

NOTICE OF RULE AMENDMENT UNDER CONSIDERATION

Notice as provided by Rule 26(f) of the Mississippi Rules of Appellate procedure is hereby given of a proposed amendment to the Rules of Discipline of the Mississippi Bar. Comments on such amendment are solicited and should be provided to the Court within thirty days following the first publication of this notice on the Internet. To assure consideration, comments should be mailed to the office of the Clerk of the Mississippi Supreme Court.

Proposed amendment to Rules of Discipline of the Mississippi Bar, Rule 15 (9.3):

(9.3) Distribution of Opinion and Judgment and Supersedeas. No private reprimand shall issue within thirty (30) days provided for taking an appeal or until the Court has disposed of any appeal. ~~Judgment of public reprimand, suspension or disbarment shall immediately become a matter of public record, but an~~ , and an appeal duly perfected, as provided above, from a judgment of the tribunal imposing discipline of suspension for not more than six months shall operate as supersedeas except for making public the imposition of such public discipline or as provided in Rules 6(a) and 10, and the accused attorney shall be permitted to continue the practice of law until such time as the Court disposes of the appeal. In appeals from judgments imposing discipline of six months or more and those imposing disbarment, supersedeas shall be within the sound discretion of the Tribunal, subject to review by this Court, upon application of the accused attorney made within thirty days of the entry of the judgment. In ruling upon such application, the Tribunal shall state the reasons for its action. A motion for a stay of the judgment or the vacating of a stay granted by the Tribunal may be made to this Court or to a justice of this Court, but the motion shall show that the application to the Tribunal for relief sought is not practicable, or that the Tribunal has denied an application or has failed to afford the relief which the applicant has requested, with the reasons given by the Tribunal for its action. The motion shall also show the reasons for the relief requested and the facts relied upon, and, if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements. The applicant shall file an original and four (4) copies of the motion for stay and, if the motion is opposed, shall attach legible copies of the documents specified in M.R.A.P. 8(e) for appeals under those rules.

Any stay may be conditioned upon giving bond as may be found appropriate by the Tribunal in the first instance or this Court upon review. Such bonds may be enforced by a motion in this Court without the necessity of an independent action. The motion for satisfaction of the bond and notice of the motion shall be served upon the sureties if their addresses are known.

In no event shall a stay be granted in cases where the accused attorney has defended asserting mental or physical impairment as an excuse for the behavior which is the subject of the complaint, except upon a clear and convincing showing of restoration to mental and physical health sufficient to assure the accused attorney's ability to perform his or her professional responsibilities.

The purpose of the amendment under consideration is to remove apparent confusion between the provisions relating to supersedeas addressed by Rule 9.3 and those regarding confidentiality and public record addressed in Rule 15.