

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
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IMPLEMENTATION OF ) Administrative Order  
MODIFICATIONS TO THE ) No. 2010 - 83  
ATTORNEY DISCIPLINE SYSTEM )  
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Administrative Order No. 2009-73, adopted on July 1, 2009, established the Attorney Discipline Task Force, charged with thoroughly reviewing the attorney discipline system and considering whether significant changes were needed. The Task Force subsequently filed a petition to amend the current attorney discipline system rules. The Court has now acted on that petition, and new rules will go into effect on January 1, 2011. As a result, several administrative matters must be addressed to implement the new rules.

Therefore, pursuant to Article VI, Section 3 of the Arizona Constitution and Rules of the Supreme Court governing the regulation of the practice of law and the Court's jurisdiction in discipline, disability, and reinstatement matters,

IT IS ORDERED that the Office of the Presiding Disciplinary Judge shall be established and funded as follows:

1. Presiding Disciplinary Judge. Pursuant to Supreme Court Rule 51, as amended, the position of Presiding Disciplinary Judge is established. The Supreme Court will appoint a Presiding Disciplinary Judge (PDJ) who shall serve at the pleasure of the Court. A committee, chaired by the chief justice, will screen applicants and recommend to the Court candidates for appointment. The membership of the selection committee is attached as Appendix A.
2. Compensation of Presiding Disciplinary Judge. The compensation of the PDJ shall be determined by the Supreme Court. The PDJ shall be a regular full-time position and eligible for state benefits accordingly.
3. Office of the Presiding Disciplinary Judge. The Office of the Presiding Disciplinary Judge ("Office") shall be located in the State Courts Building. The Administrative Director of the Courts may, subject to funding, authorize positions to assist the PDJ in the administration of the Office and in the performance of the judge's duties. Employees of the Office are employees of the Supreme Court and shall be compensated at a rate approved by the Administrative Director of the Courts or his designee, in accordance with the approved employee compensation schedule. Office employees shall be eligible for state benefits pursuant to policies of the Supreme Court. Pursuant to Rule 51(c)(1), as amended, and in accordance with policies of the Supreme Court, the PDJ is authorized to appoint staff, contract for services, and purchase equipment and supplies to carry out the duties of the

Office. The personnel and operating costs of the Office of the Presiding Disciplinary Judge shall be paid by the State Bar of Arizona.

4. Disciplinary Clerk. The Disciplinary Clerk shall be an employee of the Administrative Office of the Courts. The costs related to the position and duties of the Disciplinary Clerk shall continue to be paid by the State Bar of Arizona.

IT IS FURTHER ORDERED that the following shall be effective January 1, 2011:

1. Application of Rules to Pending Cases. The new rules shall apply to all pending discipline, disability, and reinstatement cases, whether in investigation or in the formal process except for the following, which shall proceed according to the former rules:
  - a. Formal discipline and disability cases and applications for reinstatement in which a hearing on the merits, a hearing on a consent agreement, an aggravation/ mitigation hearing on a default matter, or a hearing on a reinstatement application has commenced or been concluded;
  - b. Informal cases in which a hearing has occurred on a Respondent's appeal of a probable cause panelist's order pursuant to Rule 54(c) and no decision has been rendered. Upon entry of a decision, the case shall proceed pursuant to the new Rules, as applicable; and,
  - c. Motions for interim suspension or a consent agreement for disbarment filed prior to the effective date will be ruled on by the entity before which the matter is pending.
2. Designation of Hearing Officer as Disciplinary Judge. If needed to facilitate an orderly transition to the new rules, a hearing officer may be designated by the chief justice as a pro tem disciplinary judge and authorized to dispose of the case following the new rules.
3. Matters Pending Before the Disciplinary Commission. The Commission shall continue to review discipline, disability, and reinstatement cases after January 1, 2011 that proceeded under the former rules as provided in this Order. The terms of members of the Disciplinary Commission shall be extended until the Commission has considered all cases pending before the Commission and filed its reports with the Supreme Court.
4. Filing. Formal discipline and disability cases filed by the State Bar of Arizona and applications for reinstatement filed on and after January 1, 2011, and all subsequent filings on these matters by the State Bar or Respondent, shall be filed pursuant to the amended Rules, and shall be filed electronically, unless circumstances prevent doing so. In cases on appeal, the Disciplinary Clerk shall transmit the record pursuant to Rule 59(j), as amended, electronically.

Dated this 30th day of June, 2010.

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REBECCA WHITE BERCH  
Chief Justice

## **ATTACHMENT A**

### **Presiding Disciplinary Judge Selection Committee Membership**

Chair: The Honorable Rebecca White Berch  
Chief Justice  
Arizona Supreme Court

Alan Bayham  
President  
State Bar of Arizona

David K. Byers  
Administrative Office of the Courts  
Administrative Director

The Honorable Jeffrey Coker  
Hearing Officer  
Arizona Supreme Court

Maret Vessella  
Chief Bar Counsel  
State Bar of Arizona

Mark Harrison  
Attorney

Pam Katzenberg  
Chair  
Arizona Supreme Court Disciplinary Commission

William J. Mangold, Jr., M.D., J.D.  
Public Member