

In the Indiana Supreme Court

CASE NUMBER:

ORDER AMENDING RULES FOR ADMISSION TO THE BAR AND THE DISCIPLINE OF ATTORNEYS

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 2, 3, 12, 23, 29, 31, and Program Guidelines for the Indiana Judges and Lawyers Assistance Program of the *Indiana Rules for Admission to the Bar and the Discipline of Attorneys* are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA RULES FOR ADMISSION TO THE BAR AND THE DISCIPLINE OF ATTORNEYS

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Rule 2. Registration and Fees

(a) Name and Address. All attorneys in active or inactive good standing, duly admitted to the practice of law in the State of Indiana shall file with the Clerk of the Supreme Court, 217 State House, Indianapolis, Indiana 46204, their correct name, office and residence address and county of residence. Said attorneys shall notify the Clerk of the Supreme Court of any change of address or name within thirty (30) days of such change. Such notice of a change of name shall be accompanied by a copy of the court record or an affidavit which states the name change. The Clerk shall keep a list of attorneys together with their correct addresses, and certify monthly such list to the Clerk of the United States District Court for the Northern District of Indiana, the clerk of the United States District Court for the Southern District of Indiana, the Executive Director of the State Board of Law Examiners and the Indiana State Bar Association. The names and addresses so certified shall be effective for all notices involving licenses as attorneys

and/or disciplinary matters, and a failure to file same shall be a waiver of notice involving licenses as attorneys and/or disciplinary matters.

(b) Annual Registration Fee—Active Attorneys. Except as provided in sections (c) or (d), each attorney who is a member of the bar of this Court on August 1 of each year shall, so long as the attorney is a member of the Bar of this Court, pay a registration fee of one hundred five dollars (\$105.00) on or before October 1 of such year. A delinquent fee in the amount of sixty-five dollars (\$65.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; a delinquent fee in the amount of one hundred fifteen dollars (\$115.00) shall be added to the registration fee for fees paid after October 15 and on or before December 31 of each year; and a delinquent fee in the amount of two hundred and sixty-five dollars (\$265.00) shall be added to the registration fee for fees paid after December 31 of each year. An attorney who has paid the registration fee under this subsection and any applicable delinquent fees and who is otherwise eligible to practice law in this state shall be considered to be in active good standing.

Any attorney admitted to practice law in this State on a date subsequent to August 1 of each year shall, within ten (10) days of the date of his or her admission to the Bar of the Court, or by October 1 of said year, whichever date is later, pay a registration fee of one hundred five dollars (\$105.00).

(c) Annual Registration Fee—Inactive Attorneys. One-half (1/2) of the registration fee referred to in section (b) shall be required of an attorney who files with the Clerk, on or before October 1 of each year, an affidavit of inactivity, stating that he or she is currently in active good standing, and that he or she neither holds judicial office nor is engaged in the practice of law in this state. A delinquent fee in the amount of fifty dollars (\$50.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; and a delinquent fee in the amount of one hundred dollars (\$100.00) shall be added to the registration fee for fees paid after October 15 of each year. An attorney who has paid the registration fee under this section and any applicable delinquent fees shall be considered to be in inactive good standing. An inactive attorney shall promptly notify the Clerk of a desire to return to active status, and pay the applicable registration fee for the current year, prior to any act of practicing law.

(d) Annual Registration Fee—Retired Attorneys. No registration fee shall be required of an attorney who is sixty-five (65) years old or older and files with the Clerk, by October 1 of any year, an affidavit of retirement, stating that he or she is currently in active or inactive good standing, neither holds judicial office nor is engaged in the practice of law in this state, does not plan to return to the practice of law. An affidavit of retirement, once filed, shall be effective for each succeeding year or until the attorney is reinstated pursuant to section (e).

(e) Reinstatement of Retired Attorneys. In the event there is no basis for the suspension of the attorney's license to practice law, a retired attorney's privilege to practice law shall

be reinstated upon submitting to the Clerk a written application for reinstatement and payment of:

- (1) the unpaid registration fee for the year of reinstatement;
- (2) registration fees, including delinquent fees, in the amount referred to in section (b) for each year of retirement; and
- (3) an administrative reinstatement fee of two hundred dollars (\$200.00).

The Clerk shall deposit the administrative reinstatement fee referred to in subsection (e)(3) into the “Clerk of the Courts-Annual Fees” account, described in section (m).

(f) IOLTA Certification. On or before October 1 of each year, every lawyer admitted to practice law in this state shall certify to the Clerk of this Court that all client funds that are nominal in amount or to be held for a short period of time by the lawyer so that they could not earn income for the client in excess of the costs incurred to secure such income are held in an IOLTA account (as that term is defined in Indiana Rules of Professional Conduct, Rule 1.15(f)) of the lawyer or law firm or that the lawyer is exempt under the provisions of Prof. Cond. R. 1.15(g)(2).

(g) Annual Registration Fee Notice. On or before August 1 of each year, the Clerk of this Court shall mail a notice to each attorney then admitted to the bar of this Court who is in active or inactive good standing that: (i) a registration fee must be paid on or before October 1; and (ii) the certification required by section (f) of this rule and by Ind.Prof. Cond. R. 1.15(g) must be filed with the Clerk on or before October 1. The Clerk shall also send a copy of such notice to the Clerk for each circuit and superior court in this State for posting in a prominent place in the courthouse, the Indiana State Bar Association, and such print and other media publishers of legal information as the Clerk reasonably determines appropriate. Provided, however, that the failure of the Clerk to send such notice will not mitigate the duty to pay the required fee and file the required certification.

(h) Failure to Pay Registration Fee; Reinstatement. Any attorney who fails to pay a registration fee required under section (b) or (c) or fails to file the certification required by section (f) of this rule and by Ind.Prof. Cond. R. 1.15(g) shall be subject to suspension from the practice of law and sanctions for contempt of this Court in the event he or she thereafter engages in the practice of law in this State. In the event there is no basis for the continued suspension of the attorney’s license to practice law, such an attorney’s privilege to practice law shall be reinstated upon submitting to the Clerk a written application for reinstatement and payment of:

- (1) the applicable unpaid registration fee for the year of suspension;
- (2) any delinquent fees for the year of suspension due pursuant to section (b) or (c);
- (3) the applicable unpaid registration fee for the year of reinstatement, if different from the year of suspension;

- (4) a registration fee, including delinquent fees, in the amount referred to in section (c) for all intervening years of suspension; and
- (5) an administrative reinstatement fee of two hundred dollars (\$200.00).

The Clerk shall deposit the administrative reinstatement fee referred to in subsection (h)(5) in to the “Clerk of the Courts-Annual Fees” account, described in section (m).

(i) Certification of Good Standing. The Clerk of this Court shall issue a certificate of active good standing or inactive good standing approved by this Court to any attorney upon the receipt of the annual registration fee and any applicable delinquent fees referred to in sections (b) and (c), respectively. The certificate of active good standing shall include a statement to the effect that the lawyer has filed the certification required by section (f) of this rule.

(j) Annual Continuing Education Fee – Non-attorney Judges.

(1) On or before August 1, of each year, the Clerk shall mail to each non-attorney judge a notice that an education fee of fifteen dollars (\$15.00) must be paid on or before the first day of October. Failure to pay the education fee on or before October 1, will result in the imposition of a delinquency fee of fifteen dollars (\$15.00).

(2) Any non-attorney judge who fails to pay the education fee shall be automatically suspended from judicial office. A non-attorney judge may resume office upon written application, payment of unpaid education fees and payment of the delinquency fee set out in subsection (1).

(k) Effective Dates.

(1) The requirement in section (c) that inactive attorneys pay an annual registration fee shall apply to all inactive attorneys and shall be effective for the annual fee due on or before October 1, 2002. Notwithstanding any other provision in this rule, any inactive attorney who filed an affidavit of inactivity on or before October 1, 2001 and who, after suspension for nonpayment of the annual registration fee referred to in section (c), thereafter seeks reinstatement to active or inactive attorney status pursuant to section (h), shall not be required to pay unpaid registration or delinquent fees pursuant to (h)(4) for any year prior to October 1, 2002.

(2) Notwithstanding any other provision in this rule, any attorney who, after suspension for nonpayment of the annual registration fee referred to in section (b), thereafter seeks reinstatement to active or inactive attorney status pursuant to section (h), shall not be required to pay unpaid registration or delinquent fees pursuant to section (h)(4) for any year prior to October 1, 2002.

(3) Notwithstanding any other provision in this rule, any retired attorney who seeks reinstatement to active attorney status pursuant to section (e) shall not be required to pay unpaid registration or delinquent fees pursuant to (e)(2) for any year prior to October 1, 2002.

(l) Affidavit of Permanent Withdrawal. An attorney in good standing, who is current in payment of all applicable registration fees and other financial obligations imposed by these rules, and who is not the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, who desires to relinquish permanently his or her license to practice law in the State of Indiana may do so by tendering an Affidavit of Permanent Withdrawal from the practice of law in this State to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission. The Executive Secretary shall promptly verify the eligibility of the attorney to resign under this section, and if eligible, forward a certification of eligibility, together with the Affidavit of Permanent Withdrawal to the Clerk of the Indiana Supreme Court, and the Clerk shall show on the roll of attorneys that the attorney's Indiana law license has been relinquished permanently and that the lawyer is no longer considered an attorney licensed to practice law in the State of Indiana. An attorney who permanently withdraws under this section shall not be eligible for reinstatement under section (e) or (h), but may apply for admission under Admission and Discipline Rules 3 through 21. In the event the attorney is not eligible to permanently withdraw under this section, the Executive Secretary shall promptly notify the attorney of all reasons for ineligibility.

(m) Deposit and Use of Funds.

- (1) Deposit of Funds. All funds collected by the Clerk under this rule shall be deposited in an account to be maintained by the Clerk and designated "Clerk of the Courts-Annual Fees." The Clerk shall thereafter issue those funds as directed by the Indiana Supreme Court.
- (2) Use of Funds. The Indiana Supreme Court shall periodically apportion the registration fees collected pursuant to this rule for the operation of the Indiana Supreme Court Disciplinary Commission, the Indiana Commission for Continuing Legal Education, and the Judges and Lawyers Assistance Committee.

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Rule 3. Admission of Attorneys

Section 1. Admission of Attorneys.

The Supreme Court shall have exclusive jurisdiction to admit attorneys to practice in Indiana. Admission to practice law by the Court pursuant to Rule 21 shall entitle attorneys to practice in any of the courts of this state.

Section 2. Limited Temporary Admission on Petition.

(a) *Requirements for ~~Limited~~ Temporary Admission on Petition.*

The Supreme Court, the Court of Appeals, the Tax Court, or a trial court, in the exercise of discretion, may permit a member of the bar of another state or territory of the United States, or the District of Columbia, not admitted pursuant to Rule 21, to appear in any particular proceeding, only if the court before which the attorney wishes to appear determines that there is good cause for such appearance and that each of the following conditions is met:

- (1) A member of the bar of this state has appeared and agreed to act as co- counsel.
- (2) The attorney is not a resident of the state of Indiana, regularly employed in the state of Indiana, or regularly engaged in business or professional activities in the state of Indiana.
- (3) The attorney has made payment to the Clerk of the Supreme Court an annual registration fee in the amount set forth in Admission and Discipline Rule 2(b), accompanied by a copy of the Verified Petition for Temporary Admission that the attorney intends to file pursuant to subdivision (4) below. Upon receipt of the registration fee and petition, the Clerk of the Supreme Court will issue a temporary admission attorney number and payment receipt to the attorney seeking admission. If the attorney's verified petition for temporary admission is thereafter denied, the attorney shall provide a copy of the order denying temporary admission to the Clerk of the Supreme Court, and the Clerk shall issue a refund of the registration fee.
- (34) The attorney files a verified petition, co-signed by co-counsel designated pursuant to subdivision (a)(1), setting forth:
 - (i) The attorney's residential address, office address, and the name and address of the attorney's law firm or employer, if applicable;
 - (ii) All states or territories in which the attorney has ever been licensed to practice law, including the dates of admission to practice and any attorney registration numbers;
 - (iii) That the attorney is currently a member in good standing in all jurisdictions listed in (ii);
 - (iv) That the attorney has never been suspended, disbarred or resigned as a result of a disciplinary charge, investigation, or proceeding from the practice of law in any jurisdiction; or, if the attorney has been suspended, disbarred or resigned from the practice of law, the petition shall specify the jurisdiction, the charges, the address of the court and disciplinary authority which imposed the sanction, and the reasons why the court should grant ~~limited~~-temporary admission notwithstanding prior acts of misconduct;
 - (v) That no disciplinary proceeding is presently pending against the attorney in any jurisdiction; or, if any proceeding is pending, the petition shall specify the

jurisdiction, the charges and the address of the disciplinary authority investigating the charges. An attorney admitted under this rule shall have ~~the~~ a continuing obligation during the period of such admission ~~to~~ promptly to advise the court of ~~the~~ a disposition made of pending charges or the institution of new disciplinary proceedings;

(vi) A list of all proceedings, including caption and cause number, in which either the attorney, or any member of a firm with which the attorney is currently affiliated, has appeared in any of the courts of this state during the last five years. Absent special circumstances, repeated appearances by any person or by members of a single law firm pursuant to this rule shall be cause for denial of the petition;

(vii) A demonstration that good cause exists for the appearance. Good cause shall include at least one of the following:

(a) the cause in which the attorney seeks admission involves a complex field of law in which the attorney ~~is a specialist~~ has special expertise, ~~or~~

(b) there has been an attorney-client relationship with the client for an extended period of time, ~~or~~

(c) there is a lack of local counsel with adequate expertise in the field involved, ~~or~~

(d) the cause presents questions of law involving the law of the foreign jurisdiction in which the applicant is licensed, or

(e) such other reason similar to those set forth in this subsection as would present good cause for the ~~pro hac vice~~ temporary admission.

(viii) A statement that the attorney has read and will be bound by the Rules of Professional Conduct adopted by the Supreme Court, and that the attorney consents to the jurisdiction of the State of Indiana, the Indiana Supreme Court, and the Indiana Supreme Court Disciplinary Commission to resolve any disciplinary matter that might arise as a result of the representation.

(ix) A statement that the attorney has paid will file a Notice of Pro Hac Vice Admission with the registration fee to the clerk of this court Clerk of the Supreme Court in compliance with subdivision (a)(3) Section (b) of this rule, together with a copy of the payment receipt and temporary admission attorney number issued by the Clerk of the Supreme Court pursuant to subdivision (3). within thirty (30) days after the court grants permission to appear in the proceeding.

(b) *Notice of Temporary Admission. — Pro Hac Vice Status.* All attorneys granted temporary admission admitted pro hac vice under the provisions of ~~Section~~ subsection 2(a) shall file a Notice with the Clerk of the Supreme Court within thirty (30) days after a court grants permission to appear in the proceeding. A separate Notice of Temporary Admission must be filed with the Clerk of the Supreme Court for each proceeding in which a court grants permission to appear. Failure to file the

notice within the time specified ~~shall~~ will result in automatic exclusion from practice within this state. The notice shall include the following:

- (1) A current statement of good standing issued to the attorney by the highest court in each jurisdiction in which the attorney is admitted to practice law; and
- (2) A copy of the verified petition requesting permission to appear in the court proceedings, along with the court order granting permission.
- (3) ~~A list of all grievances, petitions, or complaints filed against the attorney with any disciplinary authority of any jurisdiction, with the determination thereon.~~

(c) *Renewal of Registration Fee for Temporary Admission Attorney Admitted Pro Hac Vice.*

~~At the time of the filing of the Notice required by section 2(b) of this Rule, the attorney shall pay, to the Clerk of the Supreme Court the annual registration fee required of members of the bar of this state as set out in Admission and Discipline Rule 23, Section 21. Thereafter, if the an attorney continues to appear on the basis of a temporary admission in any case pending as of the first day of a new calendar year, the attorney shall pay a renewal fee equal to the annual registration fee set out in Admission and Discipline Rule 2(b). This renewal fee will continue to pay the required registration fee, which shall be due within thirty (30) days of the start of that calendar year, and shall be tendered to the Clerk of the Supreme Court, accompanied by a copy of the Notice of Temporary Admission for each continuing proceeding in which a court has granted permission to appear. Failure to pay the required renewal fee within the time specified shall result in automatic exclusion from practice within this state. The Clerk of the Indiana Supreme Court shall notify the trial court of the attorney's exclusion. If the proceeding has concluded or if the attorney has withdrawn his or her appearance, the attorney must so notify the Clerk of the Supreme Court by the deadline for renewal of registration.~~

(d) *Responsibilities of Attorneys.* Members of the bar of this state serving as co-counsel under this rule shall sign all briefs, papers and pleadings in the cause and shall be jointly responsible therefore. The signature of co-counsel constitutes a certificate that, to the best of co-counsel's knowledge, information and belief, there is good ground to support the signed document and that it is not interposed for delay or any other improper reason. Unless ordered by the trial court, local counsel need not be personally present at proceeding before the court.

(e) *Failure to Register, Renew, or Otherwise Perform as Required.* Any foreign attorney who fails to register or pay the registration fee as required under subsection (a), fails to file a Notice of Temporary Admission under subsection (b), or fails to pay a renewal registration fee required under subsection (c) shall be subject to discipline in this state. Members of the bar of this state serving as co-counsel under this rule shall be subject to discipline if the attorney admitted under this rule fails to pay the required fees or otherwise fails to satisfy the requirements of this rule.

OFFICIAL COMMENTARY

The amendments apply only to requests for Temporary Admission on Petition ~~leave to appear *pro hac vice*~~ filed on or after January 1, ~~2007~~ 1999.

If an attorney files the notice with the Clerk of the Supreme Court and pays the fee required by subpart (b) of the Rule in one case in any given calendar year, the attorney need not pay another fee for any other case in which the attorney seeks Temporary Admission on Petition ~~may be appearing *pro hac vice*~~ during that same calendar year.

If an attorney files the notice with the Clerk of the Supreme Court and pays the fee required by subparts (a) and (b) of the Rule in a particular calendar year, and a new calendar year begins and the attorney is still appearing in any case pursuant to a Temporary Admission on Petition ~~*pro hac vice*~~, the attorney must file a new notice and pay a fee within 30 days of the start of the new calendar year.

If more than one (1) attorney from one firm is appearing pursuant to a Temporary Admission on Petition ~~*pro hac vice*~~ in a particular case on behalf of the same client, each attorney appearing nevertheless has an individual obligation to comply with the Rule as amended.

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Rule 12. Committee on Character and Fitness

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Section 9. If the applicant or conditional admittee timely requests a hearing, or if the State Board of Law Examiners in connection with further inquiry shall deem it advisable to hold a hearing, the State Board of Law Examiners will schedule a hearing pursuant to the provisions of this Section.

(a) In such event, the Board may ~~petition the Court to~~ appoint a hearing panel from the members of the Board, consisting of three members. Said panel shall select from among its members a presiding officer and shall schedule and conduct such hearing. All of the above rules and regulations with respect to the action of the Board shall apply at said hearing.

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Rule 23. Disciplinary Commission and Proceedings

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Section 9. Powers and Duties of the Executive Secretary.

In addition to the powers and duties set forth in this Rule, the Executive Secretary shall have the power and duty to:

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(g) enforce the collection of the registration fee provided in ~~Section 15~~ Ind. Admission and Discipline Rule 2 against delinquent members of the Bar;

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Section 10. Investigatory Procedures.

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(f) An attorney who is the subject of an investigation by the Disciplinary Commission may be suspended from the practice of law upon a finding that the attorney has failed to cooperate with the investigation.

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(5) Upon the disposition of any show cause petition filed pursuant to ~~subsection paragraph~~ (f)(2), above, resulting in either dismissal due to the respondent's subsequent cooperation or suspension from the practice of law, the Commission may seek an order reimbursing the Commission in the amount of \$500 plus out-of-pocket expenses for its time and effort in seeking the order in addition to all other costs and expenses provided for by Section ~~17~~ 16 of this rule. An attorney who fails to pay the reimbursements, costs, or expenses assessed pursuant to this ~~section paragraph~~ by the due date of the annual registration fee required by Admission and Discipline Rule 2(b) shall be subject to ~~the provisions of an order of suspension from the practice of law pursuant to Section 21(j) of this Rule~~ Indiana Admission and Discipline Rule 2(h), and shall be reinstated only upon paying the outstanding reimbursements, costs and expenses and submitting to the Clerk a written application for reinstatement and payment of an administrative reinstatement fee of two hundred dollars (\$200).

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Section 16. Expenses.

The judgment of this Court imposing discipline will normally include an order that the respondent pay the costs and expenses of the proceeding. The Executive Secretary shall prepare an itemized statement of expenses allocable to each case, including expenses incurred by the Commission in the course of the investigatory, hearing or review procedures under this ~~Rule~~ rule and costs attributable to the services of the hearing officer. The Executive Secretary shall include in the itemized statement of expenses; a fee of one hundred dollars (\$100) payable to the Clerk of this Court, as reimbursement for the Clerk's processing of all papers in connection with the proceeding. Proceedings for the collection of the costs taxed against the respondent may be initiated by the Executive Secretary on the order approving expenses and costs entered by this

Court. An attorney who fails to pay costs and expenses assessed pursuant to this section by the due date of the annual registration fee required by Admission and Discipline Rule 2(b) shall be subject to the provisions of Section 21(j) of this Rule an order of suspension from the practice of law pursuant to Indiana Admission and Discipline Rule 2(h), and shall be reinstated only upon paying the outstanding costs and expenses and submitting to the Clerk a written application for reinstatement and payment of an administrative reinstatement fee of two hundred dollars (\$200).

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Section 21. Annual Registration Fee Sources and Uses of Funds.

(a) The Indiana Supreme Court shall periodically designate a portion of the registration fees charged to attorneys pursuant to Admission and Discipline Rule 2 to be used for the operations of the Disciplinary Commission. The Executive Secretary of the Disciplinary Commission shall deposit such funds into an account designated "Supreme Court Disciplinary Commission Fund."

(b) Disbursements from the fund shall be made solely upon vouchers signed by or pursuant to the direction of the Chief Justice of this Court.

(c) The Supreme Court shall specifically approve all salaries to be paid out of the Disciplinary Commission Fund.

(d) Not later than May 1 of each year, the Commission shall submit for approval by the Supreme Court an operating budget for July 1 to June 30 of the following fiscal year.

~~Funds necessary to enable the Commission to carry out its functions, obligations and duties under this rule shall be provided as follows:~~

~~(a) *Annual Registration Fee—Active Attorneys.* Except as provided in subsection (b), each attorney who is a member of the bar of this Court on August 1, 1978, each attorney who is a member on August 1, of each year thereafter, and each attorney admitted pro hac vice pursuant to Admission and Discipline rule 3, Section 2, shall so long as the attorney is a member of the Bar of this Court, pay a registration fee of ninety dollars (\$90.00) a year on or before October 1 of such year. A delinquent fee in the amount of fifty dollars (\$50.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; a delinquent fee in the amount of one hundred dollars (\$100.00) shall be added to the registration fee for fees paid after October 15 and on or before December 31 of each year; and a delinquent fee in the amount of two hundred and fifty dollars (\$250.00) shall be added to the registration fee for fees paid after December 31 of each year. An attorney who has paid the registration fee under this subsection and any applicable delinquent fees and who is otherwise eligible to practice law in this state shall be considered to be in active good standing.~~

Any attorney admitted to practice law in this State on a date subsequent to August 1 of each year shall, within ten (10) days of the date of his or her admission to the Bar of the Court, or by October 1 of said year, whichever date is later, pay a registration fee of ninety dollars (\$90.00). The Clerk of this Court shall furnish to the Commission the names and addresses of all persons admitted to practice subsequent to August 1 of each year as said persons are admitted.

- ~~(b) Annual Registration Fee Inactive or Retired Attorneys.~~— One half (1/2) of the registration fee referred to in subsection (a) shall be required of an attorney who files with the Clerk, on or before the date the registration fee referred to in subsection (a) would otherwise be due, an affidavit of inactivity, stating that he or she is currently in active good standing, and that he or she neither holds judicial office nor is engaged in the practice of law in this State. A delinquent fee in the amount of fifty dollars (\$50.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; and a delinquent fee in the amount of one hundred dollars (\$100.00) shall be added to the registration fee for fees paid after October 15 of each year.

An attorney who is sixty five (65) years old or older and files such an affidavit of inactivity may designate his or her affidavit as a Retirement Affidavit and shall thereafter be exempt from the payment of any registration fee. Such an affidavit of inactivity once filed shall be effective for each succeeding year, and as long as it is effective, in each succeeding year the attorney, unless otherwise exempt, shall pay the registration fee provided for in this subsection. An inactive attorney shall promptly notify the Clerk of a desire to return to active status, and pay the applicable registration fee for the current year, prior to any act of practicing law. An attorney who has paid the registration fee under this subsection and any applicable delinquent fees shall be considered to be in inactive good standing.

- ~~(c) IOLTA Certification.~~ Every lawyer admitted to practice law in this State shall, on or before October 1 of each year, certify to the Clerk of this Court that all client funds which are nominal in amount or to be held for a short period of time by the lawyer so that they could not earn income for the client in excess of the costs incurred to secure such income are held in an IOLTA account (as that term is defined in *Indiana Rules of Professional Conduct, Rule 1.15(f)*) of the lawyer or law firm or that the lawyer is exempt because:

(1) the lawyer or law firm's client trust account has been exempted from and removed from the IOLTA program pursuant to Ind. Prof. Cond. R. 1.15(f)(7); or

(2) the lawyer:

(A) is not engaged in the private practice of law;

(B) does not have an office within the State of Indiana;

(C) is a judge, attorney general, public defender, U.S. attorney, district attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law;

(D) is a corporate counsel or teacher of law and is not otherwise engaged in the private practice of law;

- ~~(E) has been exempted by an order of general or special application of this Court, which is cited in the certification; or~~
- ~~(F) Compliance with *Indiana Rule of Professional Conduct, Rule 1.15(f)* would work an undue hardship on the lawyer or would be extremely impractical, based either on the geographic distance between the lawyer's principal office and the closest depository institution which is participating in the IOLTA program, or on other compelling and necessitous factors.~~

~~(d) *Annual Registration Fee Notice.* On or before August 1 in each year, the Clerk of this Court shall mail to each attorney then admitted to the bar of this Court and in active or inactive good standing or practicing law in this state, a notice that: (i) the registration fee must be paid on or before October 1; and (ii) the certification required by subsection (c) of this rule and by Ind.Prof.Cond.R. 1.15(g) must be filed with the Clerk on or before October 1. The Clerk shall also send a copy of such notice to each Clerk for each circuit and superior court in this State for posting in a prominent place in the courthouse and to the Indiana State Bar Association and such print and other media publishers of legal information as the Clerk reasonably determines appropriate. Provided, however, that the failure of the Clerk to send such notice will not mitigate the duty to pay the required fee and file the required certification.~~

~~(e) *Failure to Pay Registration Fee; Reinstatement.* Any attorney who fails to pay a registration fee required under subsection (a) or (b) or fails to file the certification required by subsection (c) of this rule and by Ind.Prof. Cond.R. 1.15(g), shall be subject to sanctions for contempt of this Court in the event he or she thereafter engages in the practice of law in this State. In the event there is no other basis for the continued suspension of the attorney's license to practice law, such (existing language) an attorney's privilege to practice law shall be reinstated upon submission to the Clerk of a written application for reinstatement and payment of:~~

- ~~(1) the applicable unpaid registration fee for the year of suspension;~~
- ~~(2) any delinquent fees for the year of suspension due pursuant to subsection (a) or (b);~~
- ~~(3) the applicable unpaid registration fee for the year of reinstatement, if different from the year of suspension;~~
- ~~(4) a registration fee, including delinquent fees, in the amount referred to in subsection (b) for all intervening years of suspension; and~~
- ~~(5) an administrative reinstatement fee of two hundred dollars (\$200.00).~~

~~The Clerk shall distribute the administrative reinstatement fee referred to in subsection (e)(5) in equal shares to the Disciplinary Commission Fund and the Continuing Legal Education Fund.~~

~~(f) *Reinstatement of Retired Attorneys.* In the event there is no basis for the suspension of the attorney's license to practice law, a retired attorney's privilege to practice law shall be reinstated upon submission to the Clerk of a written application of reinstatement and payment of:~~

- (6) the unpaid registration fee for the year of reinstatement;
- (7) a registration fee, including delinquent fees, in the amount referred to in subsection (b) for each year of retirement; and
- (8) an administrative reinstatement fee of two hundred dollars (\$200.00).

~~(g) *Certification of Good Standing.* The Clerk of this Court shall issue a certificate of active good standing or inactive good standing approved by this Court to any attorney upon the receipt of the annual registration fee and any applicable delinquent fees referred to in subsections (a) and (b), respectively. The Certificate of active good standing shall include a statement to the effect that the lawyer has filed the certification required by subsection (c) of this rule.~~

~~(h) *Use of Funds.* All funds collected by the Clerk of this Court on behalf of the Disciplinary Commission shall be deposited in a special account to be maintained by the Clerk and designated "Clerk of the Courts Annual Fees." As collected, the Clerk shall thereafter issue those funds to the Disciplinary Commission, and the Executive Secretary shall cause the same to be deposited into a special account designated "Supreme Court Disciplinary Commission Fund." Disbursements from the fund shall be made solely upon vouchers signed by or pursuant to the direction of the Chief Justice of this Court. All salaries to be paid shall be specifically ordered and approved by this Court.~~

~~(i) *Effective Dates.*~~

~~(1) The requirement in subsection (b) that inactive attorney pay an annual registration fee shall apply to all inactive attorneys and shall be effective for the annual fee due on or before October 1, 2002. Notwithstanding any other provision in this section, any inactive attorney who filed an affidavit of inactivity on or before October 1, 2001 and who, after suspension for nonpayment of the annual registration fee referred to in subsection (b), thereafter seeks reinstatement to active attorney registration or delinquent fees for any year prior to October 1, 2002.~~

~~(2) Notwithstanding any other provision in this section, any attorney who, after suspension for nonpayment of the annual registration fee referred to in subsection (a), thereafter seeks reinstatement to active attorney status pursuant to subsection (e), shall not be required to pay unpaid registration or delinquent fees pursuant to subsection (e)(4) for any year prior to October 1, 2002.~~

~~(3) Notwithstanding any other provision in this section, any retired attorney who seeks reinstatement to active attorney status pursuant to subsection (f) shall not be required to pay unpaid registration or delinquent fees pursuant to subsection (f)(2) for any year prior to October 1, 2002.~~

~~(j) An attorney who fails to pay costs, expenses and reimbursements assessed pursuant to Section 10(f)(5) or 16 of this Rule by the due date of the annual registration fee required under subsection (a) or (b) shall be subject to an order of suspension from the practice of law as provided for in subsection (e).~~

~~(k) An attorney in good standing, who is current in payment of all applicable registration fees and other financial obligations imposed by these rules, and who is not the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, who desires to relinquish permanently his or her license to practice law~~

~~in the State of Indiana may do so by tendering an Affidavit of Permanent Withdrawal from the practice of law in this State to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission. The Executive Secretary shall promptly verify the eligibility of the attorney to resign under this subsection, and if eligible, forward a certification of eligibility, together with the Affidavit of Permanent Withdrawal to the Clerk of the Indiana Supreme Court, and the Clerk shall show on the roll of attorneys that the attorney's Indiana law license has been relinquished permanently and that the lawyer is no longer considered an attorney licensed to practice law in the State of Indiana. An attorney who resigns under this subsection shall not be eligible for reinstatement under subsection (e) or (f), but may apply for admission under Admission and Discipline Rules 3 through 21. In the event the attorney is not eligible to resign under this subsection, the Executive Secretary shall promptly notify the attorney of all reasons for ineligibility.~~

...

Rule 29. Mandatory Continuing Legal Education

...

SECTION 2. DEFINITIONS.

As used in this Rule:

...

(n) *New Judge Orientation Program* shall mean the General Jurisdiction Orientation Program conducted by the Indiana Judicial Center.

SECTION 3. EDUCATION REQUIREMENTS.

(a) Every Attorney and every Judge of a city, town or Marion County small claims court, who is not licensed as an Attorney, shall complete no less than six (6) hours of approved continuing legal education each year and shall complete no less than thirty-six (36) hours of approved continuing legal education each Educational Period. At least three (3) hours of approved continuing legal education in professional responsibility shall be included within the hours of continuing legal education required during each three (3) year Educational Period. Such hours may be integrated as part of a substantive program or as a free standing program. All credits for a single educational activity will be applied in one (1) calendar year. No more than twelve (12) hours of the Educational Period requirement shall be filled by Non Legal Subject Matter Courses.

(b) Every trial judge of a circuit, superior, probate or county court first elected or appointed to the bench after January 1, 2006 shall attend the next regularly scheduled New Judge Orientation Program following the date of the judge's election or appointment

unless the Chief Justice of Indiana, for good cause shown in a written request, excused the judge.

(~~b~~c) Attorneys admitted to the Indiana Bar before December 31, 1998, on the basis of successfully passing the Indiana Bar examination, shall have a grace period of three (3) years commencing on January 1 of the year of admission and then shall commence meeting the minimum yearly and Educational Period requirements thereafter. Attorneys admitted after December 31, 1998, shall commence meeting the yearly and Educational Period requirements starting on January 1 after the year of their admission by completing programs designated by the Commission as appropriate for new lawyers.

For attorneys admitted after December 31, 1998, at least six (6) of the thirty-six (36) Educational Period Requirements shall be satisfied by attending an Applied Professionalism Program for Newly Admitted attorneys which has been accredited by the Commission.

(~~e~~d) Attorneys admitted on foreign license or Attorneys who terminate their inactive status shall have no grace period. Their first three year Educational Period shall commence on January 1 of the year of admission or termination of inactive status.

(~~e~~) For Judges of city, town and Marion County small claims courts, who are not Attorneys, the first three year Educational Period shall commence on January 1 of the first full calendar year in office.

A Judge who fails to comply with the educational requirements of this rule shall be subject to suspension from office and to all sanctions under Section 10. A Judge so suspended shall be automatically reinstated upon compliance with Section 10(b) "Reinstatement Procedures". The Commission shall issue a statement reflecting reinstatement which shall also be sent to the Clerk to show on the Roll of Attorneys that the Judge is in good standing.

...

SECTION 7. SOURCES AND USES OF FUNDS.

(a) The Indiana Supreme Court shall periodically designate a portion of the registration fee charged to attorneys pursuant to Admission and Discipline Rule 2 to be used for the operations of the Commission on Continuing Legal Education. The Executive Director of the Commission shall deposit such funds into an account designated "Supreme Court Continuing Legal Education Fund."

(b) Disbursements from the fund shall be made solely upon vouchers signed by or pursuant to the direction of the Chief Justice of this Court.

(c) The Supreme Court shall specifically approve all salaries to be paid out of Continuing Legal Education Fund.

(d) Not later than May 1 of each year, the Commission shall submit for approval by the Supreme Court an operating budget for July 1 to June 30 of the following fiscal year.

(e) Commissioners shall be paid one hundred dollars (\$100) for each meeting of the Commission they attend and be reimbursed for expenses in accordance with guidelines established by the State of Indiana.

~~Funding for the Commission shall be provided by a fee charged to each attorney in good standing upon the roll of attorneys in the Office of the Clerk, and every Judge. On or before August 1 of each year, the Clerk shall mail to each such person a notice that the education fee must be paid or an exemption affidavit filed with the Clerk on or before the first day of October. The yearly fee of fifteen dollars (\$15.00) will be paid with and in addition to the annual registration fee on or before October 1 of such year. Both may be paid by single check. The Clerk will mail a statement for the payment of said fee to each such person at the same time a statement for the annual registration fee is mailed. Failure to pay the education fee on or before October 1, will result in an imposition of a delinquency fee of fifteen dollars (\$15.00).~~

~~All monies collected by the Clerk shall be deposited in a special account designated as Clerk of Courts Annual Fees. Disbursements from the Continuing Legal Education Fund shall first be approved by the Executive Committee and then shall be approved by the Chief Justice if the amount is over five hundred dollars (\$500.00) and by the Supreme Court Administrator if the amount is five hundred dollars (\$500.00) or less. Salaries shall be funded by payments made to the Supreme Court.~~

~~(b) Any Attorney or Attorney Judge who fails to pay the education fee or file an affidavit under Ind. Admission Rule 23, Sec. 21(b) shall be automatically suspended from the practice of law in this State and shall be subject to sanctions for the unauthorized practice of law in this State. Any Non-Attorney Judge who fails to pay the education fee or notify the Clerk by affidavit of resignation, shall be automatically suspended from judicial office. An Attorney's privilege to practice law may be reinstated or a Judge may resume office upon written application, payment of unpaid education fees and payment of the delinquency fee as set out in subsection (a) of this section. If an Attorney or Judge is suspended by order of the Supreme Court, the additional fee for reinstatement set out in Section 10 of this Rule will be imposed.~~

~~(c) All salaries to be paid shall be specifically ordered and approved by the Supreme Court. Commissioners shall be paid one hundred dollars (\$100) for each meeting of the Commission they attend and be reimbursed for expenses in accordance with guidelines established by the State of Indiana.~~

...

Rule 31. Judges and Lawyers Assistance Program

Section 3. Committee Members.

(a) The Committee shall consist of fifteen (15) Committee members, all of whom shall be appointed by the Supreme Court. Members shall have experience with the problems of chemical dependency and/or mental health problems. Seven (7) members

shall be practicing lawyers; five (5) shall be judges; one (1) shall be a law student enrolled in an Indiana law school at the time of appointment; two (2) members may be filled by judges, lawyers, and/or law student(s). A reasonable effort shall be made to provide geographical representation of the State.

(b) Members shall be appointed for three-year terms. All terms shall commence on January 1 and end on December 31. Any member who has served ~~two (2)~~ three (3) consecutive terms, exclusive of filling out an unexpired term, shall not be reappointed to the Committee for at least three (3) consecutive years. Any vacancy on the Committee shall be filled as soon as practicable and the new member so appointed shall serve the unexpired term of the member being replaced. Any member may be removed by the Supreme Court for a good cause.

(c) Election of Officers. ~~At the first meeting of the Committee after each January 1 and subject to approval by the Supreme Court,~~ The members shall elect from the membership a Chair who shall preside at all meetings, a Vice-Chair who shall preside in the absence of the Chair, a Secretary who shall be responsible for giving notices and keeping the Committee's minutes, and a Treasurer who shall be responsible for keeping the Committee's record of account.

...

Section 4. Powers and Duties of the Committee.

In addition to the powers and duties set forth elsewhere in this Rule, the Committee shall have the power and duty to:

(a) Adopt rules and regulations, to be known as the Judges and Lawyers Assistance Program Guidelines, for the efficient discharge of its powers and duties. The Guidelines shall become effective when approved by the Supreme Court.

(b) Establish an office to provide administrative and financial record keeping support for the Committee.

(c) Establish a mechanism, subject to Court approval, to arrange loans or other financial assistance to members of the bar for recovery related expenses.

~~(e)~~(d) Review this Rule and Guidelines from time to time and make recommendations to the Supreme Court for changes.

~~(d)~~(e) Publish proposed Guidelines and procedures through West Publishing Company and Res Gestae and file them with the Clerk of the Supreme and Appellate Courts.

~~(e)~~(f) Appoint subcommittees having such powers and duties as the Committee may determine are necessary to carry out the Committee's work; including trustees of any organization created to receive and distribute or spend grants, bequests, gifts and other monies for loans or other financial assistance to members of the bar for recovery related expenses.

~~(f)~~(g) Provide ~~quarterly~~ financial reports to the Chief Justice.

~~(g)~~(h) Make an annual report of its activities to the Supreme Court, ~~the Disciplinary Commission, and the Indiana State Bar Association~~ each year. The report shall include a statement of income and expenses for the year.

~~(h)~~(i) Recruit and train volunteers, as defined by the Guidelines, to assist the Committee's work with impaired members of the legal profession persons.

~~(i)~~(j) Do all other things necessary and proper to carry out its powers and duties under this Rule.

...

Section 7. Sources and Uses of Funds.

(a) The Indiana Supreme Court shall periodically designate a portion of the registration fee charged to attorneys pursuant to Admission and Discipline Rule 2 to be used for the operations of the Judges and Lawyers Assistance Committee. The Executive Director shall deposit such funds into an account designated "Supreme Court Judges and Lawyers Assistance Committee Fund."

(b) The Supreme Court shall specifically approve the salaries to be paid out of the Judges and Lawyers Committee Fund.

(c) (d) Not later than May 1 of each year, the Committee shall submit for approval by the Supreme Court an operating budget for July 1 to June 30 of the following fiscal year.

~~Funding for the Committee shall be provided through a portion of the registration fee charged to each lawyer pursuant to Admission and Discipline Rule 23 Section 21.~~

~~(b) A budget shall be submitted April 1 of each fiscal year, July 1 through June 30, to the Supreme Court for its review and approval.~~

~~(c) Disbursements shall first be approved by the Executive Committee or its designee and then by the Chief Justice if the amount is over five hundred dollars~~

~~(\$500.00) and by the Supreme Court Administrator if the amount is five hundred dollars (\$500.00) or less.~~

~~(d) All salaries to be paid shall be specifically ordered and approved by the Supreme Court. Committee members shall not be paid, but will be reimbursed for expenses in accordance with guidelines established by the State of Indiana.~~

Section 8. Referrals.

...

(d) The Committee may refer judges, lawyers, and law students to outside agencies, ~~or~~ organizations, or individuals for assessment or treatment upon such terms authorized by the Guidelines.

...

PROGRAM GUIDELINES FOR THE INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM

The Indiana Judges and Lawyers Assistance Program (JLAP), established pursuant to Indiana Admission and Discipline Rule 31, provides assistance to judges, lawyers, and law students who suffer from physical or mental disabilities resulting from disease, chemical dependency, mental health problems, or age that impair their ability to practice or serve. JLAP neither engages in punishing nor disciplining members nor does it have the power or authority to do so. These policies and procedures have been adopted by JLAP and constitute guidelines approved by the Committee.

Section 1. Definitions.

The following terms or phrases shall have the meanings assigned in this section.

...

(k) Members or members of the legal profession bar – persons who are judges, lawyers, law students, or have applied for admission to the Indiana bar.

...

Section 5. Referral Procedures

...

(b) Self-Referrals and Other Referrals

1) When the participant is a self-referral, the following procedures apply:

...

Section 6. Services

- (a) Any member is eligible for assistance and participation in JLAP. JLAP services will be provided without charge for initial consultation, in-house assessment, referral, and peer support, ~~and monitoring services.~~

...

These amendments shall take effect on January 1, 2007.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney’s Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the circuit court are directed to send a copy of this order to all the judges, including any city, town, and small claims court judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of August, 2006.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.