

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1451

Amending Alaska Bar Rules 10 & 12
relating to the appointment of Special
Bar Counsel.

IT IS ORDERED:

I. Alaska Bar Rule 10 is amended to read as follows:

Rule 10. The Disciplinary Board of the Alaska Bar Association.

(a) **Definition.** The Board of Governors of the Bar, when meeting to consider grievance and disability matters, will be known as the Disciplinary Board of the Alaska Bar Association (hereinafter the "Board"). The President of the Board (hereinafter "President"), or a Board member at the President's direction, may direct the submission of any matter to the Board by mail, telegraph or telephone. The votes on any matter may be taken in person at a Board meeting, or by conference telephone call.

(b) **Quorum.** A majority of the appointed and elected members of the Board will constitute a quorum. A quorum being present, the Board will act only with the agreement of a majority of the members sitting.

(c) **Powers and Duties.** The Board will have the powers and duties to

(1) appoint and supervise Bar Counsel and his

or her staff;

(2) supervise the investigation of all complaints against attorneys;

(3) retain legal counsel and authorize the Executive Director of the Bar (hereinafter "Director") to appoint Special Bar Counsel;

(4) hear appeals from the recommendations of Hearing Committees;

(5) review and modify the findings of fact, conclusions of law, and recommendations of Hearing Committees regardless of whether there has been an appeal to the Board, and without regard to the discipline recommended by the Hearing Committees;

(6) recommend discipline to the Court as provided in Rule 16(a)(1), (2), (3) or (4); order discipline as provided in Rule 16(a)(5); or order the grievance dismissed;

(7) in cases where the Board has recommended discipline as provided in Rule 16(a)(1), (2), (3), or (4), forward to the Court its findings of fact, conclusions of law, recommendation, and record of proceedings;

(8) impose reprimand as a Board upon a respondent attorney (hereinafter "Respondent") upon referral by Bar Counsel under Rule 22(d);

(9) maintain complete records of all discipline matters in which the Board or any of its members may

participate, and furnish complete records to the Bar Counsel upon final disposition; these records are subject to the provisions of Rule 21 concerning public access and confidentiality;

(10) issue subpoenas requested by disciplinary authorities of other jurisdictions;

(11) adopt regulations not inconsistent with these Rules; and

(12) after reasonable notice and an opportunity to show cause to the contrary, impose monetary sanctions of not more than \$500.00 on any attorney appearing before the Board in a discipline or disability matter, whether the attorney is appearing as a respondent or in a representative capacity, for the attorney's failure to comply with the Rules of Disciplinary Enforcement or orders issued by or on behalf of the Board.

(d) **Judicial Members.** The Board will have the authority to recommend to the Commission on Judicial Conduct discipline for judicial members of the Bar.

(e) **Proceedings Against Board Members.** Investigations of grievances or disability proceedings against attorney members of the Board will be conducted by Special Bar Counsel in the same manner as investigations and proceedings against other Respondents, except that in the event a formal petition is filed, the Court will perform the duties and have the

powers of the Board, as provided in these Rules.

(f) **Board Discipline Liaison.** The president will appoint on an annual basis a member of the Board to serve as the Board Discipline Liaison to Bar Counsel and Bar Counsel's staff. The Board Discipline Liaison will

(1) provide guidance and assistance to Bar Counsel and Bar Counsel's staff in implementing the Board's policies;

(2) have the duties provided in these Rules and as assigned by the President;

(3) be excused from sitting on any grievance or disability matter in which The Liaison has knowledge of the matter arising from the performance of the Liaison's duties;

(4) not be considered a member of the Disciplinary Board for the purposes of establishing a quorum when excused from sitting on a grievance or disability matter;

(5) have access to any grievance or disability matter necessary to perform the Liaison's duties or to assist Bar Counsel in making a decision on a grievance or disability matter;

(6) maintain the confidentiality of Bar Counsel's files as required by Rule 21(c).

II. Alaska Bar Rule 12(b) is amended to read as follows:

Rule 12. Area Discipline Divisions and Hearing Committees.

(b) **Powers and Duties of Area Division Members.** Upon selection and assignment by the Director, Area Division members will have the powers and duties to

- (1) sit on Hearing Committees;
- (2) review requests from Bar Counsel to impose private admonitions upon Respondents pursuant to Rule 22(d);
- (3) hear appeals from complainants from dismissals of grievances pursuant to Rule 25(c);
- (4) review Bar Counsel's decision to file a formal petition pursuant to Rule 25(e);
- (5) review challenges to Hearing Committee members pursuant to Section (h) of this Rule; and
- (6) issue subpoenas and hear challenges to their validity pursuant to Rule 24(a).

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Effective Date: October 15, 2001

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DATED: August 20, 2001

EFFECTIVE DATE: October 15, 2001

Chief Justice Fabe

Justice Matthews

Justice Eastaugh

Justice Bryner

Justice Carpeneti