judicial nominating commission access thereto, the ~~Committee~~ REGULATION Counsel shall give written notice to the respondent that specified confidential information has been so disclosed or that access has been granted.

~~(e) Upon completion of proceedings conducted pursuant to these rules, the Committee Counsel shall notify the respondent and the complainant by certified mail that a copy of the report submitted to the Committee together with the record of the disposition of the proceedings shall become public. When notice is given as provided herein, the Committee Counsel shall also notify the parties that all proper names shall be removed from the report before it might become public. The respondent and the complainant shall then have 30 days from the date of the notice to file written objections with the Committee Counsel. In the event written objections are filed by either the respondent or the complainant within the time provided, the report and the record of the disposition shall not be made accessible or public, except as otherwise provided by these rules.~~

#### **Rule 240.1. Immunity**

Persons performing official duties under the provisions of this chapter, including but not limited to members of the Committee and its staff; the ~~Committee~~ REGULATION Counsel and the ~~Committee~~ REGULATION Counsel's staff; the members of the Bar and enlistees working under the direction of the Committee; and the hearing masters, shall be immune from suit for all conduct in the course and scope of their official duties.

**CHAPTER 20**  
**Colorado Rules of Procedure Regarding**  
**Attorney Discipline and Disability Proceedings,**  
**Colorado Attorneys' Fund for Client Protection and**  
**Mandatory Legal Education and Judicial Education**

**Rule 251.2. Attorney Regulation Committee**

(a)-(c) \*\*\* NO CHANGE \*\*\*

**(d) Disqualification.** MEMBERS OF THE COMMITTEE SHALL NOT REPRESENT AN ATTORNEY IN ANY MATTER AS PROVIDED IN THESE RULES DURING THEIR TERMS OF SERVICE. ~~A former memberS of the committee shall not represent an attorney in any proceeding MATTER as provided in these Rules for a period of one year following the completion of the member's term of service on the committee~~ THAT WAS BEING INVESTIGATED OR PROSECUTED AS PROVIDED IN THESE RULES DURING THEIR TERMS OF SERVICE.

**Rule 251.16. Presiding Disciplinary Judge**

(a)-(d) \*\*\* NO CHANGE \*\*\*

**(e) Disqualification.** ~~Persons appointed to serve as Presiding Disciplinary JudgeS shall not represent an attorney in any proceeding MATTER as provided in these Rules during their terms of service, and following the completion of their terms of service~~ FORMER PRESIDING DISCIPLINARY JUDGES shall not represent an attorney in any matter that was being investigated ~~and/or~~ prosecuted AS PROVIDED IN THESE RULES during their terms of service.

**Rule 251.17. Hearing Board**

(a) \*\*\* NO CHANGE \*\*\*

**(b) Abstention of Members.** Members of Hearing Boards shall refrain from taking part in any proceedings in which a judge, similarly situated, would be required to abstain. No partner or associate in the law firm of a member of the HEARING Board, or any attorney in any way affiliated with a member of the HEARING Board or the member's law firm, may accept or continue in employment connected with any matter pending before the Hearing Board ~~as long as ON WHICH the member is serving, on the Hearing Board. However, a partner or an associate in the law firm of a member of the Board, or any attorney in any way affiliated with a member of the Board or the member's law firm, may accept or continue in employment connected with any matter pending before a Hearing Board~~



~~upon which the member is not serving.~~

**(c) Disqualification.** ~~Persons appointed to serve as m~~Members of Hearing Boards shall not represent an attorney in any ~~proceeding~~ MATTER as provided in these Rules during their terms of service.

#### **Rule 251.24. Appellate Discipline Commission**

(a)-(b) \*\*\* NO CHANGE \*\*\*

**(c) Abstention of Appellate Discipline Commission Members.** Members of the Appellate Discipline Commission shall refrain from taking part in any proceedings in which a judge, similarly situated, would be required to abstain. No partner or associate in the law firm of a member of the Appellate Discipline Commission, or any attorney in any way affiliated with a member of the Appellate Discipline Commission or the member's law firm, may accept or continue in employment connected with any matter pending before THE PRESIDING DISCIPLINARY JUDGE, a Hearing Board, or the Appellate Discipline Commission as long as the member is serving on the Appellate Discipline Commission.

**(d) Disqualification.** ~~Persons appointed to serve as m~~Members of the Appellate Discipline Commission shall not represent an attorney in any ~~proceeding~~ MATTER as provided in these Rules during their terms of service, ~~and for a period of one year following the completion of their terms of service, the f~~Former members OF THE COMMISSION shall not represent an attorney in ANY case MATTER that was being investigated or prosecuted AS PROVIDED IN THESE RULES during their terms of service.

#### **Rule 251.26. Proceedings Before The Appellate Discipline Commission**

**(a) Standard of Review.** All disciplinary and disability proceedings filed with the Appellate Discipline Commission as herein provided shall be conducted in the name of the People of the State of Colorado titled "IN THE MATTER OF [the name of the ATTORNEY-RESPONDENT]" and shall be prosecuted by the Regulation Counsel.

When proceedings before the Appellate Discipline Commission are conducted, the Appellate Discipline Commission shall affirm the decision of the Hearing Board unless it determines that, based on the record, the findings of fact of the Hearing Board are clearly erroneous or that the form of discipline imposed by the Hearing Board (1) bears no relation to the conduct, (2) is manifestly excessive or insufficient in relation to the needs of the public, or (3) is otherwise unreasonable. The Appellate Discipline Commission may conduct a de novo review of the conclusions of law.

The matter shall be docketed as:

APPELLATE DISCIPLINE COMMISSION, STATE OF COLORADO

Case No.

PROCEEDING IN DISCIPLINE [OR DISABILITY]

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~~THE PEOPLE OF THE STATE OF COLORADO,~~

~~Complainant,~~

~~v.~~

~~Respondent.~~ IN THE MATTER [the name of the ATTORNEY-RESPONDENT]

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**(b) – (j) \*\*\* NO CHANGE \*\*\***

**(k) Docketing the Appeal.**

(1) Filing. At the time of the filing of the notice of appeal or the time of filing any documents with the Appellate Discipline Commission before the filing of the notice of appeal, the Appellate Discipline Commission shall enter the appeal upon the docket. The party appealing shall docket the case as nearly as possible under the title given to the action by the Hearing Board, ~~with the appellant identified as such, but if such title does not contain the name of the appellant, the appellant's name, identified as appellant, shall be added to the title.~~ Unless necessary to show the relationship of the parties, such caption shall not include the names of parties not involved in the appeal.

**Rule 251.27. Proceedings Before The Supreme Court**

**(a) Appellate Jurisdiction.** Appellate review by the Supreme Court of every final decision of the Appellate Discipline Commission in which public censure, a period of suspension, disbarment, or transfer to disability inactive status is ordered or in which reinstatement or readmission is denied shall be allowed as provided by these rules.

**(b) Standard of Review.** All disciplinary and disability proceedings filed in the Supreme Court as herein provided shall be conducted in the name of the people of the State of Colorado titled “IN THE MATTER OF [the name of the ATTORNEY-RESPONDENT]” and shall be prosecuted by the Regulation Counsel.

When proceedings are conducted before the Supreme Court as herein provided, the Supreme Court shall affirm the decision of the Appellate Discipline Commission unless it determines that, based on the record, the findings of fact of the Hearing Board are clearly erroneous or that the form of discipline imposed by the Appellate Discipline Commission (1) bears no relation to the conduct, (2) is manifestly excessive or insufficient in relation to the needs of the public, or (3) is otherwise unreasonable. The Supreme Court may conduct a de novo review of the conclusions of law.

In those cases where the Appellate Discipline Commission suspends or disbars the respondent or transfers the attorney to disability inactive status, the counsel for the Appellate Discipline Commission shall promptly file with the clerk of the Supreme Court the decision of the Appellate Discipline Commission, but only when a party files a notice of appeal as herein provided. The matter shall be docketed by the clerk of the Supreme Court as:

SUPREME COURT, STATE OF COLORADO  
Case No.  
ORIGINAL PROCEEDING IN DISCIPLINE [OR DISABILITY]

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~~THE PEOPLE OF THE STATE OF COLORADO,~~

~~Complainant,~~

~~vs.~~

~~Respondent.~~

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~~Current 251.8 (c)~~

~~IN THE MATTER OF [the name of the ATTORNEY-RESPONDENT]~~

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(c) \*\*\* NO CHANGE \*\*\*

Formerly 251.8(c)

~~\_\_\_\_\_~~ **(e) Rule 251.8.5 Suspension for Nonpayment of Child Support.**  
**Support. (a) Suspension for Nonpayment of Child Support.**

The provisions of this rule shall apply in all cases to an attorney licensed or admitted to practice law in Colorado who is in arrears in payment of child support or who is in arrears under a child support order as defined by §26-13-123(a), C.R.S.

**(b) Petition for Suspension.**

(1) Upon receipt of information that an attorney is in arrears in payment under a child support order, Regulation Counsel shall promptly file a petition for suspension with the Presiding Disciplinary Judge setting forth sufficient facts to give rise to reasonable cause to believe that the attorney is in arrears on a child support order. A copy of the petition shall be served on the attorney pursuant to these rules.

(2) The Presiding Disciplinary Judge shall order the issuance of an order to show cause directing the attorney to show cause why the attorney should not be immediately suspended, which order shall be returnable within thirty days. After the issuance of an order to show cause, and after the period for response has passed without a response having been filed, or after consideration of any response and reply, the Presiding Disciplinary Judge shall enter an order immediately suspending the attorney from the practice of law if the attorney fails to pay the pastdue obligation, negotiate a payment plan approved by a court, or file a motion to modify the court ordered support obligation within the thirty day period.

(3) If a response to the Order to Show Cause is timely filed and the attorney requests a hearing on the petition, said hearing shall be held within ten days before the Presiding Disciplinary Judge. A hearing shall be held solely for the purpose of determining whether there exists, as of the date of the hearing, proof that full payment of all arrears of support established by the order of a court owed by the attorney has been paid; that there is a mistake in the identity of the attorney; that the attorney has entered into a court approved payment plan; or that the attorney has filed a motion to modify the court ordered child support obligation. No evidence with respect to the appropriateness of the underlying court order or ability of the attorney in arrears to comply with such order shall be received or considered by the Presiding Disciplinary Judge. Upon conclusion of the hearing, the Presiding Disciplinary Judge shall **prepare an opinion setting forth its finding of facts and its decision. The Presiding Disciplinary Judge shall** enter an order **immediately** suspending the attorney from the practice of law **immediately** if the attorney **fails**~~has failed~~ to pay the past due obligation, negotiate a payment plan approved by a court, or file a motion to modify the court ~~ordered~~ support obligation as of the date of the hearing.

**(c) Appeal. For purposes of this rule, the decision of the Presiding Disciplinary Judge shall be final, and an appeal may be commenced as set forth in C.R.C.P. 251.26.**

**(d) Reinstatement.**

**(1) If after a suspension, an attorney has paid the past-due obligations,**

negotiated a payment plan approved by a court or filed a motion to modify the court-ordered support obligation as of the date of the hearing, the attorney may seek reinstatement by filing a verified petition, with evidence of compliance, with the Presiding Disciplinary Judge. The attorney must prove compliance by clear and convincing evidence.

(2) Immediately upon receipt of a petition for reinstatement, the Regulation Counsel shall conduct any investigation the Regulation Counsel deems necessary. The petitioner shall cooperate in any such investigation. After the investigation, Regulation Counsel shall file an answer. Based on the petition and answer, the Presiding Disciplinary Judge may order reinstatement or a hearing conducted with procedures identical to those outlines by these rules governing hearings of complaints.

(3) If the petition for reinstatement is denied by the hearing board, the attorney may proceed pursuant to C.R.C.P. 251.26.

**Amended and Adopted by the Court, En Banc, October 29, 1998, effective January 1, 1999.**

**BY THE COURT:**

**Rebecca Love Kourlis  
Justice, Colorado Supreme Court**