

MINUTES

**SUPREME COURT'S ADVISORY COMMITTEE ON
THE RULES OF PROFESSIONAL CONDUCT**

**Friday, June 19, 1992, 11:00 a.m.
Teleconference-Administrative Office of the Courts**

Bert L. Dart, Presiding

PARTICIPANTS:

Bert L. Dart
Jo Carol Nessel-Sale
John W. Palmer
Stephen F. Hutchinson
Stephen A. Trost
Hon. Lynn W. Davis
Hon. John A. Rokich
Danny C. Kelly
G. Richard Hill
J. Frederic Voros

EXCUSED:

F. John Hill
Clark Nielsen
Lee Dever
Stuart H. Schultz
Barbara K. Polich
Thomas N. Arnett, Jr.
John K. Morris

STAFF:

Colin R. Winchester

1. **SANCTIONS AND RESIGNATION WITH DISCIPLINE PENDING.** Mr. Kelly indicated his preference for free-standing Sanctions. He noticed that separate placement emphasized the importance of the Sanctions, and that the Sanctions are too long to be written as one rule within the Rules of Discipline. Ms. Nessel-Sale suggested that Rule 12 simply refer to the free-standing Sanctions. Mr. Trost indicated that there is little uniformity in the placement of the Sanctions from state to state. Consequently, the Committee should not feel bound by the actions of other states.

MOTION: Mr. Kelly made a motion to draft Rule 12 as a short cross-reference to free-standing Sanctions.

SECOND: Judge Davis seconded the motion.

VOTE: The Committee voted unanimously to approve the motion.

Mr. Dever, prior to the teleconference, suggested that 9.4(b) be stricken and that the remaining subparagraphs of 9.4 be re-numbered accordingly.

Ms. Nessel-Sale suggested striking "pending final disposition of a discipline proceeding" from the first sentence of 2.4.

Ms. Nessel-Sale suggested that the second sentence of 2.7 be re-written as follows:

Probation can be public or nonpublic and can be imposed alone or in conjunction with other sanctions; probation can also be imposed as a condition of readmission or reinstatement.

Mr. Trost suggested that 2.9 be amended as follows:

Reciprocal discipline is the imposition of a disciplinary sanction on a lawyer who has been disciplined in another court, another jurisdiction, or a regulatory body having disciplinary jurisdiction.

Mr. Trost's suggested change would also require similar changes throughout the Rules of Attorney Discipline dealing with reciprocal discipline.

Mr. Voros suggested that Sanction 2.10 be deleted.

Mr. Schultz, prior to the telephone conference, recommended that resignation with discipline pending be included as Rule of Attorney Discipline 20(f). Mr. Trost noted that if resignation with discipline pending was not referenced in the Sanctions, an attorney could resign and later say that he or she was not sanctioned. Mr. Voros suggested that resignation with discipline pending be defined as a sanction in the Sanctions, but that the procedural aspects of the proposal be included within the Rules of Attorney Discipline. He further suggested that the reference to resignation with discipline pending be inserted as Sanction 2.8, and that the remaining paragraphs in Sanction 2 be renumbered. The proposal should also indicate that resignation with discipline pending is a public sanction.

The Committee then discussed the placement of resignation with discipline pending within the Rules of Attorney Discipline. Mr. Dart suggested that it be placed in a self-contained rule.

MOTION: Mr. Kelly made a motion to place resignation with discipline pending as new Rule 21 and to renumber the remaining rules.

SECOND: Mr. Trost seconded the motion.

VOTE: The Committee voted unanimously to approve the motion.

MOTION: Mr. Voros made a motion to approve all of the changes to the Sanctions discussed during the teleconference which received Committee approval.

SECOND: Judge Davis seconded the motion.

VOTE: The Committee voted unanimously to approve the motion.

Mr. Kelly questioned whether the numbering format for the Sanctions should be similar to the Rules of Attorney Discipline. The Committee discussed the matter and determined not to change the Sanctions numbering format.

2. ADJOURNMENT. There being no further business, the teleconference was adjourned.