

PROPOSED RULE CHANGES – FINAL VERSION

LCvR83.2 (AND LCrR44.1) Attorneys.

- (a) **Roll of Attorneys.** The bar of this Court shall consist of those attorneys admitted to practice before this Court who have taken the prescribed oath and submitted the required fee.
- (b) **Eligibility.** Any member of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States, is eligible for admission to the bar of this Court.
- (c) **Procedure for Admission.** Each applicant for admission must complete the application form available from the Court Clerk and pay the admission fee to the Court Clerk.
- (d) **Committee on Admissions and Grievances.** A Committee on Admissions and Grievances shall be appointed by the Court. If there are questions regarding an applicant's qualifications or fitness to be admitted to the bar of this Court, then the application shall be referred to the Committee on Admissions and Grievances for investigation. The Committee shall report its recommendations in writing to the Court Clerk. Upon a favorable report of the Committee the applicant may be admitted by any judge of this Court or the Court Clerk.
- (e) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this Court in all cases or proceedings in which they represent the United States or such agencies.
- (f) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the bar of this Court may in the discretion of a judge of this Court be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to file a motion and attach a completed Request for Admission Pro Hac Vice form provided by the Court Clerk's office along with the required fee.

LCvR83.6 (AND LCrR44.7) Discipline by the Court.

- (a) **Discipline by Other Courts; Criminal Convictions.** Whenever any member admitted to practice in this Court, including a person admitted pro hac vice, has been suspended, disbarred or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic suspension of the attorney's right to practice in this Court, and an order of

suspension shall be issued by the Court. Any attorney subject to this rule must notify the Court immediately upon any such conviction, suspension, disbarment or resignation. The automatic suspension from this Court shall remain in effect unless the attorney has by motion to the Court within twenty-eight (28) days of the order of suspension shown good cause as to why the suspension should not remain in effect. The Chief Judge or his or her designee shall rule on such motion. If the attorney was disbarred, suspended, resigned or was convicted as stated above, an order of disbarment will issue if no motion for good cause has been filed within the required time period. Failure to self-report is a separate cause for disciplinary action. However, a failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements shall not constitute separate cause for further disciplinary action by this Court.

(b) **Standard Governing Attorney Conduct.** The Court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this Court.

(c) **Misconduct.** Complaints of professional misconduct by counsel are subject to Fed. R. Civ. P. 11. Complaints of professional misconduct may be submitted by a judge of the Court, at his or her discretion, to the Committee on Admissions and Grievances. Upon receipt of a complaint regarding the professional conduct of an attorney, the Committee on Admissions and Grievances shall, after notice and opportunity to be heard, report and recommend to the Court whether:

- (1) The inquiry should be terminated because the question raised is unsupported or insubstantial;
- (2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;
- (3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this Court regarding the attorney's right to practice before the Court;
- (4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the Court. Any attorney whose conduct in this Court is under investigation by the Committee on Admissions and Grievances shall not be admitted pro hac vice until the pending investigation is concluded. Any action taken by the Court pursuant to a report and recommendation by the Committee on Admissions and Grievances shall be by a majority vote of the active judges.

Nothing contained in this Local Rule shall limit the right of an individual judge to manage the cases assigned to that judge, which right shall include, without limitation, the authority to impose any sanctions, penalties or other restrictions which may be appropriate in a particular case, or the authority to refer a matter for consideration to the Committee on Admissions and Grievances on an advisory basis.

- (d) **Right to a Hearing.** Except as otherwise provided under subsection (a), this Court shall not impose any disciplinary action affecting an attorney's right to practice before the Court until after a hearing on the matter has been held before a judge or panel of judges. The attorney may waive the right to a hearing. At the hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the judge or panel to call the complaining party to appear at the hearing.
- (e) **Sanctions.** Discipline by this Court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the Court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this Court on the propriety of the referral.
- (f) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.
- (g) **Unauthorized Practice.** Any person who before admission to the bar of this Court or who during disbarment or suspension exercises any of the privileges bestowed upon members of this bar, or who pretends to be entitled to such privileges, or who otherwise engages in the unauthorized practice of law before the Court, shall be guilty of contempt of this Court and shall be subject to punishment therefor and shall be subject to any other discipline which the Court may impose.
- (h) **Reinstatement.** Persons disbarred indefinitely from practice before this Court may not petition for reinstatement until three (3) years following disbarment or until two (2) years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the disciplining body. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the Court at the time of suspension.

LCvR83.7 (AND LCrR44.5) Professional Conduct.

- (a) **Oklahoma Rules of Professional Conduct** Apply. Attorneys practicing in this Court are expected to conduct themselves in accordance with the Oklahoma Rules of Professional Conduct, as adopted by the Oklahoma Supreme Court, as the standard of conduct of all members of the Oklahoma Bar Association. See, Title 5 O.S.A. Ch.1, App. 3A. As set forth in the preamble:

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

In this spirit, all lawyers should become familiar with their duties and obligations, as defined and classified generally in the Oklahoma Rules of Professional Conduct, any interpretive decisions, applicable statutes, and the usages, customs, and practices of the bar.

- (b) **Courtroom Behavior.** The purpose of this rule is to emphasize, not to supplant, certain portions of those ethical principles applicable to the lawyer's conduct in the courtroom. In addition to all other requirements, therefore, lawyers appearing in this Court shall adhere to the following:

- (1) Be punctual in attendance at Court.
- (2) Refrain from addressing anyone in Court by first names -- use last names only.
- (3) Refrain from leaving the courtroom while court is in session, unless it is absolutely necessary, and then only if the Court's permission has been obtained first.
- (4) At all times, counsel for plaintiff shall occupy the table nearest the jury box and counsel for defendant shall occupy the table furthest from the jury box.
- (5) Ascertain that only one lawyer is standing at a time, unless an objection is being made.
- (6) Bench conferences will be kept to a minimum. Counsel should anticipate issues which will arise during the trial and inform the Court and opposing counsel at the earliest opportunity. Permission must be obtained from the Court to approach the bench, a witness, an exhibit, or the clerk.
- (7) Refrain from employing dilatory tactics.

- (8) Hand all papers intended for the Court to see to the clerk who, in turn, will pass them up to the judge.
- (9) Hand to the clerk any exhibits offered into evidence.
- (10) Advise clients, witnesses, and others concerning rules of decorum to be observed in court.
- (11) Use the lectern when interrogating witnesses or addressing the jury, unless otherwise permitted by the Court. Appropriate exceptions to this rule shall be made for disability or infirmity.
- (12) Never conduct or engage in experiments or demonstrations unless prior permission is granted by the Court.
- (13) Refrain from conducting a trial when they know, prior thereto, that they will be necessary witnesses, other than as to merely formal matters such as identification or custody of a document or the like. If, during the trial, it is discovered that the ends of justice require the lawyers' testimony, they should from that point on, if feasible and not prejudicial to their client's case, leave further conduct of the trial to other counsel. If circumstances do not permit withdrawal from the conduct of the trial, lawyers should not argue the credibility of their own testimony.
- (14) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly uninfluenced by all ill feeling between the respective clients. Attorneys should abstain from any allusion to personal peculiarities and idiosyncrasies of opposing counsel.

- (15) Rise when addressing or being addressed by the Court. Appropriate exception will be made for disability or medical infirmity.
- (16) Refrain from assuming an undignified posture. Counsel should always be attired in a proper and dignified manner and should abstain from any apparel or ornament calculated to attract attention to themselves.
- (17) At all times exemplify conduct consistent with their obligation as an officer of the Court.
- (18) In making representations to the Court, know or honestly believe them to be supported by fact.
- (19) Comply, along with all other persons in the courtroom, with the following:
 - (A) No tobacco in any form will be permitted at any time.
 - (B) No propping of feet on tables or chairs will be permitted at any time.
 - (C) No water bottles or other beverage containers, bottles or cups, or edibles shall be brought into the courtroom, except with permission of the marshal or courtroom deputy clerk.
 - (D) No gum chewing or reading of newspapers or magazines (except as a part of the evidence in a case) will be permitted while Court is in session.
 - (E) No talking or other unnecessary noises will be permitted while Court is in session.
 - (F) Everyone must rise when instructed to do so upon opening, closing, or declaring recesses of Court. Appropriate exception shall be made for disability or medical infirmity.
 - (G) Any attorney who appears in court intoxicated or under the influence of intoxicants, drugs, or narcotics may be summarily held in contempt.
- (20) Follow all individual court room rules of the District Courts.