

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

ADOPTION OF REVISION TO LOCAL BANKRUPTCY RULES

Effective March 15, 2018

**AMENDED LOCAL BANKRUPTCY RULE 2090-1(I) AND
NEW EXHIBIT 11 TO LOCAL BANKRUPTCY RULES**

The Court has approved the following revision to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Virginia, which, through the entry of Standing Order No. 18-2, takes effect March 15, 2018, and shall govern procedures in all cases pending on that date or filed thereafter: amended Local Bankruptcy Rule 2090-1(I) and new Exhibit 11 to the Local Bankruptcy Rules.

1. Amended Local Bankruptcy Rule 2090-1(I): The purpose of this amendment is two-fold: first, to provide a mechanism, where the circumstances so require, for the discipline of a member of the Bar of the United States Bankruptcy Court for the Eastern District of Virginia; and second, consistent with a like amendment to Local Civil Rule 83.1(L) and Local Criminal Rule 57.4(L) of the United States District Court for the Eastern District of Virginia, to implement presumptive reciprocal enforcement of another court's attorney disciplinary orders, including that of the United States District Court for the Eastern District of Virginia, as part of the reciprocal discipline process.
2. New Exhibit 11: This new exhibit is incorporated by reference in amended Local Bankruptcy Rule 2090-1(I)(3), and adopts Federal Rules of Disciplinary Enforcement Rule I, Rule II, and Rule III.

Attachment

William C. Redden
Clerk of Court

Date: March 5, 2018

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

In re:

)	
Order Adopting Amendment to)	
Local Bankruptcy Rule 2090-1(I))	Standing Order No. 18-2
and New Exhibit 11 to Local)	
Bankruptcy Rules)	
)	

**ORDER ADOPTING AMENDMENT TO LOCAL BANKRUPTCY RULE 2090-1(I) AND
NEW EXHIBIT 11 TO LOCAL BANKRUPTCY RULES**

An amendment, which has been made to Local Bankruptcy Rule 2090-1(I), and a new Exhibit 11 to the Local Bankruptcy Rules, which has been created, as incorporated by reference in the amended rule, have been adopted by the Court.

NOW, IT IS THEREFORE ORDERED that:

The above amended Local Bankruptcy Rule and new exhibit shall take effect on March 15, 2018, and shall govern procedures in all cases pending on that date or thereafter.

FOR THE COURT:

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
Chief United States Bankruptcy Judge

Date: March 5, 2018

UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA

AMENDED LOCAL BANKRUPTCY RULE 2090-1(I) AND
NEW EXHIBIT 11: FEDERAL RULES OF DISCIPLINARY
ENFORCEMENT—FRDE I, FRDE II, AND FRDE III



Effective March 15, 2018

(Ver. 03/05/18)

RULE 2090-1 ATTORNEYS - RIGHT TO PRACTICE BEFORE THE COURT; PRO SE PARTIES

(I) ***Professional Ethics***: The ethical standards relating to the practice of law in this Court shall be the Virginia Rules of Professional Conduct now in force and as hereafter modified or supplemented (“Virginia Rules”). Nothing contained herein shall in any manner be construed as limiting the inherent authority and power of the Court to discipline, sanction, or hold in contempt attorneys who appear before it pursuant to 11 U.S.C. § 105, Federal Rule of Bankruptcy Procedure 9011, or otherwise, or providing an exclusive procedure for the discipline of attorneys who appear before the Court.

(1) ***Definitions***: The following definitions apply:

(a) “Misconduct” means any act or omission by an attorney that violates the Virginia Rules. Such an act or omission constitutes misconduct regardless of:

(i) whether the attorney performed the act or omission individually or in concert with any other person or persons; or

(ii) whether the act or omission occurred in the course of an attorney-client relationship.

(b) “Discipline” includes, but is not limited to, temporary or permanent suspension or disbarment from practice before the Court, or reprimand, censure, or such other disciplinary action as the circumstances may warrant, including but not limited to restitution of funds, imposition of monetary fines (whether payable to the Court or otherwise), satisfactory completion of educational programs, compliance with treatment programs, or community service.

(2) ***Imposition of Discipline***: An attorney who commits or engages in Misconduct may be subject to the imposition of Discipline by the Court after notice of such Misconduct and an opportunity to be heard.

(3) ***Imposition of Discipline by Other Courts; Attorneys Convicted of Serious Crimes***: All counsel admitted to practice before this Court on any basis shall be admitted subject to the rules, conditions, and provisions of the Federal Rules of Disciplinary Enforcement Rule I, Rule II and Rule III, a copy of which is appended as Exhibit 11 to these Local Bankruptcy Rules, except that any attorney disciplined or suspended, whether temporary or permanent, by the United States District Court for the Eastern District of Virginia shall be subject to the immediate imposition of the identical discipline in this Court.

Comments

2090-1(I) The purpose of this amendment is two-fold: first, to provide a mechanism, where the circumstances so require, for the discipline of a member of the Bar of the United States Bankruptcy Court for the Eastern District of Virginia; and second, consistent with a like amendment to Local Civil

Rule 83.1(L) and Local Criminal Rule 57.4(L) of the United States District Court for the Eastern District of Virginia, to implement presumptive reciprocal enforcement of another court's attorney disciplinary orders, including that of the United States District Court for the Eastern District of Virginia, as part of the reciprocal discipline process. [Change effective 03/15/18.]

FEDERAL RULES OF DISCIPLINARY ENFORCEMENT**FRDE I****ATTORNEYS CONVICTED OF CRIMES**

- A. Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears such order when it appears in the interest of justice to do so.
- B. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of any other to commit a "serious crime."
- C. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.
- D. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this Rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded. This Rule shall not be applicable if the attorney has surrendered his license to practice law and has submitted a letter to the Clerk withdrawing his or her name from the Roll of Attorneys.
- E. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the Court; provided, however, that the Court may in its discretion make no references with respect to convictions for minor offenses.
- F. An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

FRDE RULE II**DISCIPLINE IMPOSED BY OTHER COURTS**

- A. Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a Court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such action.
- B. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall forthwith issue a notice directed to the attorney containing:
1. A copy of the judgment or order from the other Court; and
 2. An order to show cause directing that the attorney inform this Court within 30 days after service of that order upon the attorney, personally or by mail of any claim by the attorney predicated upon the grounds set forth in (D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.
- C. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.
- D. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (B) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:
1. That the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
 2. That there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or
 3. That the imposition of the same discipline by this Court would result in grave injustice; or
 4. That the misconduct established is deemed by this Court to warrant substantially different discipline.
- Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.
- E. In all other respects, a final adjudication in another Court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the Court of the United States.
- F. This Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

FRDE RULE III

DISBARMENT ON CONSENT OR RESIGNATION IN OTHER COURTS

- A. Any attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other Court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

- B. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any Court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.