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Subject: Office of Lawyer Regulation Rules Review - September 21, 2015

Honorable Justices:

I understand a hearing is to be held on September 21 concerning OLR rules and procedures. I have served as retained counsel for OLR over several years and would have preferred to be present at that hearing, but a prior commitment makes that impossible.

I wish to emphasize that my relationship with OLR has been very positive. The professionalism and integrity of Director Sellen and Counselor Weigel are most impressive.

My comments relate to the timing of reinstatement petitions. A suspension for greater than six months requires a formal reinstatement procedure. Unfortunately, the process greatly extends the actual time of suspension beyond what was originally ordered. For example, a one-year suspension often takes in actual time approximately two years for the reinstatement process to be completed. I consider this manifestly unfair to the attorney whose actual time of suspension greatly exceeds what was originally ordered.

I would suggest some revisions to SCR 22.29. Under SCR 22.29, the current rule permits a petition for reinstatement of a license suspended for a definite period to be filed at any time commencing three months prior to the expiration of the suspension. I would suggest that be modified to permit a petition for reinstatement at any time commencing six months prior to the expiration of the suspension period.

Promptly, upon filing such a petition for reinstatement, the Court shall appoint a referee who, in turn, shall order a hearing on the petition within that six-month timeframe prior to the expiration of the suspension period.

At any time before the filing of the petition for reinstatement, OLR is required to send to the attorney requests for information, documents, etc. needed for purposes of their investigation. The attorney shall provide such information at the same time the petition for reinstatement is filed. OLR then has the six months to complete their investigation and make a recommendation as to whether they agree or disagree with the reinstatement request.

The reinstatement hearing shall be held prior to the expiration of the suspension period. The referee shall make a ruling on the record at the time of the hearing as to whether or not the reinstatement request is granted. If necessary, the referee may thereafter file a written report substantiating his/her views on the subject.

The only basis to continue a reinstatement hearing would relate to failure on the part of the attorney to provide information deemed relevant to the attorney's request to the OLR with the petition.

For the above system to work, certain things are necessary: OLR developing the information request it needs to do the investigation, the attorney supplying the relevant information with his/her petition, the Court promptly appointing a referee, and the referee promptly setting a hearing date prior to the end of the suspension time.

My suggestions may or may not be helpful. There are instances when information from third parties is important to the OLR investigator. Examples include, medical records, medical letter reports, etc. These requests can delay the proceedings. Some delays may be eliminated if the attorney is advised in advance that OLR seeks certain medical records or opinions such that the attorney can gather them and file them with the petition.

I hope some of these ideas are of assistance to the Court.

Respectfully submitted,

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