

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered May 23, 2019.

(Deleted material is struck through, and new material is underscored.)

Effective July 1, 2019, Illinois Supreme Court Rules 767 and 773 are amended, as follows.

Amended Rule 767

Rule 767. Reinstatement

(a) Petition. An attorney who has been disbarred, disbarred on consent or suspended until further order of the court may file his verified petition with the clerk of the court seeking to be reinstated to the roll of attorneys admitted to practice law in this State. No petition shall be filed within a period of five years after the date of an order of disbarment, three years after the date of an order allowing disbarment on consent, two years after the date of an order denying a petition for reinstatement, or one year after an order allowing the petition for reinstatement to be withdrawn. No petition for reinstatement shall be filed by an attorney suspended for a specified period and until further order of the court, until the specified period of time has elapsed. The petition shall include the information specified by Commission rule.

(b) Presentation of Petition. An attorney who has been disbarred, disbarred on consent or suspended until further order of the court may present to the Administrator a copy of the petition he proposes to file with the clerk within 120 days prior to the date on which the petition may be filed.

(c) Costs. The petition shall be accompanied by a receipt showing payment to the Commission of a \$1500 ~~500~~ deposit to be applied against the costs, as defined in Rule 773, necessary to the investigation, hearing and review of the petition. If the costs exceed the amount of the deposit, the petitioner shall pay the excess at the conclusion of the matter pursuant to the procedures of Rule 773. If the deposit exceeds the costs, the excess shall be refunded to the petitioner.

(d) Notice of Petition. The Administrator shall give notice to the following:

(1) the chief judge of each circuit in which the petitioner maintained an office or engaged in the practice of law; and

(2) the president of each local or county bar association in each county in which the petitioner maintained an office or engaged in the practice of law.

(e) Form of Notice. The notice shall be in substantially the following form:

FILED

MAY 23 2019

SUPREME COURT
CLERK

NOTICE OF PETITION FOR
REINSTATEMENT AS ATTORNEY

_____, who was licensed to practice law in the State of Illinois on _____ and who was (suspended from the practice of law on _____) (disbarred on _____), has filed (has stated his intention to file) in the Supreme Court of Illinois a petition for readmission to the practice of law in Illinois. A hearing on that petition will be held.

Any person desiring to be heard or having relevant information may communicate with the Administrator of the Attorney Registration and Disciplinary Commission at (insert address and telephone number of Administrator's office concerned).

(f) Factors to Be Considered. The petition shall be referred to a hearing panel. The panel shall consider the following factors, and such other factors as the panel deems appropriate, in determining the petitioner's rehabilitation, present good character and current knowledge of the law:

- (1) the nature of the misconduct for which the petitioner was disciplined;
- (2) the maturity and experience of the petitioner at the time discipline was imposed;
- (3) whether the petitioner recognizes the nature and seriousness of the misconduct;
- (4) when applicable, whether petitioner has made restitution;
- (5) the petitioner's conduct since discipline was imposed; and
- (6) the petitioner's candor and forthrightness in presenting evidence in support of the petition.

(g) Report of Hearing Panel. The hearing panel shall make a report of its findings and recommendations. A copy of the report shall be served upon the petitioner and upon the Administrator.

(h) Hearing and Review Procedure. The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases.

Adopted March 30, 1973, effective April 1, 1973; amended September 8, 1975, effective October 1, 1975; amended effective February 17, 1977; amended May 26, 1978, effective July 1, 1978; amended August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended May 23, 2005, effective immediately; amended May 23, 2019, eff. July 1, 2019.

Commentary
(May 23, 2005)

Paragraph (c) is amended to provide that the procedures of Rule 773 to recover costs are applicable in all respects to a reinstatement proceeding

Amended Rule 773

Rule 773. Costs

(a) Costs Defined. Costs may include the following expenses reasonably and necessarily incurred by the aAdministrator in connection with the matter: witness fees; ~~duplication of documents necessary to the prosecution of the case;~~ travel expenses of witnesses; bank charges for producing records; expenses incurred in the physical or mental examination of a respondent attorney; fees of expert witnesses; and court reporting expenses except the cost of transcripts of proceedings before the hHearing bBoard or rReview bBoard where the aAdministrator takes exception to the findings and recommendation of the hHearing bBoard or rReview bBoard, ~~which shall be paid by the administrator unless the aAdministrator prevails, at least in part, before the reviewing board or this court, in which case the aAdministrator may include the transcript costs in the statement of costs subject to the limitations of section (c) of this rule.~~ ~~If both the administrator and respondent take exception to the findings and recommendation of the hearing panel or review board, the cost of the transcript may be taxed to the nonprevailing party.~~ ~~If the administrator and the respondent each prevail in part, the respondent may include the costs of transcripts in the statement of costs, subject to the limitations of section (c) of this rule.~~

(b) Duty of Respondent. It is the duty of a respondent to reimburse the Commission for costs not to exceed \$1500 ~~1,000~~ and for such additional amounts as the court may order on the motion of the Administrator for good cause shown, which may include (1) costs incurred in the investigation, hearing and review of matters brought pursuant to article VII of these rules which result in the imposition of discipline, (2) costs involved in the investigation of alleged violations of the terms and conditions of any such disciplinary order, when such violations are later proved, (3) costs involved in any proceedings for the enforcement of any rule, judgment or order of this court which was made necessary by any act or omission on the part of the respondent, (4) costs incurred to compel the appearance of respondent and to transcribe respondent's testimony when the appearance followed respondent's failure to comply with a request from the Inquiry Board or Administrator to provide information concerning a matter under investigation, and (5) costs incurred to obtain copies of records from a financial institution, when the institution's production of the records followed respondent's failure to comply with a request from the Inquiry Board or the Administrator to provide those records.

(c) Statement of Costs. After the imposition of discipline by the court, the Administrator shall prepare an itemized statement of costs, not to exceed \$1500 ~~1,000~~, which shall be made a part of the record. The Administrator shall serve a copy of the statement on the respondent in any manner authorized by Rule 11. The Administrator may petition the court for costs reasonably and necessarily incurred by the aAdministrator in excess of \$1500 ~~1,000~~, which may be allowed for good cause shown. Costs up to \$1500 ~~1,000~~ shall be paid by the respondent within 30 days of service of the statement. Costs in excess of \$1500 ~~1,000~~ shall be paid by the respondent within 30 days of the order allowing the petition for excess costs.

(d) Assessment of Costs. If the respondent contests the amount of the costs or fails to pay the costs within 30 days of service of the statement or order allowing excess costs, the Administrator may petition the court for an order and judgment assessing costs against the respondent and directing the respondent to pay the costs, in full or in part, to the Commission. The Administrator shall serve the petition on the respondent in any manner authorized by Rule 11. Costs shall be paid by the respondent attorney within 30 days after the entry of the order and judgment assessing costs. Proceedings for the collection of costs assessed against the respondent attorney may be initiated by the Administrator on the order and judgment entered by the court. A

petition for reinstatement pursuant to Rule 767 must be accompanied by a receipt verifying payment of any costs imposed in connection with prior disciplinary proceedings involving the petitioner.

JUSTICE McMORROW dissents from this October 5, 2000, amendment of Rule 773.

Adopted August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended October 13, 1989, effective immediately; amended October 5, 2000, effective November 1, 2000; amended June 22, 2017, eff. July 1, 2017; amended Dec. 28, 2017, eff. Feb. 1, 2018; amended May 23, 2019, eff. July 1, 2019.