

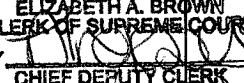
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO SUPREME COURT RULE 116

ADKT 525

FILED

DEC 11 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER AMENDING SUPREME COURT RULE 116

WHEREAS, on May 8, 2017, the Board of Governors of the State Bar of Nevada filed a petition in this court seeking the amendment of Supreme Court Rule 116 to set forth explicit reinstatement criteria to be met by lawyers who have been subjected to a disciplinary suspension of more than six months; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on November 6, 2017; and

WHEREAS, the Board of Governors filed a supplemental amendment to the petition on November 20, 2017; and

WHEREAS, it appears that an amendment to Supreme Court Rule 116 is warranted; accordingly,

IT IS HEREBY ORDERED that Supreme Court Rule 116 shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments to the Supreme Court Rules shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the

accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

Dated this 11th day of December 2017.

Cherry, C.J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Vernon Leverty, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
C. Stanley Hunterton, Bar Counsel
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

EXHIBIT A

AMENDMENT TO SUPREME COURT RULE 116

Rule 116. Reinstatement.

1. **Order of supreme court required.** An attorney suspended as discipline for more than 6 months may not resume practice unless reinstated by order of the supreme court.

2. **Procedure for reinstatement.** Petitions for reinstatement by a suspended attorney shall be filed with bar counsel's office, which shall promptly refer the petition to the chair of the appropriate disciplinary board. The chair or vice chair shall promptly refer the petition to a hearing panel, which shall, within 60 days after referral, conduct a hearing. ~~[The attorney has the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in law required for admission to practice law in this state, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest.]~~ An attorney may be reinstated or readmitted only if the attorney demonstrates by clear and convincing evidence the following criteria, or if not, presents good and sufficient reason why the attorney should nevertheless be reinstated or readmitted:

(a) Full compliance with the terms and conditions of all prior disciplinary orders;

(b) The attorney has neither engaged in nor attempted to engage in the unauthorized practice of law during the period of suspension;

(c) Any physical or mental disability or infirmity existing at the time of suspension has been removed; if alcohol or other drug abuse was a causative factor in the attorney's misconduct, the attorney has pursued appropriate treatment, has abstained from the use of alcohol or other drugs for a stated period of time, generally not less than one year, and is likely to continue to abstain from alcohol or other drugs;

(d) The attorney recognizes the wrongfulness and seriousness of the misconduct resulting in the suspension;

(e) The attorney has not engaged in any other professional misconduct since suspension;

(f) Notwithstanding the conduct for which the attorney was disciplined, the attorney has the requisite honesty and integrity to practice law; and

(g) The attorney has kept informed about recent developments in the law and is competent to practice.

Within 60 days after the hearing concludes, bar counsel shall file the record of the proceedings, together with the panel's findings and recommendation, with the supreme court. Receipt of the record shall be acknowledged in writing by the supreme court clerk.

The attorney or bar counsel shall have 30 days from the date the supreme court acknowledges receipt of the record within which to file an opening brief or otherwise advise the court if he or she intends to contest the hearing panel's findings and recommendations. If an opening brief is filed, briefing shall thereafter proceed in accordance with NRAP 31(a). Extensions of time to file briefs are disfavored and will only be granted upon a showing of good cause. The parties shall not be required to prepare an appendix, but rather shall cite to the record of the reinstatement proceedings. If no opening

brief is filed, the matter will be submitted for decision on the record without briefing or oral argument.

3. **Bar counsel to appear.** In proceedings for reinstatement, bar counsel shall represent the state bar and submit any evidence and produce any witnesses relevant to the petition. Prior to the hearing, bar counsel may make a lawful request for information consistent with the requirements for admission under S.C.R. 51.

4. **Tender of costs in advance.** Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit of \$1,000 to cover anticipated costs of the reinstatement proceeding.

5. **Decision on reinstatement; conditions.** If the attorney does not meet the burden of proof to justify reinstatement, the petition shall be dismissed by the hearing panel. If the attorney meets the burden of proof, the hearing panel's recommendation for reinstatement shall be entered. Reinstatement shall be conditioned upon the attorney's payment of the costs of the proceeding, restitution to parties injured by the petitioner's misconduct, including the Clients' Security Fund, any further conditions deemed appropriate by the panel, and such proof of competency as may be required by the supreme court, which proof may include certification by the bar examiners of the successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment. If an attorney has been continuously suspended for 5 years or more at the time a petition for reinstatement is filed, irrespective of the term of suspension initially imposed, successful completion of the examination for admission to practice shall be a mandatory condition of reinstatement.

6. **Successive petitions.** A petition for reinstatement under this rule shall not be filed within 1 year following an adverse judgment on a petition

for reinstatement filed by the same attorney, unless otherwise ordered by the court.