

**RULE 10. PLEAS OF NOLO CONTENDERE; ~~AND~~ ADMISSIONS
AND IRREVOCABLE RESIGNATIONS**

(a) Any time after the filing of the Formal Complaint, either the Complaint Tribunal or the Court may in its discretion, accept pleas of nolo contendere and admissions. Upon acceptance, the proceedings may terminate, but nothing contained herein shall prevent the further receipt of evidence for purposes of determining the final disposition to be made under Rule 8; ~~above~~ of these rules.

(b) ~~Irrevocable resignations may be tendered to the Court or Complaint Tribunal at any time after Complaint Counsel's receipt of a complaint.~~

Procedure

(10.1) Submission and Effect. The entity to which pleas, admissions or irrevocable resignation~~s~~ are submitted shall direct what proceedings, if any, shall be had thereafter. If the Tribunal enters an opinion and judgment based upon a plea of nolo contendere, ~~or~~ admission, ~~or~~ irrevocable resignation; the sole question to be presented by any appeal shall be the extent or absence of discipline.

(10.2) Pleas of Nolo Contendere = ~~Contents~~. Such pleas need not address the factual matters alleged in the Formal Complaint. If accepted, a plea of nolo contendere shall be considered tantamount to proof of guilt on the matters charged for purposes of determining the discipline to be imposed or the disposition to be made.

(10.3) Admissions = ~~Contents~~. Admissions shall fully address the factual matters alleged in the Formal Complaint, shall set out that the attorney could not defend himself on the matters admitted, and that the attorney submits to discipline on the matters admitted.

(10.4) Acceptance = ~~Discretionary~~. Acceptance of a nolo contendere plea or an admission shall be discretionary. Such discretion shall include the right to accept a nolo contendere plea of the Formal Complaint and admission to the remainder.

~~**(10.5) Irrevocable Resignation = ~~Contents and Effect~~.** An attorney may tender an irrevocable resignation to either the Court or the Tribunal. Such a resignation shall acknowledge each and all disciplinary matters then pending, provide the docket number or numbers, state that the attorney does not desire to defend, and request permission to resign with prejudice from the Bar. Upon receipt of such a resignation, and any response that the Bar may elect to file, the disciplinary proceedings shall terminate and either the Court or the Tribunal shall enter its order accepting the resignation, revoking the attorney's license, and barring forever thereafter the attorney's right to seek reinstatement to the privilege of practicing law in this state. Such a resignation and order shall be considered disciplinary action, and the resignation shall be considered tantamount to the proof of guilt on the matter charged.~~

(10.65) The purpose of sections ~~Rules~~ 10.1 through 10.54 of these rules is to provide a

prompt, speedy, knowledgeable, and just disposition of any disciplinary matter.

RULE 11. RESIGNATION

(a) An attorney who has a complaint filed against the attorney may tender to the Court or to the Complaint Tribunal an irrevocable resignation.

(b) An attorney who is a member of the Bar in good standing may, under oath, petition to Court for leave to resign from the privilege of practicing law in the State of Mississippi. Upon acceptance of the petition by the Court, the attorney shall not practice law in the State of Mississippi or be entitled to any privileges and benefits accorded to active members of the Bar in good standing.

Procedure

(11.1) Irrevocable Resignation. An attorney may tender an irrevocable resignation to either the Court or the Complaint Tribunal. Such a resignation shall acknowledge each and all disciplinary matters then pending, provide the docket number or numbers, state that the attorney does not desire to defend, and request permission to resign with prejudice from the Bar. Upon receipt of such a resignation, and any response that the Bar may elect to file, the disciplinary proceedings shall terminate and either the Court or the Complaint Tribunal shall enter its order accepting the resignation, revoking the attorney's license, and barring forever thereafter the attorney's right to seek reinstatement to the privilege of practicing law in this state. Such a resignation and order shall be considered disciplinary action and the resignation shall be considered tantamount to the proof of guilt on the matters charged. Jurisdiction remains with the Court and its designated disciplinary agencies to pursue complaints against the former attorney for conduct which occurred prior to the effective date of the attorney's irrevocable resignation.

(11.2) Resignation While in Good Standing.

(a) The petition for leave to resign while in good standing shall be filed under oath with the Court and shall contain a statement that there are no disciplinary actions or criminal proceedings pending against the petitioner and that the petitioner is a member in good standing of the Bar. A copy of the petition shall be served upon General Counsel.

(b) General Counsel, within ten (10) days after being served with the petition, shall certify in writing to the Court whether the petitioner is an active member in good standing with the Bar and whether the petitioner is under disciplinary investigation by any designated disciplinary agency of the Court or has a complaint pending against the attorney.

(c) The petition may be granted if petitioner is an active member in good standing and has no pending disciplinary investigation, complaints, or charges. No petition for leave to resign while in good standing shall be accepted if there are disciplinary proceedings or criminal charges pending against the petitioner or if the petitioner is not a member in good standing.

(d) After the effective date of the resignation while in good standing, in order to be reinstated,

the former attorney must comply with the rules governing admission to the practice of law in the State of Mississippi.

(e) Upon the effective date of the resignation while in good standing, the former attorney shall comply with the requirements of Rule 11 of these rules.

(f) Jurisdiction remains with the Court and its designated disciplinary agencies to pursue grievances and complaints against the former attorney for conduct which occurred prior to the effective date of the attorney's resignation while in good standing.

RULE 14.2. EFFECT OF SUSPENSION, DISBARMENT, IRREVOCABLE RESIGNATION, INCAPACITY, OR DEATH

(a) Orders of suspension or disbarment shall be effective fifteen (15) days following the filing of such an order, unless the Complaint Tribunal or the court determines immediate suspension or disbarment is required to protect the public from additional harm.

(b) An appeal shall operate as a supersedeas except as to any judgment of disbarment or suspension entered under Rules 6 or 10 of these rules. A person disbarred or suspended shall not be permitted to practice law until restored to that privilege by the Court by way of an appeal or petition for reinstatement.

(c) ~~An attorney suspended may~~ A suspended attorney may, at the discretion of the Complaint Tribunal or the Court, be placed on probation or specified terms ~~and may continue to practice law thereunder.~~ The terms may include the ability to practice law while on suspension.

(d) A disbarred, suspended, or irrevocably resigned attorney shall, in writing: (1) notify all current clients of his the attorney's disbarment, suspension or resignation and his the attorney's consequent inability to act as an attorney after the effective date of his disbarment, suspension or resignation; (2) notify each client adverse party involved in pending litigation or administrative proceedings and the attorney or attorneys for each adverse party in such proceedings, of his disbarment, suspension or irrevocable resignation and consequent inability to act as an attorney after the effective date of his the attorney's disbarment, suspension, or irrevocable resignation; (3) advise each client promptly to substitute other counsel another attorney or attorneys in his the attorney's place or to seek legal advice elsewhere; (4) notify all affected courts and agencies of his the attorney's disbarment, suspension or irrevocable resignation and consequent inability to act as an attorney after the effective date thereof; and (5) give such other notice as the disciplinary agency last having jurisdiction may direct in the public interest.

(e) In the event of irrevocable resignation, disbarment, or suspension, receivers may be appointed by the Complaint Tribunal or the Court ~~Committee on Complaints~~ for the limited purpose of making an inventory and disposing of the attorney's files, cases and practice. Neither receivers nor their associates shall be permitted to become counsel for any parties in the cases and files inventoried, but they shall be permitted to take such actions as appear necessary to protect the interests of the clients with pending cases and the interests of the attorney. ~~The Committee on~~

Professional Responsibility ~~Complaint Tribunal or the Court~~ shall receive and review reports from the receivers and shall monitor compliance with the terms of any probation, suspension or disbarment.

(f) ~~The Office of General Counsel~~ shall monitor compliance with the terms of any probation, suspension, disbarment, or irrevocable resignation. As necessary, the Office of General Counsel shall file motions for contempt for failure of an attorney to comply with such orders.

(g) Failure to comply with any order of discipline may be punished as a contempt and may constitute a separate ground for disciplinary action. Additionally, failure to comply with any order of discipline may be considered in any petition for reinstatement that may be filed.

(h) Whenever an attorney has been transferred to inactive disability status because of incapacity or disability, or disappears or dies, and no partner, or other responsible party capable of conducting the attorney's affairs is known to exist, the Court, or the chancery court of proper jurisdiction any judge having probate jurisdiction in the district in which the attorney maintains his practice, upon proper proof of the fact, will may appoint an attorney or attorneys as receivers to inventory the files of the inactive, missing or deceased attorney and to take such actions as seems indicated to protect the interest of the clients of the inactive, missing or deceased attorney and his clients, and to generally carry out the functions described in Rule 11(d) of these rules. The duly appointed administrator of an estate shall be considered to be a responsible party for purposes of this rule.

(i) Any attorney appointed receiver under this rule shall not be permitted to disclose any information contained in any files inventoried without the consent of the client to whom such file relates, except as necessary to carry out the orders of the appointing agency or court.

Procedure

(12.1) Notice to Be Given and Action to Be Taken. When an order of disbarment, or an order of suspension for an indefinite period, or a suspension without probation, or a determination of incapacity, or an irrevocable resignation, or proof of death is entered, the receivers, either with or without assistance from the suspended, or disbarred, or irrevocably resigned attorney person, shall immediately take such action as may be necessary to protect the interests of the clients of the subject and the attorney. This action shall include, but need not be limited to, giving notice that the attorney is disqualified to all clients in pending cases, all courts and agencies affected, all co-counsel in pending cases, and all opposing counsel in pending matters, or, in the absence of such counsel, the opposing parties. The receivers shall offer to deliver, and where appropriate, shall deliver, to all clients being represented in pending matters, any papers or any other property to which the clients are entitled and shall notify the clients and any counsel representing them of a suitable time and place where the papers or other property may be obtained.

~~On motion of the attorney, his client, or other litigants, the Court or disciplinary agency~~ On written motion with notice to the Bar, the Complaint Tribunal or the Court last having jurisdiction

of the disciplinary matter involving the attorney shall have broad discretion in allowing the suspended, disbarred, or irrevocably resigned attorney to continue as the attorney of record in a particular case. The attorney, the attorney's client, or other litigants shall have standing to file such a motion.

(12.2) Questions Pertaining to Closing a Practice. The receivers shall present to the Complaint Tribunal or the Court or the chancery court that appointed the receivers any ~~agency last having jurisdiction of the disciplinary matter or the appropriate chancery court~~, any question upon which direction is needed. ~~Nothing contained herein shall be construed to limit the inherent and statutory powers of the chancery court.~~

(12.3) Reports by Receivers. Upon the closing of the a law practice pursuant to this Rule, the receivers shall tender appropriate reports to the Complaint Tribunal or the Court or the chancery court that appointed the receivers. ~~Committee on Professional Responsibility and to the entity which last had jurisdiction of the disciplinary matter.~~ Where appropriate or necessary, interim reports shall be tendered.

(12.4) Law Partners - Continuance of Representation. If the client agrees, the law partners of a suspended, ~~or disbarred~~, irrevocably resigned, or disabled attorney may continue to represent any client affected by the attorney's suspension, ~~or disbarment~~, irrevocable resignation, or inactive disability status, but notice thereof should be given as set out above.

(12.5) Costs and Expenses. ~~All~~ Reasonable and actual costs and expenses incurred by the receivers in the closing of the practice of a suspended, disbarred, or irrevocably resigned attorney; ~~except as normally payable by the client~~, shall be paid by the Bar. The Bar shall be entitled to recover of and from the suspended, ~~or disbarred~~, or irrevocably resigned attorney, expenses incurred in connection with the receivers.