

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-19-0026
RULE 70, RULES OF THE SUPREME)
COURT)
)
) **FILED 08/27/2019**
)
)
_____)

**ORDER
AMENDING RULE 70, RULES OF THE ARIZONA SUPREME COURT**

A petition having been filed proposing to amend Rule 70, Rules of the Arizona Supreme Court, and a comment having been received, and having considered the petition and comment,

IT IS ORDERED that Rule 70, Rules of the Arizona Supreme Court, be amended in accordance with the attachment hereto, effective January 1, 2020.

DATED this 27th day of August, 2019.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

Maret Vessella

Hon Ann A Scott Timmer

ATTACHMENT*
RULES OF THE SUPREME COURT OF ARIZONA

* * *

Rule 70. Public Access to Information

(a) Availability of Information. Except as otherwise provided in these rules, the state bar file, the record maintained by the disciplinary clerk, and all proceedings shall be open to the public upon:

1. waiver of confidentiality by respondent;
2. the filing of an order by the committee pursuant to Rules 55(c)(1)~~(B)~~, (D), and (E);
3. dismissal by the state bar or the committee, ~~following a screening investigation~~ for six months from the date of notification to respondent or complainant (if any) of the dismissal;
4. ~~dismissal, in cases not resulting in a screening investigation, for six months from the date of notification to respondent or complainant (if any) of the dismissal;~~
5. the filing of a ~~complaint, motion, or petition~~ in proceedings for summary or interim suspension or pursuant to Rules 47(h)(4), 54(g), 54(h), 60(a)(5) or 66;
6. the filing of an agreement for discipline by consent; or
7. the filing of an application for reinstatement pursuant to Rules 64 ~~and~~ 65.

(b) Exceptions to Availability of Information. Notwithstanding other provisions of these rules, including Rule 123, Rules of the Supreme Court, the following do not become public:

1. work product of state bar staff, and bar counsel, including but not limited to internal memoranda, internal correspondence, internal emails, notes, and similar documents and files; ~~the committee, the settlement officer, the presiding disciplinary judge, hearing panel members, court staff, or the court;~~
2. work product of the committee, the settlement officer, the presiding disciplinary judge, hearing panel members, court staff, or the court;
3. documents submitted to the state bar and the committee pursuant to Rule 55(b)(2); ~~mediation records and proceedings;~~
4. diversion records and proceedings;
5. probation records regarding compliance, including evaluations and monitoring records, except for documents filed with the disciplinary clerk;
6. deliberations pertaining to decisions of bar counsel, the committee, the presiding disciplinary judge, a hearing panel, settlement officer, or this court;
7. information with respect to which a protective order has been issued pursuant to these rules;

* Additions in the text of the rule are shown by underscoring and deletions from text are show by ~~strike through~~.

~~86.~~ records of ~~telephonic~~ requests for information received by the state bar's intake department ~~Attorney Consumer Assistance Program~~;

~~97.~~ deliberations and work product of the client protection fund staff and board of trustees;

~~108.~~ trust account records, ~~trust account summary of findings, or and~~ trust account reconstructions;

~~119.~~ an individual's social security number (if a social security number must be used, only the last four digits of that number shall be used); ~~or~~

~~1240.~~ financial account numbers (if financial records must be used, only the last four digits of that number shall be used);

~~13.~~ medical records;

~~14.~~ recordings and written transcripts of audio and video witness interviews or statements, unless offered or admitted as exhibits in formal proceedings; and

~~15.~~ tax returns and official tax records.

(c) Authorized Disclosures. ~~Before~~ The state bar file, the record, and/or the proceedings are made public, they shall not be disclosed by the state bar or disciplinary clerk or committee, except that:

1. Before the state bar file, the record, or proceedings are made public:

A. the name of the member under investigation and the matter under investigation may be disclosed to such member and the persons whose services or testimony are necessary in connection with the proceeding;

B2. the state bar may confirm, upon inquiry concerning the lawyer and the particular conduct, that a charge has been received and is under investigation or in the prescreening process;

~~23.~~ for matters in which the disposition is confidential under these rules, the state bar, disciplinary clerk, or committee may confirm, upon inquiry concerning the lawyer and the particular conduct, that a charge has been received and that the matter is closed but has not public disposition;

~~34.~~ the state bar, disciplinary clerk, or committee, pursuant to a valid subpoena, may provide documents not otherwise confidential under subparagraph (b); except for charges under investigation or in the prescreening process;

~~45.~~ the state bar, disciplinary clerk, or committee may disclose ~~the~~ documents or records related to discipline or reinstatement matters, including documents deemed confidential under subparagraph (b), unless sealed by protective order, and proceedings to

A. other lawyer disciplinary entities or agencies;

B. client security or protection funds programs;

C. agencies or individuals authorized to investigate the qualifications of persons for admission to practice law;

D. agencies or individuals authorized to investigate the qualifications of candidates for judicial office or governmental employment;

E. public or prosecuting authorities if it appears that the lawyer has engaged in conduct that may be criminal in nature;

56. if the proceeding is based on allegations that have become generally known to the public, the board may authorize disclosure of the record or other information; ~~and~~

67. the board may authorize other disclosures that are necessary to protect the public, the administration of justice, or the legal profession; and

7. documents deemed confidential under subparagraph (b) can be used in formal proceedings

(d)-(f) [No change in text.]

(g) Sealing the Record/Protective Orders. Upon request by a party or by a person from whom the information or evidence was obtained, or upon a request by an interested non-party or the presiding disciplinary judge's own initiative, and for good cause shown, the presiding disciplinary judge may issue an order in any pending matter, sealing a portion of the record and/or state bar file and taking other measures to assure the confidentiality of the sealed information. Material sealed shall remain confidential notwithstanding that the remaining record in the matter is made public. Sealed material shall be opened and viewed only by the committee, the presiding disciplinary judge, a hearing panel, the board or the court for use by such body and the parties in pending proceedings, and otherwise only upon notice to and an opportunity to be heard by the parties and the witness or other person who is the subject of the information. A party aggrieved by an order relating to a request for a protective order may seek review by filing a petition for special action with the court.

[No change in remaining text.]